

Application No: Y15/0751/SH

Location of Site: Plot 60 Enterprise Way Link Park Lympe

Development: Erection of a 45MW combined heat and power (CHP) renewable energy electrical power station, comprising of a boiler house and turbine hall, control buildings, storage facilities, substation, plant (including 70metre stack), hardstandings, car parking, internal roadways, other ancillary buildings and hard and soft landscaping. Accompanied by an Environmental Statement

Applicant: Mr A Hilton
Iceni Energy 2 Ltd
M&A Partners
12 Church Street
Cromer
Norfolk
NR27 9ER

Date Valid: 29.07.15

Expiry Date: 28.10.15

Date of Committee: 28.03.17

Officer Contact: Mr Robert Allan

RECOMMENDATION: That planning permission be refused for the reasons set out at the end of the report.

1.0 THE PROPOSAL

- 1.1 This report considers a proposal by Iceni Energy 2 Ltd for the erection of a 45MW combined CHP (Combined Heat and Power) biomass powered renewable energy plant. The proposal comprises of boiler house and turbine hall, control buildings, storage facilities, substation, plant (including 70 metre stack), hard-standings, car parking, internal roadways, other ancillary buildings and hard and soft landscaping.
- 1.2 The proposal comprises four main areas:
- Turbine and boiler house (approximately 2356.68 metres squared and 30m in height),
 - Wood store (2340 metres squared and 14m in height),
 - Stack (70m in height),
 - Air cooled condenser (2034 metres squared and 20m in height).
- 1.3 A construction compound would be located to the south of the site which would accommodate offices and welfare facilities in the form of portakabin style buildings together with a car park.

1.4 The following documents were submitted with this planning application:

- Applications forms and plans
- Landscape and Visual Impact Assessment (LVIA)
- Environmental Statement
- Transport Statement

Proposed Layout:

1.5 The site would be accessed from the south of the site and emergency site entrances beyond this main entrance to the east. An administration/control building would be positioned to the west of the site, with adjacent car parking. Landscaping is proposed to surround the site.

1.6 A wood chip storage shed would be located centrally within the site and would adjoin with the boiler house, stack, turbine hall and air cooled condenser unit to the east to the site. To the south of the wood chip storage shed, adjacent to the main entrance, would be the construction compound.

Proposed Design and Finishes:

1.7 The buildings and structures to the centre of the site comprise a series of buildings and items of plant that are designed primarily for their particular function, with the size of the buildings directly related to their function and proposed use. The wood chip store for example, is required to hold 3 days' supply of materials for the boilers.

1.8 All the buildings, and some plant, would be clad in composite insulated panels, faced in a dark green colour to a height of approximately 5m above the finished ground level. Above this level, matching cladding panels would be faced in a mid green tone and above this a matching panel system would be used in a light green tone to create a graded appearance through the site. Entrances into the buildings and structures would be recessed and doors coloured in bright colours to ensure that partially sighted people are able to identify them.

1.9 A contrasting vertically mounted cladding panel system, possibly heavily profiled to introduce some cross panel shading, to reduce potential for glare on sunny days would be mounted on the taller elements of the boiler and possibly the turbine hall.

1.10 The buildings are designed with overhanging curved roofs and all building roofs would be coloured in a sky tone in addition to the higher building elements.

Landscaping:

- 1.11 The proposal will not impact upon any of the existing landscaping features that exist around Link Park. The application proposes a complimentary planting scheme along the western boundary and reinforcement of the existing planting to the east with supplementary native planting in order to attempt to buffer the buildings from the views from the south and east and the village of Lympne.
- 1.12 The boundary of the site would be secured by a 3 metre steel fence with matching lockable gates.

Fuel Supply and Output:

- 1.13 The proposed biomass plant would use approximately 300,000 tonnes of biomass per annum and is predicted to produce enough renewable energy to power 76,000 average British households. This would require biomass at a rate of approximately 45 tonnes/hour. The storage barns would allow for up to 3 days biomass input, with ash and fly ash as by-products from the burn process which would require export from the site by road.
- 1.12 The submitted Transport Statement predicts the operational vehicle requirements of the proposed biomass station as the following:
- HGV biomass import – 20 tonnes per vehicle
 - HGV Lime import – 30 tonnes per vehicle
 - HGV Bottom Ash export – 23 tonnes per vehicle
 - HGV Fly Ash export – 16 tonnes per vehicle
- 1.13 The biomass plant is predicted to generate less than 30 vehicular trips in the AM and PM peak hours (20 car/LGV trips and 8 HGV trips) once operational, with the input and export of wood chip restricted to 5.5 days a week, with a delivery window of 12 hours per day making daily working hours 0700 to 1900 hours Monday to Friday and 0800 to 1400 on Saturdays, but with HGV deliveries prohibited by contract between the hours of 0800-0900 and 1700-1800 Monday to Friday.
- 1.14 The Transport Statement predicts that the proposal would generate a considerably lower level of daily vehicle movements than the permitted B1/B2/B8 land uses for the site, including over 500 fewer daily arrivals and departures and over 1,000 fewer total daily vehicle movements.
- 1.15 The applicant states the biomass plant would burn biomass obtained from sustainable and clean recovered wood sources to generate renewable and low-carbon electricity for export to the national grid. The applicants state they are securing contracts for the wood chip which will be procured from sustainable and recovered wood sources. They state that local sources will be prioritised however wood chip will be required from a wider area to include UK and Europe.
- 1.16 The applicant states that there would be the potential to generate steam and heat for use in nearby industrial and heating systems where demand

permits. The applicant also states the ash produced would be sold for use in the manufacture of aggregates.

- 1.17 The applicant states that the project would make a significant contribution to the European Union Renewable Energy Directive to which the UK has signed up, in that it would cut emissions of carbon dioxide by more than 120,000 tonnes annually.

Operation:

- 1.18 The combusted biomass would heat water to drive a steam turbine to generate electricity which is predicted to generate 45MWe of electricity per annum. A substation is proposed to be located on site, fed underground from the generators, from where a connection would be made by UK Power to the main network. Existing overhead lines would be reinforced.
- 1.19 The residual steam would be returned to water by an air condensed cooler. The facility would operate on a closed cycle system, but in addition, around 50 tonnes per day of water would be required, mainly associated with boiler losses and ash conditioning (cooling and keeping the ash moist). Some water would also be used for soot blowing i.e. cleaning the boiler tubes.
- 1.20 The plant would use diesel for controlled start up and shut down operations. This could also be used, when necessary, to maintain furnace temperature and thus optimise emissions control. The smoke emitted from the stack would be a combination of water vapour and other emissions. The stack would contain a number of filters to remove particulates and lime would be added to remove chemicals. These would be subject of regulation and monitoring by the Environment Agency.
- 1.21 Construction is estimated to take 2.5 years with a design life of 25 years at which point it would require refurbishment. The proposed development would be operated continuously for 48-50 weeks of the year, except for short periods for maintenance, cleaning and a shutdown period of approximately two-four weeks a year, which would be in summer.

Employment:

- 1.22 The applicant considers that the proposal would contribute to permanent local employment as well as providing jobs during the construction phase.
- 1.23 The applicant estimates that up to 250 construction jobs would be created for the duration of the construction of the plant and that by year 5 the development is expected to employ 35+ staff on site, covering operating the equipment, supervisory and supporting jobs. Work would be carried out in shifts, with a maximum of 20 staff on site at any one time. The applicant also estimates that a further 50 jobs would be created in transportation, although these jobs would predominantly be associated with the hauliers servicing the operational site.

1.24 The applicant has also stated that jobs within the project will be advertised for a minimum of 14 days locally before being advertised more widely. It is suggested that the company, Icen Energy 2 Ltd, will operate a training policy to encourage local uptake of jobs, as well as offering apprenticeship places at regular intervals during the operation phase of the project, as staff level requirements allow, with applicants drawn from local schools and colleges.

2.0 LOCATION AND DESCRIPTION OF SITE

2.1 The site is located within an area identified for development for the purpose of employment as defined in the Local Plan within Link Park business park, approximately 2.5 miles to the south west of the M20 (Junction 11) and approximately 6.0 miles from both Ashford and the Channel Tunnel. Link Park has outline planning permission for 82,668sqm of B1, B2 and B8 land use. The proposed biomass plant would occupy the unoccupied development plots on the northern side of the access road (plots 50, 60 and 70).

2.2 The site is located outside of the defined settlement boundary and is to the west of Lympne, a Primary Village within the Core Strategy. The site is separated from Lympne by grazing fields to the east. To the south of the site are the industrial units of Link Park, with Otterpool Lane to the west of the site and arable farmland beyond. There are Grade II listed buildings to the north of the site at Upper Otterpool and Otterpool Manor.

2.3 The site is located within an area of Archaeological Potential, and adjacent to the Area of Outstanding Natural Beauty (AONB) approximately 850m to the south of the site which follows the boundary of Aldington Road. There is a Site of Special Scientific Interest (SSSI) designation to the north of the site. The flat and extensive Romney Marshes lie to the south.

2.4 The application site is within National Character Area (NCA) 120: Wealden Greensand, within which is the Aldington Ridge Landscape Character Area (ARLCA) which is designated in the County Council's Landscape Assessment and also would be viewable from the Sellindge Plateau Famlands to the north east. The assessment records that the ARLCA generally has a high sensitivity to landscape change due to the topography of the ridge. The human influence in the surrounding area includes rail services on High Speed1 and a local rail line; the M20 motorway; pylon routes and telecommunications masts; units at the immediately Lympne Industrial Park; and the Sellindge Converter Station approximately 3.5km away.

2.5 There are two Registered Parks and Gardens in the vicinity – Sandling Park and Port Lympne, which are characterised by parkland landscape. The former Folkestone Racecourse in Westenhanger with the Scheduled Ancient Monument (SAM) of Westenhanger Castle and Grade I listed structures of Westenhanger Manor and its barns are located approximately 1.5km to the north of the site. The Grade II listed Upper Otterpool is immediately to the north of the application site and the Grade II listed Otterpool Manor sits to the north west on the opposite side of Otterpool Lane.

3.0 RELEVANT PLANNING HISTORY

- 89/0469/SH - Outline application for the erection of industrial (classes b1 and b2) and warehouse (class b8) development (as amended by letter dated 18th October 1989). Refused.
- 91/0604/SH - Removal of ragstone to a depth of 2m to enable provision of landscaping belt to northern boundary.
- 93/0559/SH - Outline application for industrial (class b1) and warehouse (class b8) buildings together with improvements to junction of Otterpool Lane with A20 (as amended by letter dated 27th august 1993 and drawing Nos 4568/02/405a and 406a and letters dated 21st an. Acceptance.
- 97/0363/SH - Non-compliance with conditions 02 & 03 of planning permission 93/0559/SH to extend time period for submission of details for the erection of industrial (class B1) and warehouse (class B8) buildings together with junction improvements. Approved with conditions.
- Y00/0570/SH - Provision of a new foul water sewer. Approved with conditions.
- Y00/1269/SH - Variation of conditions 2 & 3 of planning permission 97/0363/SH to extend the time period for submission of details for the erection of industrial (class B1 and warehouse (class B8) buildings together with junction improvements. Approved with conditions.
- Y06/0552/SH - Outline application for the erection of up to 52,000 sq metres of employment development Business (Class B1), General Industry (Class B2) and storage and distribution (Class B8) including detailed consideration of access and being accompanied by an Environmental Statement. Approved with conditions.
- Y07/0607/SH - New access road onto Otterpool Lane to serve industrial land to North, South and East, accompanied by an Environmental Impact Assessment to assess the impact of the new access road on land to North and South. Approved with conditions.
- Y09/0145/SH - Outline application for the erection of up to 30,668 sq metres of employment development (Classes

B1, B2 and B8), together with internal access (off recently constructed and adopted spine road) with parking, servicing and structural landscaping. Application accompanied by an environmental statement. Approved with conditions.

4.0 CONSULTATION RESPONSES

4.1 Ashford Borough Council:

- The application should be determined in accordance with the NPPF and local policy guidance in the development plan. Special consideration should be paid to the impact visually, on neighbouring residents, ecology, flooding issues and highway safety.
- The NPPF advocates the need to meet the challenge of climate change with planning playing a key role in meeting this challenge supporting the delivery of renewable and low carbon energy and associated infrastructure.

4.2 Lyminge Parish Council

Object on the following grounds:

- The 70m high stack would be visible from parts of Lyminge Parish, and would be inappropriate in the Kent Downs AONB.

4.3 Postling Parish Council

Object on the following grounds:

- The 70m high chimney would be the same height as Farthing Common which would make it extremely unsightly and would spoil the views from the AONB.
- Postling is downwind of the prevailing wind direction so will receive smoke and /or pollution.
- As the material will be brought to the plant from Scandinavia, the development should be built adjacent to a port and not subject the local roads to a massive increase in heavy traffic.

4.4 Saltwood Parish Council

Object on the following grounds:

- Overbearing impact the development would have on the AONB and fully supports the objections raised by Lyminge, Stanford and Postling Parish Councils.

4.5 Stanford Parish Council

Object on the following grounds:

- Size and setting of this development would cause significant environmental harm to the landscape setting of the AONB.

- Previous developments have been limited to a height of 14m whereas this development proposes a smoke stack 70m high and other buildings in excess of 14m.
- Out of character with the landscape and neither conserves or enhances this part of the setting of the AONB.
- The modeling for the increase in number lorry movements to supply the power plant with fuel is flawed. The modeling performed by the Highways Agency does not take into account the collective impact of the additional potential/ongoing developments in this area, but that the modeling in each case is based on the impact of only that particular proposal.
- The proposal is contrary to paras 14, 109 and 115 of the NPPF, policy CSD4 of the Shepway Core Strategy, Links Park SPD 2006 and the Kent Downs AONB management plan.

4.6 Lympne Parish Council

Object on the following grounds:

- Out of scale with its surroundings and will have a severe adverse impact upon them
- Height of the chimney and buildings which are against conditions applicable to the site
- Does not comply with the Link Park Supplementary Planning Document
- Due noise and vibration impacts
- As accepted consultation procedures have not been completed.
- Offer poor green energy returns
- No information provided which confirms the sustainability of the project.

4.7 Sellindge and District Residents Association

Object on the following grounds:

- Unacceptable visual impact
- Adverse impact on the AONB and views into and out of the site
- Excessive height of the component buildings, beyond the guide limits applied to Link Park.
- Impact of vehicle movements on the locality in terms of traffic volume, noise, vibration and vehicle emissions.
- Inappropriate site selection, remote from source fuel supply.
- Concerned regarding the calculation of HGV movements for the proposed development and the entire Link Park Estate.

4.8 KCC Ecology

- Need for additional information/clarification to demonstrate that the assessment of ecological impacts has been carried out to an appropriate standard and is based on up-to-date ecological information.
- The ecological surveys reported in Chapter 7 of the ES were carried out in 2013, which questions the age of the surveys and whether the results provide an accurate reflection of the current site conditions.

- There is identified potential for protected species impacts that needs to be understood prior to determination of the application, in addition to ensuring that there is appropriate and achievable mitigation available for any identified ecological impacts.
- If the habitats remain as reported from 2013, the results for bats could be considered as still valid due to the relatively young woodland and the lack of roosting opportunities on and adjacent to the site.
- Due to the age of the surveys and the proximity of the historic records for reports great crested newt presence, further information is sought regarding the potential for great crested newts to use the ponds closes to the proposed development site.
- Further details of reptile mitigation area sought, including the location of the receptor site used in 2009. Given the amount of time that has lapsed, there is a need for a survey to confirm the presence of reptiles on the site and the population class sizes of any species present. This would inform the determination of the application as it would inform the mitigation requirements (if reptiles are confirmed as present). Currently minimal information provided.
- In the report is assumed that reptiles would be present on site in similar numbers to those that were previously translocated and on this basis, it is recommended in the report that there will be a need to capture and translocate the reptiles, though no details of a proposed receptor site have been provided. Without up-to-date survey details, there is insufficient information to demonstrate that there is adequate, achievable mitigation available to ensure the long-term status of reptiles can be maintained

Subsequent comments on 18 December 2015 (Badgers):

- New badger survey must be secured by condition, if planning permission is granted to ensure the mitigation is appropriate.
- Advice that Shepway DC may need to secure specific measures within the developments proposed in this vicinity to ensure landscape planting and management provides suitable habitat for badger foraging.
- *Impacts Assessment for Badgers*, will need to be secured by condition, if planning permission is granted.

4.9 SDC Design & Conservation Officer

Object on the following grounds:

- The proposal will affect the setting of a number of listed buildings as set out in the EIA. Chapter 5 Historic Environment, Table 5.6. The proposals will cause harm to the setting of 9 listed buildings but in particular that of Upper Otterpool Manor, due to their close proximity to the site.
- Considerable importance and weight must be given to the harm caused to the setting of the heritage assets, in accordance with Section 72(1) of the Planning (Listed Buildings and conservation Areas) Act 1990, Where the proposed development will lead to less than substantial harm (as in this case by development within the

setting of the listed buildings), that harm should be weighed against the public benefits of the proposal (as paragraph 134 of the NPPF states) but, in doing so, the requirement to give “great weight” to any harm and the need for clear and convincing justification for it (as stated at the outset in paragraph 132) remains.

- The impact of the proposals will cause less than substantial harm to the setting of the listed buildings and therefore cannot support the proposals.

4.10 SDC Environmental Health

No objection subject to conditions:

- The size of plant means a permit will be sought from the Environment Agency (EA) for this plant; the LA will not receive any fees in this respect. It should be noted that the EA's protocol for the use of wood will mean that only clean virgin wood will be permissible to burn; this will prevent the plant using any wood regarded by that protocol as "waste wood". Should the plant wish to burn wood identified as waste wood by the EA's protocol then the provisions of Chapter IV of the Industrial Emissions Directive (waste incineration) will need to be met.

Air Quality

- All impacts on air quality are considered to be negligible if the mitigation measures are followed.

Construction

- Hours should be limited to 08.00 to 18.00 Monday to Friday and 08.00 to 13.00 hrs Saturday with no working on Sundays and Bank Holidays.

Noise

- The proposed plant is expected to burn approximately 300,000 tonnes of biomass a year, equating to approximately 280 tonnes a day, which will require a continual and regular delivery of biomass with each delivery providing approximately 20 tonnes.
- Clearly the maintenance of fuel supplies will be of prime importance and delivery regimes will need to be very well coordinated, particularly as the wood chip store has limited capacity.
- Confirmation of the assumptions in respect of the delivery of biomass and removal of ash confirms a 07.00 to 19.00 week days and 07.00 - 13.00 Saturday delivery scheme.
- With these assumed hours and the corrections to the background figures for the LT3 monitoring position provided within the Mott McDonald memo, it can be seen from the revised table 10.1 that as previously noted there is a possible increase of daytime noise which is approaching marginal.

- The night time increase however, identified in table 10.1 is further confirmed by the corrections and will be considerable at LT1 and identifiable at LT2.
- There is a requirement for a comprehensive scheme to mitigate night time noise from the plant. Due to the volume of deliveries and the distinct possibility of late or queued deliveries this should either include measures to deal with deliveries undertaken outside of the proposed delivery hours, or a condition restricting deliveries outside of daytime hours.
- Therefore should the planning committee deem to approve the application, a condition should be required to submit a detailed scheme for the mitigation of noise from the plant, including delivery vehicles and unloading/loading plant, if necessary, which should be sufficient to prevent neighbouring properties from undue increased noise.

Lighting

- The site should be regarded as E2 "Rural, low district brightness" the memo from Mott McDonald accepts this categorisation.

4.11 SDC Contamination Consultant

No objection subject to conditions:

- Historic site uses notably include a military and civil airfield. A wide range of potential contaminants were identified including unexploded ordnance, fly-tipped materials, pesticides, fuels, solvents and domestic waste. The potential impact that these contaminant sources may have on sensitive receptors at the site have been assessed, and is based largely on desk study. Whilst site investigation data may be desirable in setting the land contamination baseline, it is recommended that the development proposals should not be rejected on grounds of contamination issues, as measures can be put in place to manage the potential contamination issues identified.
- The development would require an Environmental Permit which requires that the baseline ground conditions are established to ensure there is no deterioration over the life of the permit.
- It is recommended the SDCs standard contaminated land planning condition is applied to any consent for development, and implemented in a phased manner, with each phase only required should a potential risk be identified by the preceding phase. It is recommended that proposals for intrusive site investigation are agreed with the Council prior to the works.

4.12 SDC Arboricultural Officer

Object on the following grounds:

- Proposal would be detrimental to the character of the surrounding landscape, countryside and AONB.
- Whilst the effects of the proposed scheme are fairly insignificant in terms of arboricultural impact, the sheer size and scale of the power

station will be completely out of place within such a rural setting. The turbine hall alone will be significantly taller than any of the existing buildings and be visible from a much wider area with the proposed 70 metre stack even more visible.

- The visual impact on the surrounding landscape is considered to be significant and negative. Despite proposals to replant vast numbers of new trees on a five metre high bund, it is unrealistic and misleading to suggest that these will in some way serve to screen the power station, even when they have reached full maturity. The current tree stock provides an effective screen against the existing industrial buildings which are considered to be fairly small in scale compared to the proposed development.

4.13 KCC Planning (Archaeology)

No objection:

- The Icenii report addressing key concerns confirms that the proposed development will affect the visual character and setting of 9 listed buildings, with Upper Otterpool and Otterpool Manor particularly affected. The applicant confirms that due to the scale and mass of the proposals it will be difficult to reduce the visual impact. As the report notes, great weight should be given in determining the application to any harm that may be caused to the setting of a listed building.
- In terms of the impact of the scheme on below ground archaeological remains I have no additional comment to make beyond that already provided.

4.14 Highways England

No objection.

4.15 KCC Highways And Transportation

No objection subject to the attachment of a number of planning conditions to any planning permission granted. For example all HGVs associated with construction/operation will follow a set route, avoiding the village of Lympe.

4.16 Historic England

Do not wish to offer any comments. The application(s) should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice.

4.17 Southern Water

No objection. A formal application for a connection to the public sewer would be required to be made.

4.18 Natural England

Object on the following grounds:

- Whilst the principle of sustainable wood fuel is supported, a proposal of this scale and location would have an adverse impact on the character of the AONB, and the special qualities for which the AONB was designated. Natural England therefore objects to the proposal on this basis.
- Would expect the Council to consider whether an assessment has been made on the scope of delivering the proposals in an alternative location that would minimise the impacts on the AONB'. Concerns over the assessment of viewpoints VP5 and VP6, believe that the residual impact has been underestimated.

4.19 KCC Flood Risk

No objection subject to surface water drainage scheme conditions.

4.20 Affinity Water

No objection.

4.21 Environment Agency

No objection subject to a number of conditions.

4.22 Kent Downs AONB Unit

Strongly object on the following grounds:

The site forms part of the setting of the AONB. The proposed development by virtue of its nature, scale and location would impact on the Kent Downs AONB. This is acknowledged in both the Design and Access Statement and the Landscape and Visual Impact Assessment (LVIA).

It is acknowledged that the principle of development of the site has been established as it is allocated in the Local Plan for employment uses and an outline planning consent exists. However, it is the nature of the proposed development subject to the current application that it is of concern to the AONB Unit, namely the scale of the proposal which includes the incorporation of a 30m high boiler house, 20m high condenser unit and 70m high stack.

The setting of this part of the Kent Downs AONB is one of fine Kentish countryside. There are no significant detractors when viewed from the Downs. The M20 and the railway barely intrude in views from most of the scarp. There are villages and hamlets with plenty of farms visible, but no concentrations of urbanisations. The overall impression is of a working rural area rather than a developed, let alone industrialised, area. While the existing industrial estate at Lympne is a detracting feature, its impact has been held in check by screening which is yet to mature and by limits to the heights of roads so that the skyline is not broken in views southwards.

The Environmental Statement (ES) submitted with the application acknowledged that built elements of the proposed development will be prominent and large scale relative to the adjacent buildings which are mainly 8 to 10 metres high with the highest being 14m and that the boiler house and the stack would be visible above trees and woodland belts, appearing as uncharacteristic urban elements in views that are predominantly rural in character. At para 9.3.22 of the ES it is recognised that the top of the boiler house and the stack will be visible from some areas within the AONB including Postling, Farthing Common and the North Downs Way/Etchinghill. The ES also advises that due to the nature of the development it is not possible to screen these elements.

Notwithstanding this, the ES concluded that the Kent Downs AONB will not be significantly affected as the works will take place outside of the boundary of the AONB, advising that views of the development would constitute small elements within the wider landscape and that the presence of strong topography and existing vegetation blocks separate the site from the AONB.

The Kent Downs AONB Unit strongly refutes this conclusion. There are considerable areas with views over the application site. We are particularly concerned about the impact on views from the North Downs. While there are trees, hedgerows and a few woodlands on the North Downs scarp, much of the scarp is open grassland. This means there are extensive inherent views of the site, including, but not limited to:

- The North Downs Way Long Distance Route (national trail) broadly follows the top of the scarp, with views frequently opening out to offer panoramic vistas through half the compass (sometimes more – such as on Brabourne Down, sometimes less);
- A network of other footpaths crosses the scarp;
- Open access land provides additional opportunities for public enjoyment of the views, e.g. at Farthing Common;
- Country lanes criss-cross the scarp and a heavily used road (Stone Street, B2068) follows the crest of the scarp for nearly 1km across Farthing Common.

The LVIA advises that from the North Downs the application site forms a small element of the view. While this is accepted due to the panoramic views available as a result of the elevated nature of the Downs, the proposed development would nevertheless be readily visible and apparent in those views. It is noted that the panoramic nature of photomontages submitted in the LVIA and the small scale of this information, does not reflect the visibility of the site as seen on site, appearing much smaller in the montages than in reality.

The LVIA also makes reference to the site in views from the AONB 'being visible over the valley with a busy M20 corridor', however the M20 is barely visible in views from the North Downs. Furthermore, the LVIA is considered to provide a rather limited assessment of impact from the AONB and it is considered that further view points from the North Downs Way would result

in an increased understanding of the impact of the development in views from the AONB.

As noted above views of the existing industrial estate at Links Park are available from extensive parts of the North Downs. The impact of the buildings is minimised by virtue of extensive structural planting and the limited height of buildings. The introduction of the proposed boiler house, condensing unit and stack by virtue of their height, would be much more prominent in views, appearing as incongruous features that would be both out of scale and out of character in this largely undeveloped rural landscape. The need to protect the visual amenity of the wider locality at this site has previously been recognised by SDC in limiting the height of development in this location to 14m as recognised in the Links Park SPD 2006 and condition 05 attached to the outline planning permission Y09/0145 for this site.

The Kent Downs AONB also extends around the south and east side of the application site to include the south-facing Lympne escarpment. As shown on the visual receptor plan submitted with the application and verified by site visits, views of the boiler house and stack would also be apparent from the AONB to the south and east of the site and views towards the AONB to the north would also be affected with the scale of the development damaging appreciation of the AONB, particularly when views from the south.

The Kent Downs Management Plan recognises the need to establish new and retain existing markets to regenerate sustainable woodland management as this helps to support landscape character, wildlife and the local economy. Management Policy WT0 states that 'new markets for sustainably produced, appropriately certified woodland products, particularly wood fuels and construction materials, will be pursued and marketing initiatives supported'. This is also reflected in the Kent Downs AONB Position Statement on Renewable Energy. Biomass plant can constitute such a market.

The Position Statement advises that the AONB Partnership should support small and medium scale renewable where they provide a measurable reduction in greenhouse gasses and support landscape character and do not detract from it. The proposed biomass centre is not considered to comply with this, constituting a large scale development that would result in an unacceptable impact on landscaping character. Furthermore, while the application submission refers to the applicant currently 'securing contracts for the supply of wood chip which will be secured from sustainable and recovered wood sources. Local sources will be prioritised, however woodchip will also be required from a wider area to include the UK and Europe', no certainty is provided that the plant would use wood from the surrounding AONB.

Taking the above matters into account, it is considered that the proposed development would result in the introduction of a form of development that is out of character with the local landscape and would neither conserve nor enhance this part of the setting of the AONB. The mitigation measures proposed would not reduce the impact to an acceptable level. No overriding

justification exists for the proposal and the application is contrary to paras 14, 109 and 115 of the NPPF, policy CSD4 of the Shepway Core Strategy and the Links Park SPD 2006 and the Kent Downs AONB Management Plan. Accordingly, the Kent Downs AONB strongly objects to this application.

4.23 NATS Safeguarding

No objection.

4.24 UK Power Networks

No objection.

5.0 PUBLICITY

5.1 Neighbours notified by letter:

First consultation - Expiry date 25 August 2015

Second consultation - Expiry date 13 June 2016

5.2 Site Notice (EIA and Major development) - Expiry date 04 September 2015

5.3 Press Notice:

First consultation - Expiry date 03 September 2015

Second consultation – Expiry date 23 June 2016

6.0 REPRESENTATIONS

6.1 There were 111 letters/emails received objecting on the following grounds:

Noise, Pollution and Disturbance:

- Noise pollution from the turbines working 24 hours day and associated vibration.
- Large levels of carbon dioxide from the plant and diesel fumes from the HGVs would cause air pollution/toxic fumes which would be harmful to nearby residents. Also to the animals at Port Lympne Zoo.
- The noise and pollution would interrupt existing businesses within Link Park.
- Neighbouring amenity impacts, noise pollution and disturbance given the close proximity of the site to residential housing.
- Link Park is allocated for businesses, not for power stations and unlike other businesses within Link Park, the power station would operate 24 hours a day.

Highways and Sustainability:

- Highway impacts and congestion from the 70 HGV movements per day and an uncertainty on how this would impact upon Lympne should 'operation stack' take place. The roads are currently in a poor state and would be made worse with the HGVs.
- Unsustainable as the source of fuel is supplied from Norway, Scandinavia. Development cannot therefore be called 'green' and referred to as energy saving, given the transportation involved to bring

the fuel (trees) required to the site and the subsequent pollution from the HGVs.

Countryside, AONB and Ecology:

- Visual harm to the natural beauty of the countryside and the Kent Downs AONB landscape.
- Height limit to Link Park is 14m but the height of the stack is 70m and the main building is above 14m. The development would be viewable from as far as Farthing Common, thereby resulting in a harmful impact on the wider countryside, AONB and Lympne village itself.
- The development would be out of scale and incompatible with the local environment. Structures would similar in size to Dungeness, and would interrupt a currently picturesque landscape.
- Other brown field sites within Kent should be explored that would be more appropriate and not within the setting of the AONB.
- Ecological damage to the area.

Tourism:

- Provide minimal employment to the local area in comparison to the harm the development would do to tourism of the local area which in turn could impact upon existing local tourism based jobs.
- Detrimental impact upon tourism to Hythe and neighbouring villages.

6.2 One letter was received expressing interest in using waste heat from the proposal.

7.0 RELEVANT POLICY GUIDANCE

7.1 The full headings for the policies are attached to the schedule of planning matters at Appendix 1.

7.2 The following policies of the Shepway District Local Plan Review apply: SD1, E1, E2, E4, U14, U15, CO11,

7.3 The following policies of the Shepway Local Plan Core Strategy apply: DSD, CSD4,

7.4 The following Supplementary Planning Documents and Government Guidance apply:

National Planning Policy Framework
National Planning Policy Guidance
Kent Design Guide
Kent Downs AONB Management Plan
Link Park Supplementary Planning Document

8.0 APPRAISAL

Independent review

- 8.1 The application was reviewed for the Council by independent consultants, WYG, with the report now available in the public realm. The advice received has informed the report and recommendation.

Policy Background – Sustainable Development

- 8.2 The National Planning Policy Framework (NPPF) is an important material planning consideration that sets a presumption in favour of sustainable development with a view to building a strong competitive economy, creating a high quality built environment and protecting and enhancing the natural, built and historic environment. The NPPF also provides clear support but qualified support for development that generates renewable energy and which reduces carbon emissions.
- 8.3 The NPPF makes it clear that there is a presumption in favour of sustainable development and that for decision-taking; this means approving development proposals that accord with the development plan without delay.
- 8.4 Paragraphs 6 to 10 of the NPPF sets out that the purpose of the planning system is to achieve sustainable development. These paragraphs also set out the three dimensions, economic, social and environmental, that contributes to such development and confirms that these roles should not be considered in isolation. The policies of the Framework are to be taken as a whole when considering what sustainable development means in practice for the planning system.

Policy Background - Renewable Energy

- 8.5 National Planning Practice Guidance (NPPG) sits alongside the NPPF and provides online guidance on the practical implementation of the Government's policies, including those associated with the development of renewable energy. The Guidance reiterates the Government's commitment to renewable energy stating:

“Increasing the amount of energy from renewable and low carbon technologies will help to make sure the UK has a secure energy supply, reduce greenhouse gas emissions to slow down climate change and stimulate investment in new jobs and businesses. Planning has an important role in the delivery of new renewable and low carbon energy infrastructure in locations where the local environmental impact is acceptable.” (Paragraph: 001Reference ID: 5-001-20140306 Revision date: 06 03 2014)

- 8.6 Setting out how Local Planning Authorities can develop a positive strategy to promote the delivery of renewable and low carbon energy the NPPG states:

“The National Planning Policy Framework explains that all communities have a responsibility to help increase the use and supply of green energy, but this does not mean that the need for renewable energy automatically overrides environmental protections and the planning concerns of local communities. As with other types of development, it is important that the planning concerns of local communities are properly heard in matters that

directly affect them." (Paragraph: 003 Reference ID: 5-003-20140306
Revision date: 06 03 2014)

- 8.7 Examples of the considerations for particular renewable energy technologies that can affect their siting include proximity of grid connection infrastructure and site size, and for biomass proposals appropriate transport links.
- 8.8 Local Planning Authorities should not rule out otherwise acceptable renewable energy developments through inflexible rules on buffer zones or separation distances. Other than when dealing with setback distances for safety. Distance in itself does not necessarily determine whether the impact of a proposal is unacceptable. Distance plays a part, but so does the local context including factors such as topography, the local environment and near-by land uses.
- 8.9 Planning can provide opportunities for, and encourage energy development, which will produce waste heat, to be located close to existing or potential users of the heat. Planning can also help provide the new customers for the heat by encouraging development, which could make use of the heat.
- 8.10 The 'Overarching National Policy Statement for Energy EN1' Document is directly relevant in the current context:

"Paragraph 3.4.1 above sets out the UK commitments to sourcing 15% of energy from renewable sources by 2020. To hit this target, and to largely decarbonise the power sector by 2030, it is necessary to bring forward new renewable electricity generating projects as soon as possible. The need for new renewable electricity generation projects is therefore urgent."
(Paragraph 3.4.5, p.27)

- 8.11 As noted above, a significant increase in renewable energy consumption and generation is required to meet with the legally mandated targets, as set out in EN1. It is not disputed that proposed biomass plant would make a measurable and timely contribution to meeting these targets, if granted consent, and developed to the timescales envisaged in the planning application.
- 8.12 The UK's decision to leave the European Union has not, at this stage, had any impact on the UK's binding commitments and Government policy. Therefore the need for new renewable energy generation has not been diluted.
- 8.13 At this juncture it should be noted that the applicant appears to confuse the Government's policy position that applicants for renewable energy development do not need to justify the 'need for renewable energy development' with the 'need to justify renewable energy development in this location'. This manifests in the site selection report, which is inadequate in explaining why this site has been chosen and why other sites have been discounted. The applicant refers to the need for the site to be located with the source of the fuel supply in mind however there is no information on where the fuel is likely to be sourced, or the need for example, to be close to

a port for import of any overseas timber. The only locational requirement in this case appears to be a location close to the main highway network, which means multiple sites, could be suitable in this area, the region or elsewhere in the UK.

8.14 The need for renewable energy development as such therefore does not require substantiation however the impacts on the local environment do need to be assessed and the sustainability credentials considered. The current inability to identify an outlet for the heat load from the biomass plant and the lack of explanation of the site location vis-à-vis the source(s) of the fuel (and consideration of the sustainability and environmental impacts associated with the sourcing and transportation of fuel) are significant detractors to the overall sustainability credentials of the development, which in turn are a material consideration when considering project impacts against the prevailing policy framework.

8.15 The overarching key points can be summarised as follows:

- Lack of transparency of the type and therefore sustainability of feedstock fuel;
- Query over CO₂ savings stated and assessed within the ES; and
- Lack of evidence of local stakeholder engagement in relation to possible heat take off customers.

8.16 Policy U14 of the Shepway Local Plan sets out the general criteria for the considered on renewable energy proposals. The policy is supportive of renewable energy proposals provided there is no unacceptable impact on landscape and the built environment.

Principle of Development

8.17 The NPPF (paragraph 98) advises that local planning authorities should, when determining applications:

- *“not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy and also recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions”; and*
- *approve the application if its impact are (or can be made) acceptable...”*

8.18 In this case, the need for renewable energy is accepted and this weighs materially in favor of the application, however the assessment of this application is based on whether the impacts of the renewable energy development can be made acceptable.

8.19 In his Ministerial Statement in 2013, Eric Pickles MP, when referring to the then newly issued Planning Practice Guidance stated *“The new guidance makes it clear that the need for renewable energy does not automatically override environmental protections and the views of local communities should be listened to.”* This statement is relevant to the consideration of this application, as this statement remains embodied within the current NPPG which states that:

“There are no hard and fast rules about how suitable areas for renewable energy should be identified, but in considering locations, local planning authorities will need to ensure they take into account the requirements of the technology and, critically, the potential impacts on the local environment, including from cumulative impacts. The views of local communities likely to be affected should be listened to” (Paragraph: 005 Reference ID: 5-005-20150618 Revision date: 18 06 2015).

Link Park Location

- 8.20 The main Supplementary Planning Guidance (SPG) report material to the consideration of this planning application is the Link Park SPD dated 2006. Whilst the extant outline planning permission for the business park was issued in 2009 and extended in 2016, the SPD provides some important context for the future development of the estate.
- 8.21 The SPG is referenced in planning permission Y09/0145/SH which granted outline consent for the business park including plots 50, 60 and 70 where the proposed biomass plant would be located. Condition 5 of this consent states *“No Building or structure, or any part thereof, on the site shall exceed 14 metres in height”*, the reason given for the condition is *“In the interests of the visual amenity of the wider locality in accordance with policies SD1 and CO1 of the Shepway District Local Plan Review and in accordance with the Link Park Supplementary Planning Document 2006.”*
- 8.22 The SPG is adopted and still relevant to the consideration of this application and raises a number of issues and concerns for an applicant proposing development at the business park to address. In particular the SPG highlights the visual sensitivity of the site including its prominence in the landscape and sensitivity to views from the AONB and local receptors. The SPG highlights the need for landscape mitigation but notes limitations on what this can achieve. The SPG highlights the need to consider the visual impact of colours and materials and the positioning of buildings and structures. In particular avoiding larger buildings and structures at the site boundaries and avoiding lighter colours. The guidance also highlights the need to provide ecological information.
- 8.23 The outline consent sets a maximum development height limit of 14m for subsequent reserved matters applications. The outline consent is in accordance with the requirements of the SPD such as the requirement for smaller buildings and structures to be located on the northern and western boundaries graduating in height towards the centre, with taller buildings to be located south of the spine road.
- 8.24 This application proposes the biomass plant to be located on the northern boundary of the Link Park business park with the scale of the buildings and structures proposed, in direct conflict with condition 5 of the outline consent, the informative on the planning permission and the extant SPD for the business park. Therefore, granting consent for the biomass plant would be in direct conflict with the restrictions placed on the development of the rest of the business park and would give rise to a number of visual and landscape

effects that the SPD and outline planning permission have specifically sought to avoid.

8.25 The need for renewable energy development has been considered above, as has the need to ensure that the views of the local community are properly heard and considered. The PPG reference to encouraging the use of waste heat from energy development is particularly relevant in this case. Whilst the proposed biomass development is located on a business park where there might be future occupiers with a need for or desire to be provided with cost effective heating, the applicant has no evidence that any such off-takers exist. There appear to be no opportunities beyond the business park for an economically viable outlet for the waste heat load. Therefore in terms of its sustainability credentials the proposal falls well short of its full potential. Whilst future customers for the waste heat might locate at the business park this cannot be guaranteed or required by a planning condition or planning obligation and therefore cannot be given weight in the planning determination.

Employment

8.26 The site is allocated as an employment site within the Shepway District Local Plan. Policy E1 of the Local Plan states that *“Planning permission for industrial and commercial development or redevelopment will be granted within the established employment sites shown on the Proposals Map for that purpose.....”*

8.27 Policy E2 of the Local Plan states that:

“Planning permission for business and commercial development or redevelopment will be granted on the new employment opportunity sites listed below and shown on the Proposals Map. Development will be in accordance with adopted Development Briefs where appropriateand also the following key requirements:

C. Link Park, Lympne

- (i) Permissible uses restricted to Use Classes B1/B2/B8;*
- (ii) Provision of necessary site access and off-site highway improvements;*
- (iii) Provision of structural landscape areas, as shown on the Proposals Map;*
- (iv) Acceptability in terms of noise impacts on surrounding residents.”*

8.28 Policy E4 of the Local Plan states *“Planning permission will be refused for the development of land or existing employment uses identified in Policies E1 and E2, and shown on the Proposals Map, other than for the use classes indicated.”*

8.29 Para 4.27 supporting saved policy E4 states *“In order to maintain a planned approach to the supply of land for employment purposes, identified sites should not be (re)developed for other purposes. Land to meet other needs is provided for elsewhere in this Plan”.*

- 8.30 The proposed biomass plant does not fall within the business use classes allowed for at the Link Park site (being a Sui Generis use it does not fall into B1, B2 or B8 business use classes). However Sui Generis developments would be acceptable in principle on the business park site where their impacts can be shown to be acceptable and where they do not cause employment land to be lost or blighted.
- 8.31 The applicant sets out the expected employment levels when the plant is operational and this demonstrates that the development will generate valuable employment. There is no evidence to suggest that developing this site will result in a shortage of available B1, B2 or B8 use class land in the district nor that the construction and operation of the biomass plant would blight other development plots on the business park. Indeed an argument is advanced (albeit not substantiated) that the biomass plant might attract business uses with a demand for locally generated heat.
- 8.32 Para 4.28 states that *“In order to protect the amenity of local neighbourhoods and the environment in general, the Council will ensure that the (re)development of identified employment sites, and other sites elsewhere in the District, is implemented in a way that is in sympathy with their surroundings”*.
- 8.33 The development of a biomass plant, as a Sui Generis use is acceptable in principle at the Link Park business park. However any proposal needs to be acceptable when considered against development plan policies. Link Park is referred to in policy E2 and permission will only be granted where (amongst other matters) the development is considered acceptable in terms of noise impacts.

Highways/Transport

- 8.34 Paragraph 32 of the NPPF sets out that all developments that generate significant amounts of transport movement should be supported by a Transport Statement or Transport Assessment. Local planning authorities must make a judgment as to whether a development proposal would generate significant amounts of movement on a case-by-case basis (i.e. significance may be a lower threshold where road capacity is already stretched or a higher threshold for a development in an area of high public transport accessibility).
- 8.35 As the application site is within Link Park business park where there is an extant planning consent which is implementable, and considering that the projected traffic movements associated with the biomass plant are not considered to be of any significant change to that previously assessed and approved for this site, and that KCC Highways raise no objection, it is considered that the highway impacts are considered to be acceptable subject to conditions.

Environmental Considerations

8.36 Due to the location of the Kent Downs AONB and the nearby listed buildings, the Local Authority is required to determine this application in accordance with:

- Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on local planning authorities to pay special regard to the desirability of preserving the setting of listed buildings before granting planning permission.
- Section 85 of the Countryside and Rights of Way Act 2000 requires a local planning authority, when exercising any functions in relation to, or affecting land in, an AONB to have regard to the purpose of conserving or enhancing the natural beauty of the AONB.

AONB Setting and Landscape

8.37 The NPPG advises that one of the core principles in the NPPF is that planning should recognise the intrinsic character and beauty of the countryside. Local plans should include strategic policies for the conservation and enhancement of the natural environment, including landscape. This includes designated landscapes but also the wider countryside.

8.38 Section 11A(2) of the National Parks and Access to the Countryside Act 1949, Section 17A of the Norfolk and Suffolk Broads Act 1988 and Section 85 of the Countryside and Rights of Way Act 2000 require that ‘in exercising or performing any functions in relation to, or so as to affect, land’ in National Parks and Areas of Outstanding Natural Beauty, relevant authorities ‘shall have regard’ to their purposes. This duty is particularly important to the delivery of the statutory purposes of protected areas. The duty applies to all local planning authorities, not just national park authorities. The duty is relevant in considering development proposals that are situated outside National Park or AONB boundaries, but which might have an impact on the setting of, and implementation of, the statutory purposes of these protected areas.

8.39 Policy SS1 of the Shepway Core Strategy Local Plan states that the “future spatial priority for new development in the North Downs area is on accommodating development outside of the AONB and without material impact upon its setting”. Policy CSD4 states that “planning decisions will have close regard to the need for conservation and enhancement of natural beauty in the AONB and its setting, which will take priority over other planning considerations. Elsewhere development must not jeopardise the protection and enhancement of the distinctive and diverse local landscapes in Shepway (especially where these support the setting of the AONB)”.

8.40 Within the application the applicant accepts that there would be some adverse impact on the AONB although the significance and weighting differs between the applicant and the consultee comments received from the Kent Downs AONB Unit and Natural England in respect of the impact on the AONB and its setting. Both the Kent Downs AONB Unit and Natural England have significant and substantiated objections due to the scale, massing and appearance of the proposal, which together with the location of

the site in this elevated position, are considered likely to have a significant adverse and permanent impact upon the landscape and setting of the AONB.

- 8.41 Given the applicants inability to reduce the scale or acceptably mitigate the impact of the development, which includes some earth bunds and tree planting that would take some 15 years to mature, some of the impacts considered would be significant, adverse and permanent. It is considered that the proposed biomass power station would be a significant distraction from the natural beauty of the AONB and would conflict with the aim of conserving its landscape and scenic beauty. The proposed development would be a high, prominent and distracting object that would interfere with appreciation of the landscape and quality of the AONB. It is considered that the sensitivity of the local landscape is greater than that recorded in the applicants LVIA and the magnitude of effect is locally greater, leading to a more than moderate significance of effect for both the Aldington Ridge and Sellindge Plateau Farmlands, with impacts for users of the public right of way to the west of Otterpool Lane, residents of properties on Aldington Road, residents of Lympne Village, Newingreen, properties on Ashford Road and users of the public right of way between the railway line and the Ashford Road and residents of Westenhanger in year one, but with the boiler house and stack still visible after the maturation of the vegetation after 15 years.
- 8.42 The introduction of large buildings and structures, 35 metres height for the main building and 70 metres for the stack, in relative close proximity to the AONB would inevitably have an impact on views from and towards the AONB which is considered would be seriously detrimental to the setting to the Kent Downs AONB. In having such an impact it would be contrary to the NPPF which seeks to conserve the landscape and scenic beauty of the AONB. In addition, the proposed development is considered to be contrary to the adopted Development Plan, in particular policy CSD4 of the Shepway Core Strategy Local Plan and policy SD1 of the Shepway Local Plan Review 2006.
- 8.43 In addition, there is clear conflict with the existing consent for Link Park, which sets a maximum height restriction on buildings and structures at 14m, so the largest building would be more than double this height. The proposed development is also clearly in conflict with a number of key aspects of the design guidance set out in the Link Park SPD. The restrictions on the height of development and the design criteria are proposed for good reasons and these are to ensure that the development of the Link Park business park is acceptable in environmental and visual terms. In breaching a number of these design criteria (some significantly) for the business park the applicant inherently accepts the risk that the impacts from the development may be considered unacceptable.

Listed Building Settings

- 8.44 Where harm to the setting of a heritage asset has been identified, the case of East Northamptonshire DC, English Heritage & National Trust v SSCLG & Barnwell Manor Wind Energy Ltd [2013] has confirmed that the Listed Buildings and Conservation Areas Act requires '*considerable importance and*

weight’ to be allocated to that harm when considering whether to grant planning permission. Also, the NPPF, in paragraph 134, makes clear that even if the harm is judged to be less than substantial, as in this case by the Council’s Heritage Advisor, it must still be weighed against the public benefits of the proposal.

- 8.45 In respect of part (b) of policy SD1 which states that development is required to “*preserve and enhance built and cultural heritage including Listed Buildings and their settings, conservation areas, sites and settings of nationally and locally important ancient monuments and archaeological sites, historic parks and gardens and, historic landscapes*”.
- 8.46 The Council’s Built Heritage Advisor, and the applicant’s own submitted information, considers that there would be a permanent adverse impact on the setting of listed buildings. The key impact being the impact on Upper Otterpool and Otterpool Manor, which are both Grade II, listed buildings located close to the site and where the impact on the setting of these heritage assets cannot be satisfactorily addressed by design or intervening landscape planting. According, and against this policy, the proposal neither preserves or enhances protected heritage assets (in particular Upper Otterpool and Otterpool Manor).
- 8.47 The Council’s Built Heritage advisor considers that the harm caused to (the setting of) a number of heritage assets is less than substantial. Accordingly, in accordance with the Planning (Listed Buildings and Conservation Areas) Act 1990 and the NPPF the Council is required to weigh the harm (which should be given great weight) against the public benefits of consenting the development. If the Council is minded to grant consent it is required to give clear and convincing justification for its reasoning. In this case, and as highlighted previously, the case for the development is weakened by the inability to provide a clear justification and rationale for the site selection, the lack of information on the source of the fuel supply (including the associated environmental impacts of the transport of the fuel and its overall sustainability) and lack of an identified and deliverable outlet for the waste heat generated from the burning of biomass. The Council therefore could take the view that the impact on heritage assets is unacceptable against this policy and in addition the requirements of the NPPF and the Planning (Listed Buildings and Conservation Areas) Act 1990. Therefore, it is considered that a reason for refusal could be substantiated on the impact on the impact on the setting of Upper Otterpool and Otterpool Manor.
- 8.48 Therefore, environmental harm would result from the development as proposed in the planning application through the combined impact on the landscape setting of the Kent Downs AONB and on the setting of the identified heritage assets. The development would fail to protect the setting of the AONB and therefore also conflict with the aims of Section 85 of the Countryside and Rights of Way Act 2000.

Ecology and biodiversity

8.49 Ecological studies which relate to the outline consent for the wider business park have been submitted with this application and are therefore out-of-date and not specific to the site. KCC Ecology consider there to be deficiencies over the currency and adequacy of survey information on protected species, and the associated lack of assessment to demonstrate that there would be no unacceptable impacts, from any deposition of emissions on ecological receptors, is a weakness in the application.

8.50 Policy CO11 of the Shepway Local Plan states that:

“The District Planning Authority will not give permission for development if it is likely to endanger plant or animal life (or its habitat) protected under law and/or identified as a UK Biodiversity Action Plan priority species or cause the loss of, or damage to, habitats and landscape features of importance for nature conservation, unless;

- i. there is a need for development which outweighs these nature conservation considerations and*
- ii. measures will be taken to minimise impacts and fully compensate for remaining adverse affects.”*

8.51 There is considered to be insufficient information submitted with the application to form a definitive view on whether there are likely to be any impacts on protected species and habitats. Therefore policy CO11 cannot be fully considered due to the insufficient ecological information submitted.

Climate Change

8.52 The NPPG advises that in addition to supporting the delivery of appropriately sited green energy, effective spatial planning is an important part of a successful response to climate change as it can influence the emission of greenhouse gases. In doing so, local planning authorities should ensure that protecting the local environment is properly considered alongside the broader issues of protecting the global environment. It advises that planning can also help increase resilience to climate change impact through the location, mix and design of development.

8.53 The NPPG re-iterates that addressing climate change is one of the core land use planning principles, which the NPPF expects to underpin both plan making and decision-taking

8.54 The Climate Change Act 2008 establishes a legally binding target to reduce the UK's greenhouse gas emissions by at least 80% in 2050 from 1990 levels. To drive progress and set the UK on a pathway towards this target, the Act introduced a system of carbon budgets including a target that the annual equivalent of the carbon budget for the period including 2020 is at least 34% lower than 1990. This proposal would contribute to the Government's drive to reduce carbon emissions and support its climate change plans and is therefore a material consideration in favour of the planning application, albeit tempered by uncertainty over the environmental impact of sourcing fuel supplies, the sustainability of the transport of the fuel supply and the lack of an outlet for the waste heat load.

Air Quality

8.55 The NPPG states that it is important that the potential impact of new development on air quality is taken into account in planning where the national assessment indicates that relevant limits have been exceeded or are near the limit. It also advises that air quality can also affect biodiversity and may therefore impact on the UK's international obligations under the Habitats Directive. The NPPG goes on to state that odour and dust can also be a planning concern, for example, because of the effect on local amenity.

8.56 When deciding whether air quality is relevant to a planning application, PPG advises that considerations could include whether the development would:

- Significantly affect traffic in the immediate vicinity of the proposed development site or further afield. This could be by generating or increasing traffic congestion; significantly changing traffic volumes, vehicle speed or both; or significantly altering the traffic composition on local roads. Other matters to consider include whether the proposal involves the development of a bus station, coach or lorry park; adds to turnover in a large car park; or result in construction sites that would generate large Heavy Goods Vehicle flows over a period of a year or more.
- Introduce new point sources of air pollution. This could include furnaces which require prior notification to local authorities; or extraction systems (including chimneys) which require approval under pollution control legislation or biomass boilers or biomass-fuelled CHP plant; centralised boilers or CHP plant burning other fuels within or close to an air quality management area or introduce relevant combustion within a Smoke Control Area;
- Affect biodiversity. In particular, is it likely to result in deposition or concentration of pollutants that significantly affect a European-designated wildlife site, and is not directly connected with or necessary to the management of the site, or does it otherwise affect biodiversity, particularly designated wildlife sites.

8.57 Separate to planning consideration, the proposed biomass plant will require an environmental permit. The permit will control environmental emissions from the plant. Whilst duplication of controls between the consenting bodies is advised environmental emissions can still be a planning consideration where they impact for example on public amenity or on protected local wildlife and designations etc. In this case there is no objection from the council's Environmental Health Officer or the Environment Agency. Therefore from a technical and scientific perspective, subject to any necessary conditions, there would appear to be no justifiable objections to granting consent on air quality grounds regarding impact on human receptors.

8.58 There are no objections from specialist consultees covering impact on human health and amenity. Emissions from the proposed biomass plant would be controlled and monitored as part of the Environmental Permitting process.

Noise Pollution

8.59 Noise concerns were raised by the Council's Environmental Health Officer (EHO) and the applicant has provided further information and justification post submission. It is considered that the concerns of the EHO could potentially be addressed by the imposition of carefully worded planning conditions.

Light Pollution

8.60 The proposed development will require operational lighting and this will be more pronounced in the winter months in the hours of darkness when deliveries are scheduled to be made and associated with any unscheduled maintenance etc. The site is an allocated business park and therefore lighting would be expected. Provided that the lighting strategy for the site is consistent with the consent for the rest of the business park, or where departing from it justified for operational health & safety reasons then it should be possible to control lighting impacts by a suitably worded planning condition.

Other Issues

8.61 The applicant has stated that wood from local sources will be used wherever possible to fuel the plant, however, no evidence has been submitted to support this claim.

Conclusion

8.62 The renewable energy generation and carbon savings benefits are material considerations weighing in favor of the proposal, as are the estimated employment opportunities. However the weight that can be attributed to these benefits are significantly reduced for three principal reasons. These are:

1. The lack of justification for the development to be at Link Park. There is no consideration presented of alternatives selected and why this site was chosen above others. Given that the Council, the organisations responsible for safeguarding the AONB and the local community are being asked to accept some damage to the setting of the AONB the lack of justification for the site selection is considered to be a significant weakness.
2. The lack of information on the source of the fuel for the biomass plant leaves the environmental impact assessment and the sustainability appraisal of the development lacking key information. This casts doubt on the sustainability credentials of the overall development, which is a significant concern when policies of the development plan are being contravened.
3. The lack of an outlet for the waste heat generated from the burning of biomass also raises questions over the sustainability of the proposal.

With the other two issues highlighted above, this makes the proposal sit very uncomfortably with the sustainable development requirements of the NPPF.

- 8.63 The proposals would also result in harm to the setting of the Kent Downs AONB and to the setting of listed buildings at Otterpool Manor and Upper Otterpool, which is an important factor weighing against the grant of planning permission, as set out in the Listed Buildings and Conservation Areas Act. There are also unknown ecological implications which would conflict with the Development Plan. Therefore the proposal fails to be classed as sustainable development as defined in the NPPF. This is due to the extent that it would conflict with the environmental policies contained within it.

Human Rights

- 8.64 In reaching a decision on a planning application the European Convention on Human Rights must be considered. The Convention Rights that are relevant are Article 8 and Article 1 of the first protocol. The proposed course of action is in accordance with domestic law. As the rights in these two articles are qualified, the Council needs to balance the rights of the individual against the interests of society and must be satisfied that any interference with an individual's rights is no more than necessary. Having regard to the previous paragraphs of this report, it is not considered that there is any infringement of the relevant Convention rights.

- 8.65 This application is reported to Committee due to the level of public interest in the application.

9.0 SUMMARY

- 9.1 Due to the scale, visual appearance and location, it is considered the proposed development would have a detrimental impact on the setting of the Kent Downs Area of Outstanding Natural Beauty. It is considered the proposed development would neither preserve nor enhance the countryside and landscape that forms the setting of the Kent Downs Area of Outstanding Natural Beauty and therefore would be contrary to policies CSD4 of the Shepway Core Strategy Local Plan and policies SD1 and U14 of the Shepway Local Plan Review 2006.
- 9.2 It is considered the proposal would have a permanent and detrimental impact on the settings of the Grade II listed buildings at Upper Otterpool and Otterpool Manor. As such, the proposal would fail to preserve and enhance the settings of these listed buildings and therefore without overriding economic or social justification would be contrary to policy SD1 of the Shepway Local Plan Review 2006 and the requirements of the NPPF and the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 9.3 The location together with the scale and appearance of the proposal, are in clear conflict with a number of long established design criteria set out in the Link Park Supplementary Planning Document. There is a lack of reasoned

explanation for the selection of the Link Park site for the proposed biomass plant and the lack of justification for departure from the design guidance and as such would be contrary to the Link Park Supplementary Planning Document.

- 9.4 The ecological studies carried out at the time of the outline application for the wider business park have been submitted and are therefore out-of-date and not specific to the application site. It is considered likely that the application site would contain protected species in similar numbers to those identified previously however, insufficient ecological information has been submitted with this application to determine the mitigation requirements (if reptiles are confirmed present), and without up-to-date survey details, the Council is unable to demonstrate that there is adequate, achievable mitigation available to ensure the long-term status of reptiles can be maintained. Therefore as the risk to protected species/biodiversity is unknown, the application has failed to demonstrate that protected species will not be harmed and is therefore contrary to policy CO11 of the Shepway Local Plan Review 2006.
- 9.5 The proposal for a 45MW combined CHP renewable energy electrical power station at Link Park would be contrary to the Local Development Plan as it is considered that the environmental harm would be greater than the identified economic and renewable energy/carbon reduction advantages and that these adverse impacts would significantly and demonstrably outweigh the benefits. Therefore it is considered the proposal fails to be classed as sustainable development as defined in the NPPF and is recommended for refusal.

10.0 BACKGROUND DOCUMENTS

- 10.1 The consultation responses set out at Section 4.0 and any representations at Section 6.0 are background documents for the purposes of the Local Government Act 1972 (as amended).

RECOMMENDATION – That planning permission be refused subject to the following reasons:

- 1 By virtue of its scale, appearance and location, the proposed development would have a detrimental impact on the setting of the Kent Downs Area of Outstanding Natural Beauty. The proposed development would neither preserve nor enhance the countryside and landscape that forms the setting of the Kent Downs Area of Outstanding Natural Beauty and therefore would be contrary to policies CSD4 of the Shepway Core Strategy Local Plan, policies SD1 and U14 of the Shepway Local Plan Review 2006 and paragraph 115 of the National Planning Policy Framework which seeks to conserve the landscape and scenic beauty of Areas of Outstanding Natural Beauty.

- 2 By virtue of the permanent and detrimental impact the proposed development would have on the settings of the Grade II listed buildings at Upper Otterpool and Otterpool Manor, the proposal would fail to preserve and enhance the settings of these listed buildings and therefore without overriding economic or social justification would be contrary to saved policies SD1 and BE5 of the Shepway District Local Plan Review 2006, paragraphs 17, 131 and 132 of the NPPF and section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 where Local Planning Authorities are required to have special regard to the desirability of preserving the setting of listed buildings.
- 3 The application proposals, in terms of location, scale and appearance, are in clear conflict with a number of long established design criteria set out in the Link Park Supplementary Planning Document. The lack of reasoned explanation for the selection of the Link Park site for the proposed biomass plant and the lack of justification for departure from the design guidance would be contrary to the Link Park Supplementary Planning Document.
- 4 By virtue of insufficient information being submitted, the risk to protected species/biodiversity is unknown and therefore the application has failed to demonstrate that protected species will not be harmed and is therefore contrary to saved policy CO11 of the Shepway District Local Plan Review 2006 and paragraphs 17 and 118 of the NPPF.

Decision of Committee

Y15/0751/SH
Plot 60
Land adjoining Enterprise Way
Enterprise Way
Link Park
Lymgne

