

**CORNWALL COUNTY COUNCIL**

**PLANNING (DEVELOPMENT CONTROL) COMMITTEE  
26 March 2009**

**PROPOSED 'CORNWALL ENERGY RECOVERY CENTRE' AND ASSOCIATED  
WORKS ON LAND AT ROSTOWRACK FARM, WHEAL REMFRY, GOONVEAN  
AND PARKANDILICK DRYERS, ST DENNIS, NEAR ST AUSTELL  
(BOROUGH OF RESTORMEL)**

Report by the Assistant Director: Spatial Planning.

A report regarding a planning application by SITA Cornwall Ltd for the construction of an 'energy from waste' facility known as the 'Cornwall Energy Recovery Centre' (CERC).

The planning application comprises the construction of a CERC building and ancillary development including a bottom ash facility, bulking up facility, chimney stack, administrative and visitor facilities, gatehouse and weighbridge, vehicle refuelling area, cooling units, parking and circulation area, security fencing, drainage and landscape works, pipework for heat transfer to existing china clay dryers and other ancillary work, together with a site access road, private haul road and bridged river crossing, junctions with the existing public highway and diversion of public footpath.

Present Policy/Practice: Cornwall Structure Plan 2004  
Cornwall Waste Local Plan 2002  
Cornwall Minerals Local Plan 1997  
Restormel Borough Council Local Plan 2001  
Regional Planning Guidance for the South West 2001  
Cornwall Waste Development Framework ("Submission Stage" version) 2006  
Regional Spatial Strategy for the South West (incorporating the Secretary of State's proposed changes) 2008.

Policy Implications: The relevant policies are given in this report (Appendix A).

Resource Implications: None at this stage.

Environmental Implications: Need for energy from waste recovery and landfill diversion to be weighed against amenity and environmental impacts.

Human Rights Implications: See Report.

Background/Introduction

1. This is a planning application by SITA Cornwall Ltd for the development of a major waste management facility to be constructed on farmland west of St Dennis [figure 1].
2. The application was submitted in March 2008 and was supported by an Environmental Statement as required by the Town and Country Planning

(Environmental Impact Assessment)(England and Wales) Regulations 1999. A copy of the Environmental Statement and accompanying Drawings are available for inspection in the Member's Library.

3. The planning application has been subject to two rounds of formal consultation and publicity, initially in May/June 2008 and again in December/January 2009 following receipt of further information regarding the Environmental Statement.
4. A series of visits with Members to the site and surrounding area have been held on 24<sup>th</sup> July, 5<sup>th</sup> August, 17<sup>th</sup> September and 5<sup>th</sup> November 2008. A public meeting was held in St Dennis on the evening of 17<sup>th</sup> September 2008. Two "technical briefing" sessions have taken place where Members were able to hear the current position of several key technical consultees to the planning application process, as well as raise questions. Members of this Committee have also visited an operational Energy from Waste plant in Teeside in September 2008. Some Members have also visited other energy from waste facilities including the Isle of Man plant, although this was organised outside the business of this Committee.
5. On 28<sup>th</sup> January and 25<sup>th</sup> – 27<sup>th</sup> February 2009 (inclusive) the County Council commissioned the raising of a balloon on the application site to the full height of the proposed stack associated with the CERC facility. This was undertaken in order to allow all parties to gain an appreciation of the height of the proposed stack and its visual and landscape impact.
6. This report concludes the planning application process including consultation responses and an assessment of policy implications and impacts of the development.

#### Site Description

7. The proposed development site is located in the Borough of Restormel, between the villages of St Dennis and Treviscoe. The site of the proposed CERC is located within agricultural land immediately to the north of the extensive St Austell China Clay District. The main features that lie within the general area include the A30 Trunk Road, the Indian Queens power station, the Breney Common, Goss and Tregoss Moor (collectively known as Goss Moor) to the north. To the west and east of the CERC lie the villages of St Dennis and Treviscoe. Further to the west, south and east of the site lie the hills formed from active and disused china clay workings. The agricultural and other natural areas of land are defined by fields, Cornish hedges and areas of woodland and heath. The china clay workings are separated from the agricultural land to the north by a Mineral Railway owned by Network Rail and operated by Imerys Minerals (UK) Ltd. This Railway forms a spur from the main Penzance to Paddington West Coast Main line. Although the branch line currently terminates at the dryers, it could subject to obtaining the requisite consents, continue along its original alignment, joining the Par-Newquay branch line to the north. The railway could subsequently be used to serve the CERC facility in the future.
8. The total planning application site "footprint" comprises a total area of 14.6ha, of which the principal elements comprise the proposed CERC site covers 6.6ha, access road (approximately 800m in length, occupying 1.7ha), private haul road (approximately 2km in length, occupying 5ha)

and an area of pipe work connection to the adjacent Goonvean and Parkandillick china clay dryers complex (approximately 1.3ha).

9. The CERC site and access road would be constructed on an area of previously undeveloped Grade 3a and 3b agricultural farmland, currently part of the "Rostowrack Farm" holding (forming part of the "Carsella Farm" holding). The CERC site is approximately 3km south east from the "Highgate Hill" junction of the A30/A39/B3279 at Indian Queens although the distance by road would be 4½ km.
10. The proposed private haul road lies within land owned by Imerys Minerals UK Ltd, which is controlled by the County Council. The route would partly follow existing haul roads associated with the Wheal Remfry china clay works west of the C184 public highway. Other sections of this road would cut through areas of semi restored and natural woodland and scrub vegetation.
11. The nearest residential properties to the planning application site include "Rostowrack Farm" and "Bodella Farm" which are located immediately either side of the main proposed CERC site; "La Mount" and "Glen Garth" residential properties which are located adjacent to the proposed access road, and "Hawthorns", "Springfields" and "Godstone" properties which are located in close proximity to the proposed haul road. Other residential properties in the vicinity include "Trerice Terrace" approximately 600m to the north of the CERC site. The nearest properties on the outskirts of St Dennis are located approximately 330m away from the CERC, and the nearest properties in Treviscoe are located approximately 60m away from the proposed access road. Other farmsteads and residential properties are located in the general area. The nearest residential properties are identified on Figure 1.
12. Within the vicinity of the CERC and associated haul and access roads lie a number of Listed Buildings. The "Trerice Bridge" on the C184 which crosses the River Fal roughly midway between the A30 and the CERC site is a Grade II Listed Building. Within the Parkandillick China Clay Works to the south of the proposed CERC site lies a Grade II\* Listed Building, and the Church of St Dennis which overlooks the proposed CERC site is also Grade II\* (the only such Grade II\* Listed Buildings within the Parish). Other Listed Buildings are located in the village of St Dennis and surrounding area.
13. Less than 100m to the north of the proposed CERC site lies the Goss Moor National Nature Reserve, the Goss and Tregoss Moor Site of Special Scientific Interest, and the Breney Common, Goss and Tregoss Moors Special Area of Conservation.

#### Details of the Proposal

14. The applicant, SITA Cornwall Ltd (SITA), is a special purpose company which has been created to deliver and manage the day to day operation of Cornwall County Council's Integrated Waste Management Contract. SITA proposes to develop an energy recovery facility at Rostowrack Farm, St Dennis. The facility would treat up to 240,000 tonnes per annum of residual municipal solid waste arising within Cornwall and also some commercial and industrial waste. It is proposed that, should planning permission be granted for this facility, the CERC be restricted to receive municipal solid waste collected within Cornwall. The applicant advises that

a small volume of commercial and industrial waste to be accepted by the proposed facility would also be likely to have originated from within Cornwall as it would not be economically viable to transport such waste any great distance for treatment or disposal.

15. Municipal solid waste mainly comprises of household waste, with a smaller amount of waste from street sweeping, litter collection and beach cleaning. Household waste includes a wide range of materials including food wastes, glass, paper, cardboard, plastic, packaging, garden wastes and occasionally more bulky material such as furniture and white goods. Where there is a shortfall in municipal solid waste, any spare capacity would be available to recover commercial and industrial waste. Commercial and industrial waste from tourist accommodation and catering outlets has a similar composition to municipal solid waste.
16. The CERC would include a bottom ash recovery facility with a capacity of 60,000 tonnes per annum and an administration building incorporating a visitor centre. Ancillary development includes car parking for 52 cars and internal vehicle circulation areas within the site, a single storey gatehouse and weighbridge at the site entrance, drainage works and landscape planting.
17. It is proposed that the site would be operational 24 hours a day with periodic closures for routine maintenance. Deliveries and collections of waste materials would be received and made between 07:00 and 18:00 hours Monday to Friday and 07:00 and 13:00 hours on Saturday. Daily waste deliveries would be completed by 17:00.
18. It is proposed that the CERC would generate a total of 175 vehicular trips per day (350 total movements), of which 108 (216 total movements) would be waste deliveries and the remainder being staff cars, service deliveries and visitors. All delivery vehicles, except "Refuse Collection Vehicles" from communities close to the CERC, would enter the site via a private haul road and new site access road from the A30. This would mean that no delivery vehicles except locally serving Refuse Collection Vehicles would access the CERC via St Dennis or Treviscoe.
19. The applicant indicates that during the construction period approximately 255 people would be employed on site at any one time although the applicant also indicates that many of these jobs are likely to be filled by workers based outside the local area. When operational the CERC would employ approximately 73 staff split between those required to operate the CERC (48) and those staff who would operate from SITA Cornwall's administrative centre for the County, which would relocate to the CERC (25).
20. Should planning permission be granted for this proposal, it is planned that the facility would become operational in 2012. The total construction phase for the CERC including haul and access road construction is expected to last for 42 months. SITA Cornwall has awarded the contract for the construction to "Takuma Co Ltd" (a company specialising in industrial plant and machinery) to design and build the plant. Takuma would then employ further sub-contractors to undertake the construction work.
21. The first phase of construction, lasting nine months would involve the construction of the haul road, site access road and preliminary

groundworks. Once the vehicle access has been completed the civil works would commence. Construction works would take place during the hours of 07:30-18:00 hrs Monday to Friday and 07:30-13:00 hrs Saturday.

#### Description of energy from waste process

22. All vehicles carrying waste and entering the CERC would pass into the site via a gatehouse and weighbridge. The waste delivery vehicles would go to one of six tipping bays in the tipping hall to discharge their load into the waste bunker. Whilst in the bunker the waste would be stored and mixed. To reduce dust and odour in the waste reception hall water sprays and fans are proposed. Air from within the waste reception hall would be drawn into the furnace thereby maintaining negative pressure within the building in order to minimise the potential escape of any odours.
23. Waste would be loaded from the waste bunker by a crane into a feed hopper and the waste would then travel down a chute into the furnace. Once inside the furnace waste would be dried and burned at a temperature of around 1,000°C. The CERC would operate two streams (known as "lines"); each line would be capable of burning around 15 tonnes per hour of residual waste. Burning waste in the furnace produces hot gases that would travel through the boiler, transferring heat to the water running through the boiler pipes. The hot water would then turn to steam. The steam drives the turbines which would generate approximately 20 megawatts of electrical power using heat from combustion of the residual waste. 16.6 megawatts of this electricity would be exported to the national grid sub-station at Fraddon approximately 3kms to the west of the CERC; the remainder would be used on site.
24. Heat would be exported from the CERC in the form of steam or hot water to the adjacent china clay dryers. The applicant indicates that of the total amount of steam energy generated (78 Megawatts), 6% would be provided as heat to the china clay dryers and 20% would be converted to electricity for export to the national grid. Of the remaining heat energy a proportion would be used within the CERC, for example to meet internal energy demand. The applicant states that the heat supply agreement with Goonvean china clay company would provide them with heat equivalent to at least 80% of their needs at their adjacent "Trelavour Kilns" facility. The applicant has also indicated that a similar agreement with Imerys Minerals (UK) Ltd could supply at least 80% of their needs at the Parkandillick facility. Both companies currently meet their needs through the use of fossil fuels (natural gas).
25. The ash leaving the bottom of the furnace would be transferred by conveyor to the adjacent bottom ash recovery centre. The centre would have the capacity for the treatment, storage and onward transfer of 60,000 tonnes per annum of bottom ash. Activities would involve the grading of the ash and recovery of any remaining non-ferrous material with the un-burnt material being extracted. Following this the applicant has stated that the remaining ash would be removed off site for use as secondary aggregate.
26. Gases from the burnt waste would be cleaned and pass through several stages of treatment before being directed to the stack and exhausted. The stack would contain two flues, one for each waste line being processed by the CERC facility. Exhaust gases from the incineration process would undergo a complex cleaning process involving the use of fabric filtration

and a gas scrubbing system. Particles collected from the fabric filters would be stored in silos before being sent for specialist treatment and disposal as a hazardous waste. This ash, known as Air Pollution Control residue or "fly ash" would contain many hazardous substances such as heavy metals and dioxins and must therefore be treated as a hazardous waste. The applicant has indicated that the most common method of disposing of such waste in the UK is to re-use it to neutralise waste acids. This treatment process produces a residue which is classified as non hazardous waste and which is subsequently landfilled. It is estimated that the CERC would produce approximately 11,000 tonnes of Air Pollution Control residue per year. The applicant has indicated that the nearest appropriate landfill facility for these residues is currently in Gloucestershire.

Description of main physical features of the proposed development

27. The proposed main physical features of the proposed development are:

#### *27.1 Main CERC Building*

The main CERC building would contain the plant process equipment on the western part of the site. The building would be approximately 145m long, 58m wide and up to 45m in height at the apex of the roof. The administration and visitor centre functions are integrated with the main building, positioned on its south west side. To minimise the scale of the building, the applicant has stated that the structure would follow the topography of the site, with curved roof forms and use neutral colours and non-reflective materials. The building would be constructed from a steel frame clad in metal panels, perforated metal mesh, concrete and translucent polycarbonate. The roof would be constructed from aluminium.

#### *27.2 Administration and Visitor Centre*

Alongside the CERC building (part of the main building) would be an administration and visitor centre. This would be 12m high and cover three floors. The ground floor would house the visitor centre, comprising of a reception, exhibition space, a seminar room for 40 people, two meeting rooms, toilets, first aid and stores. The first floor would contain the SITA Cornwall management offices, ancillary accommodation and staff changing rooms. The second floor would house the CERC facility offices.

#### *27.3 Bottom ash recovery facility*

A bottom ash recovery facility would be located in the eastern half of the site. It comprises an ash treatment plant, two ash storage areas and a storage bay for recyclable materials. This building would measure approximately 172m long by 56m wide with the maximum height being 23m.

#### *27.4 Chimney Stack*

The proposed chimney stack would be a freestanding structure located to the north of the main CERC buildings. The stack would measure approximately 120m high, 12m long and 8m wide. The applicant has indicated that the height of the stack is governed by the need to reduce the impact of emissions deposition on nearby European sites. The stack would be light grey in colour and contain the two flues referred to above.

Given the height and proximity of the stack to Newquay Cornwall Airport two sets of red warning lights would need to be positioned approximately mid way and near to the top of the stack in order to safeguard aviation interests.

#### *27.5 Gatehouse and Weighbridge*

The gatehouse and weighbridge would be constructed from materials reflecting those used in the main buildings. This would include a one metre base of curved silver green metallic panels with a continuous horizontal timber and glass façade. The gatehouse would be 3m high, 7.7m long and 3.7m wide.

#### *27.6 Car Parking and Pathways*

Parking and pathways would be formed using concrete paving blocks in a grid pattern with contrasting colours and textures. Retaining walls to the car park would be formed from gabion baskets filled with Cornish granite.

#### *27.7 Site access*

All delivery vehicles, except Refuse Collection Vehicles serving communities close to the CERC would access the site from the A30 to the north via the private haul road and new site access road. The applicant has stated that this would mean that no delivery vehicles except Refuse Collection Vehicles operating locally would access the CERC via St Dennis or Treviscoe.

Vehicles accessing the site from the A30 would follow the C184 public highway along "Stamps Hill". At the point where the road narrows just north of the Grade II listed Trerice Bridge, vehicles would join the proposed new private haul road. The haul road would have a tarmac surface designed to reduce noise and dust. Sections of the proposed haul road would form part of the existing network of haul roads used by vehicles associated with nearby china clay workings e.g. excavators and dump trucks. Although these sections would be "shared" by waste vehicles and china clay vehicles, they would be physically segregated by a fence or similar type barrier.

In terms of the proposed access road, this would be constructed across farmland. The route would initially follow an existing track and then continue across fields. The route would allow access to Bodella Farm, the railway bridge and the fields to the south. The CERC site is adjacent to a mineral railway although there is no intention to utilise the railway for the movement of waste within the current proposal although the site layout would facilitate such provision in the future subject to obtaining the relevant consents.

#### *27.8 Earthworks*

Three landscaped areas would be provided to accommodate surplus excavated soils and subsoils; one between the CERC building and the bottom ash treatment building, one to the north east and one to the north west of the site. These mounds would be covered with surplus topsoil arising from the route of the haul road. The natural seed bank in the soil would be allowed to naturally re-vegetate. The proposal includes the removal of significant sections of Cornish hedge. The construction of the

proposed access road would involve the removal of 331m of hedge and the subsequent replacement with 1339m of new Cornish hedge. The CERC facility would involve the removal of 274m of hedge and replacement with 550m of hedge. There would therefore be a net gain of 1284m of Cornish hedge.

Other consents and authorisations required to be obtained by the applicants

28. In addition to the application for planning permission, SITA Cornwall Ltd has applied to the Environment Agency for an Environmental Permit. In general terms the purpose of the Permit is to ensure the facility is operated in such a way and in accordance with specific operating parameters to ensure that human and environmental health remain protected from any harmful emissions. The application for an Environmental Permit was "duly made" on the 17<sup>th</sup> September 2008. The Environment Agency is currently considering this application and taking advice from interested parties. At the time of writing this report the application for the Environmental Permit remains to be determined.
29. The applicant is also required to provide details which consider the implications of the CERC on nearby European sites of nature conservation importance. This is a requirement of the Conservation (Natural Habitats, &c.) Regulations 1994. Within a 10km radius of the CERC lie the following European sites (known as "Special Areas of Conservation" SAC):
  - Breney Common, Goss and Tregoss Moors SAC
  - River Camel SAC
  - St Austell Clay Pits SAC
  - Newlyn Downs SAC (periphery)
30. Under the above Regulations, where development proposals are likely to have a significant effect on a European site either alone or in combination with other "plans and projects", an "Appropriate Assessment" of the implications is required to be made. Such assessments are undertaken by public bodies and in the case of the CERC are undertaken by the Waste Planning Authority and the Environment Agency.
31. The applicant would also be required to obtain a relevant Order to achieve the footpath diversion(s), as well various other consents which include water discharge consents, and licenses relating to impacts to European Protected Species.

Waste PFI Contract

32. In October 2006 Cornwall County Council signed a 30 year waste management contract under the Private Finance Initiative with SITA Cornwall Ltd for the management of Cornwall's municipal waste stream. The contract requires SITA Cornwall Ltd to make capital investments (over the term of the Contract) for the phased development of new recycling, treatment and delivery facilities, as well as plant and equipment, to deliver the requirements of the contract.
33. Proposed facilities include new and upgraded Household Waste and Recycling Centres and Waste Transfer Stations, as well as the construction of an energy from waste facility to provide heat and electricity.

34. The contract is based on outputs and includes key performance indicators to monitor SITA Cornwall's performance. These are primarily aimed at achieving government performance standards for recycling and landfill diversion. Key targets include reaching a recycling and composting level of at least 50% by 2020 and the improvement on the statutory "Landfill Allowance Trading Scheme" targets for Cornwall and reducing the biodegradable material sent to landfill during the contract period. Under the terms of this contract SITA Cornwall are obliged to recycle all recyclable materials deposited at Household Waste Recycling Centres and as part of kerbside recycling schemes. For the Municipal Solid Waste stream it is intended that the CERC facility would only receive "residual" waste i.e. waste which has been discarded by the general public. On this basis the applicant has stated that the facility would not therefore "crowd out" or inhibit recycling performance.

#### Consultations and Representations

35. The application was received as valid on 22<sup>nd</sup> April 2008 and has been publicly advertised in accordance with the Environmental Impact Assessment Regulations. An initial consultation and publicity process took place on 13<sup>th</sup> May 2008, which led to a request being made in October 2008 for "further information" to accompany the planning application and Environmental Statement. A second round of public consultation took place on the further information on 17<sup>th</sup> December 2008 and concluded at the end of January 2009.
36. Due to the nature, scale and location of the proposal and relevant planning policies the planning application was advertised as a 'Departure' from the Development Plan under the Town and Country Planning (Development Plans and Consultation) Regulations 1999. Under such circumstances where planning authorities are minded to grant planning permission for certain developments, they are required to pre-notify the Secretary of State to enable her to consider whether to "call in" the planning application for her own determination.
37. In January 2009 the Living Environment Service of the County Council undertook a preliminary consultation with certain key consultees to invite feedback concerning the changes to the public rights of way which are proposed should planning permission be granted for the development. Where relevant any comments received from that consultation process are reported below.

#### Summary of Consultation Responses

38. Below is a summary of the main points arising in the consultation responses received to date. Where relevant the comments recorded below reflect the latest position of the consultee following the second round of consultation. Full copies of all responses have been made available in the Member's library and also on the Spatial Planning website at:

[https://db.cornwall.gov.uk/PlanningApplications/AssociatedDocs.aspx?ref=\\_08/00203/WAS](https://db.cornwall.gov.uk/PlanningApplications/AssociatedDocs.aspx?ref=_08/00203/WAS)

39. An overall objection has been received from Restormel Borough Council (incorporating the separate comments of their Planning, Environmental Health and Conservation Officers) and the Parish Councils of St Dennis, St Enoder and St Stephen-in-Brannel. The local Member Mr Higman also

objects to the proposals. The Environment Agency has raised no objections from a pollution control perspective, subject to conditions. Natural England have raised no objections on ecological grounds although consider it premature to determine the proposals for impacts on nearby European Sites of nature conservation importance.

Mr BJ Higman, CC  
(Local County Councillor)

Object to the proposals and share the concerns of the public I represent. I also object to the chosen site as it does not take into account the proximity principle for main waste arisings. The proposal would desecrate a large area of fauna and vegetation that has a strong influence on the Site of Special Scientific Interest at Goss Moor, which was a major consideration when the A30 works was proposed and required it to be diverted. The proposed vehicle route does not take into account the unique granite hedgerows nor the unique landscape views when viewed from St Dennis Church. Screening could not detract from this because of the topography of the village.

In terms of the proposed footpath diversion, I share the comments of the Parish Council.

Mr D Curnow, CC  
(Local County Councillor)

Notified.

Mr AJ Waters, CC  
(Local County Councillor)

Notified.

Mr SD Mennear, CC  
(Adjacent County Councillor)

Notified.

Mr PA Glanville, CC  
(Neighbouring County Councillor)

Notified.

Mrs A Egerton DBE, CC  
(Neighbouring County Councillor)

Notified.

Mrs EJ Vincent MBE, CC  
(Neighbouring County Councillor)

Notified.

Mr JB Stocker, CC  
(Neighbouring County Councillor)

Notified.

### St Dennis Parish Council

Strongly object to the proposals. There is overwhelming opposition from the public as evidenced from public meetings held in the locality.

It is firstly questioned whether Members of the Planning Committee have a prejudicial interest in the planning application as Members were involved in the awarding of the waste management contract to SITA Cornwall Ltd.

The Parish Council object to the proposals for the following reasons (summary): a Greenfield site has been selected with only partial permission for plant construction allied to the China Clay industry; the site is too close to Treviscoe and St Dennis which will cause irreparable visual, noise and smell intrusion into two villages and numerous hamlets; conflict with the waste hierarchy, proximity principle and planning guidance relating to minimum road miles have not been complied with. Further, national policy, Waste Local Plan and Waste Development Framework criteria have not been complied with in respect of the sequential approach for locating new waste management facilities. A more appropriate site should have been identified when bids were being considered for the integrated waste management contract.

The close proximity to Site of Special Scientific Interest and Special Area of Conservation sites and the River Fal are a concern. It is also considered that no suitable access road to the proposed site is provided without the construction of 3.4km of new haul road and no "back up systems" have been identified in proposed documentation if a major breakdown or accident occurs. Further, there is no confidence in the applicant's data and modelling predictions as they are "assumed". The Parish also consider that other technologies would be a more sustainable way to deal with the County's waste. The Parish Council consider more than one residual waste disposal plant is essential in the County, and the County Council should have a Duty of Care for its residents.

The Parish Council consider the footpaths to be more important than the applicant's consider. It is sad to see an ancient rural public path reduced to a path running parallel to a road carrying hundreds of lorries per day. The paths are frequently used by local residents and schools.

The above concerns were re-confirmed following the second round of consultation.

### St Stephen-in-Brannel Parish Council

Object to the proposals. The Parish Council consider the proposals to be contrary to policies in the Restormel Local Plan, Cornwall Structure Plan and Cornwall Waste Local Plan. The proposals are contrary to the County Council's long term vision to put the well being of communities, the economy and the environment at the heart of land use policies.

The Parish Council are particularly concerned with the effects the CERC would have on the local road network which is frequently used by other traffic in particular during the summer months. The Parish Council are also particularly concerned with the effect traffic movements associated with the proposals would have on the residents who live adjacent to the proposed access road junction. In terms of the proposed footpath

diversions the Parish Council objects and supports the concerns of St Dennis Parish Council.

In summary the County Council represents the best interests of Cornwall and should protect them from health hazards and environmental pollution. The location of the incinerator would be next to a village in an area already polluted by the clay industry. Two or more energy from waste plant should be built in the County and be more cost efficient in the longer term.

#### St Enoder Parish Council

Object to the proposals. The Parish Council undertook a questionnaire and over 70% of respondents were opposed to a single incinerator. The Parish Council's position is that waste should be dealt with as close to source as possible and it should not be brought to a single site in Cornwall. The Council object to the siting of the incinerator close to the settlements of St Dennis and Treviscoe, and consider the proposal to be contrary to policies in the Cornwall Waste Local Plan. Other areas of concern to the Parish include pollutants, air quality and health concerns; the capacity exceeds the maximum stated in the Cornwall Waste Local Plan; concerns about impacts on the nearby Special Area of Conservation and also concerns over the routes of lorries serving the site which would go through the Parish, in particular at the "Highgate Hill" junction of the A30 where there have been a large number of near misses. The Parish consider other technologies should be explored which would give rise to lesser environmental impacts. The Parish Council support the call for a public inquiry.

In response to the second consultation the Parish Council raises further objections in respect of impacts on human health, the site selection process, the Options Appraisal; Landscape and visual effects, and the impacts of the CERC on water supply. Finally the Parish Council is disappointed that no residents of their Council were allowed to be members of the Site Liaison Group, in particular as the group holds its meetings in St Enoder Parish.

#### Roche Parish Council (neighbouring)

Object until a Public Inquiry is held.

#### St Mewan Parish Council (neighbouring)

St Mewan Parish Council state that the proposed development is a much needed resource, although the location of the facility is not appropriate for St Dennis or other surrounding inhabited areas. There are concerns regarding the level of traffic passing through neighbouring villages and the use of the dangerous A3058. In addition, concerns are raised regarding emissions and whether the economics that brought about this development are still applicable. It is considered by St Mewan Parish Council that smaller strategic incinerators are a more sensible option in the current climate of rising fuel prices.

#### Treverbyn Parish Council (neighbouring)

No comments received.

St Columb Major Parish Council (neighbouring)

Members do not have sufficient time to consider the planning application due to the complexity and therefore it was agreed that no further comments would be made.

Colan Parish Council (neighbouring)

No comments received.

Restormel Borough Council

The Borough Council considered the planning application at two special meetings of Full Council held on 22 July 2008 and 11 February 2009. At their most recent meeting the Council reaffirmed their objections to the proposal. The Council consider the site selection process to remain inadequate and unacceptable. The Council point out that the Secretary of State has now advised that new national and regional policy should be afforded considerable weight in decision making. The Secretary of State's comments on the Regional Spatial Strategy strengthens the case against the development. The site of the development conflicts with relevant policies in the Regional Spatial Strategy. It is noted that the site search area for the proposal excludes areas recommended for such facilities in the Regional Spatial Strategy.

The Borough Council remains of the view that the construction of the CERC would adversely affect the communities of St Dennis and Treviscoe, harm the landscape character of the area and the setting of listed buildings and dominate the setting of the two villages. The evidence highlights serious harm that would be caused to the residential amenity of those that surround the site and would be affected by road noise such as at "La Mount" Corner. There is also a lack of evidence to show that the Special Area of Conservation would not be significantly affected and the Environmental Statement remains unfinished. The application must be refused.

Finally the Borough Council request the County Council's Planning Committee lifts their standing orders to allow public speaking to take place and lead to a fully informed debate.

i) Planning

The main concerns are reflected in the above overall views of the Borough Council and relate to the inadequate site selection process; the adverse effects of the CERC upon the communities of St Dennis and Treviscoe, harm to the landscape character of the area and the setting of listed buildings and the dominance on the setting of the two villages. There is also a lack of evidence to show that the Special Area of Conservation would not be significantly affected and the Environmental Statement remains unfinished.

The Borough Council's comments under this section also include those of the Borough Council's Regeneration Department and Conservation Officer. In terms of the Regeneration Department it is considered that the CERC would bring both positive and negative impacts on existing regeneration strategies. There is potential for the incinerator to bring long term employment, potential for additional employment space to be built around

the site and combined heat and power could supply local housing and business and reduce costs. In terms of negative impacts there is potential for the area to be deemed as the waste-bin of Cornwall and thus be blighted. There is no guarantee that jobs would actually go to local residents. The wider economic impact on local shops and businesses are questioned; there is a lack of any infrastructure improvements other than a road. Continued efforts to develop tourism and leisure opportunities in the areas could be hampered due to the scale of the proposal, and non-incinerator businesses are unlikely to want to relocate to any business space around the incinerator given more accessible industrial estates and business parks in the area.

The Borough Council's Conservation Officer confirms an objection from the adverse impact the development would have on the historic landscape character and the setting of both the St Dennis Church and Parkandillick Engine House. The development would cause harm to both landscape character and the wider setting of both Grade II\* listed buildings within the vicinity of the proposal, but in particular views to and from St Dennis Church. These buildings are listed for their national importance and need special consideration and protection.

#### ii) Environmental Health

In response to the second round of consultation, the Environmental Health Officer considers the conclusions drawn from the measurements and predictions are realistic. In terms of operational plant noise conditions can be set on limits on predicted levels for the day and night time period, although the information does not enable levels to be set for slight breaches.

At Bodella Farm there will be an obvious and significant adverse effect from traffic noise. At Rostowrack Farm most of the noise will come from the ash handling facility. Whilst closing the doors of the ash handling facility will mitigate noise impacts the relatively frequent opening of the doors during the working day will give rise to appreciable and significant effects.

During the operational period there would be permanent noise change and at "La Mount Corner" predicted noise levels will be similar to houses which front busy main roads in St Austell. Noise conditions would not maintain outdoor amenity for properties to the rear, side and adjacent to the proposed access road.

During the construction period there will be a significant and substantial noise effect for nearest properties, although will be of limited duration. The proposed obtaining of a "section 61 consent" (a type of condition imposed under separate legislation to the planning acts) is common sense approach.

In terms of air quality it is noted that emissions would meet limits in the Waste Incineration Directive with the exception of ammonia which would increase the burden on sensitive habitats. In general terms the conclusions derived from the air dispersion sensitivity analysis are reasonable. In terms of dioxins it is noted that measurements of local milk would be undertaken. This is welcomed however there is little merit in monitoring unless there is a pre-development benchmark. This point was made previously but rejected.

Confirmation is requested that the facility in Gloucestershire that would receive fly ash has sufficient capacity during the operation of the CERC.

#### Environment Agency

There are two distinct sections with the Agency who are interested in the proposals: the Planning Liaison team and the Environmental Permitting team. In terms of the Planning Liaison team's comments, the Agency is satisfied with the proposals from a potential pollution and flood risk perspective. The Agency recommends a planning condition be imposed on any planning permission requiring a "Construction Environmental Management Plan" to be implemented. The Agency also recommend conditions be imposed on the following matters: a scheme for the provision of surface water management (for the haul and access roads, and the main CERC site); detailed designs of the haul road bridge over the River Fal; details of ground levels for the haul road (both before and on completion of construction works); details of culverting of Bodella Stream, and details of a biodiversity management plan.

From an Environmental Permitting perspective the Agency have advised that they would be determining the Environmental Permit on the basis of it being a "disposal" facility, as the primary purpose of the facility would be to dispose of waste rather than to generate power. However in terms of energy efficiency the Agency have indicated the proposal would be classed as a recovery facility, although they are currently seeking clarification on this issue.

#### Natural England

In terms of protected species surveys Natural England are satisfied with the scope and methodology of the surveys that were undertaken.

In terms of potential hydrological impacts Natural England do not anticipate there to be any significant impacts on nature conservation interest features.

In terms of air quality impacts on nearby European nature conservation interest features Natural England is unable to make further comments until it has had an opportunity to review the Environment Agency's report on the assessment of likely significant effects. Natural England will then be able to advise whether an "Appropriate Assessment" is required on air quality grounds.

Until Natural England receives clarification over these matters they are of the opinion that it would be premature to determine the application. If they do not receive further clarification on these matters their advice, based on the existing and additional supporting information, is that it cannot be concluded that there will not be a '*likely significant effect*' on the Breney Common & Goss and Tregoss Moors SAC and consequently an Appropriate Assessment will be required.

#### Cornwall Wildlife Trust

No objection in principle. However, Cornwall Wildlife Trust state that further information should be provided on the area of each habitat to be lost and gained. Further reptile survey work should be undertaken to

identify a suitable receptor site for reptile translocation, since it is possible that adjacent sites are already at capacity.

#### Cornwall and Isles of Scilly Primary Care Trust

Having reviewed the Environmental Statement the overall view of the Primary Care Trust and their advisors the Health Protection Agency is that there should be no measurable impact to the health of the local population resulting from emissions from the plant, providing the plant is operated to the standards set by the environmental permitting process. There is a body of scientific literature which has been systematically reviewed in order to come to this conclusion.

The Primary Care Trust are aware of public concerns regarding the perceived threat of emissions and the impact on their psychological health and wellbeing. The Trust are unable to take a systematic approach to assessing the less tangible risks to harm to psychological health and wellbeing. Therefore, while it is possible that there could be a negative effect, they are not able to reliably predict the extent of psychological harm

#### Highways Agency

The Highways Agency consider there will be a minimal impact on the strategic road network and the proposed development will not effect the safe and efficient operation of the junctions on the A30 near to the application site. The Agency is satisfied with the applicant's information in respect of the following: future traffic growth; A30 junction assessments; and accident assessments on the "Penhale" junction. There has been a robust analysis of the Highgate Hill junction which is a junction of concern. The Agency is considering options to improve the safety and effectiveness of its operation.

A signage strategy needs to be agreed before the site can be occupied. The Highways Agency should be consulted on any proposed signage on the A30(T). The Highways Agency consider that the majority of the impact will be on the County Council's road network and therefore the County Council should agree the routeing details. A construction traffic assessment, including a Construction Management Plan would be required.

Sustainable transport measures will also need to be considered including a "Staff Travel Plan" which must be produced and implemented once the site is operational. This should be written in line with best practice policy and guidance.

#### English Heritage

Consider the proposal fails to recognise, let alone address, the impact that the proposal would have on the wider landscape of the St Dennis area, and that the scale, mass and orientation of the proposed plant is such that it would introduce an alien feature, unconnected with traditional or previous land use, into a landscape that has been shaped by its natural resources, agricultural land and china clay. Further, the design, scale and mass of the building do not appear to have considered their place in the landscape. The applicants have identified a substantial effect on the setting of Carne Hill and St Dennis Church, Parkandillick Engine House and the surrounding landscape.

English Heritage raise concerns regarding the poor quality of the photomontages and why a brownfield site has not been found. Confirmation should be provided that the site will make use of the rail access and consequently English Heritage would question the suitability of the site if this is not the case. The impact on Cornish hedges should be considered further. In addition, the geophysical survey clearly indicates the existence of buried archaeology. This relates to agricultural land use such as cultivation and boundaries. These constitute evidence of former use that should be characterised.

English Heritage recommends that any consent should be dependant upon the satisfactory completion of a scheme of archaeological recording works in accordance with Planning Policy Guidance Note 16 ('Planning and the Historic Environment'). This could be achieved via an appropriate planning condition.

#### Food Standards Agency

More frequent measurements for heavy metals and dioxins should be undertaken to determine and evaluate degree of variability in emission levels. The applicant's Human Health Risk Assessment is not endorsed by the UK Committee on Toxicity. In terms of dioxins and dioxin like PCBs in certain food types such as meat, milk and eggs it is not expected that the quantity of dioxins emitted from the proposed development would have a significant impact on the level of dioxins.

Overall it is concluded that there needs to be a comprehensive programme of stack monitoring for dioxins and heavy metals to confirm compliance with limits and to identify any variations in emission levels and establish the causes. Predicted ground level concentrations should also be confirmed by appropriate monitoring. Provided the operator complies with the provision of appropriate guidance which cover the incineration of waste, it is unlikely that there will be any unacceptable effects on the safety of the food chain.

#### South West Regional Development Agency (SWRDA)

Support the proposals. The facility will contribute to the reduction on dependence on landfill, leading towards more sustainable waste management and support the environmental technology sector of the economy. This will, in principle, help to deliver the Waste Strategy for England 2007 and the Regional Waste Strategy for the South West.

The support is subject to the facility being able to accommodate an additional commercial and industrial waste treatment and recovery capacity; a mechanism being put in place to secure the use of heat. SWRDA seek clarification to show support of end markets for recycle and recycled materials and that the development incorporates high standards of sustainable construction techniques.

#### South West Regional Assembly

No objection in principle. The proposed development will contribute significantly to the annual waste management capacity targets as set out in the draft Regional Spatial Strategy for secondary treatment, and should therefore be seen to be in general conformity. However, the South West

Regional Assembly state it should be ensured that the proposed development does not detract from Cornwall's targets for source separated waste.

#### Network Rail

No objection in principle, however details should be provided regarding the safety of the railway and the protection of Network Rail's adjoining land to include: fencing/crash barriers; drainage; safety; ground levels; site layout; landscaping; plant, scaffolding and cranes.

#### Ministry of Defence - Defence Estates

No objections.

#### National Air Traffic Services (NATS) (NERL Safeguarding)

The proposed development does not conflict with safeguarding procedures; accordingly NATS (En Route) Limited has no safeguarding objections to this proposal.

#### Newquay Cornwall Airport Ltd.

No objections.

#### Campaign for the Protection of Rural England (CPRE)

CPRE cite that the proposals have failed to take into account recent new developments, namely the 68,000 extra houses the Regional Spatial Strategy is to impose upon Cornwall and the rise in the price of fuel. If planning permission is granted CPRE would like the following to be considered; access roads are built before any work starts on constructing the plant, construction materials are delivered to site by rail, and hours of work and lorry movements to be limited to 07:00 – 19:00 Monday to Friday, 07:00 – 14:00 Saturday, with no work on Sundays. All lorry movements should have set routes for construction vehicles and when the plant is open.

*[Planning Officer comments: The applicants have advised that their assessment of future waste growth arisings are based on national growth predictions]*

#### Ramblers' Association

Oppose any proposals to incorporate footpaths with the access road to the incinerator. The volume of traffic would be unacceptable in terms of the health and safety of any users of the path as well as making the path environmentally unpleasant. Currently it is a rural path with pleasant views. The proposals would in effect result in an urban path of unpleasant and noisy aspect. Further, any crossings of the proposed access road would be dangerous and it is expected that provision would be made to ensure that any pedestrian crossing would ensure the safety of all walkers. Mere barriers at each side of the road are unlikely to be adequate.

#### Cornwall Countryside Access Forum

The siting of the footpath adjacent to the new access road is inadvisable. With the predicted volume of heavy traffic, journeys along the footpath will be unsightly, noisy, subject to more pollution from exhaust fumes, and potentially more dangerous than a footpath that is separated from the access road by a hedge.

We would suggest that the footpath be separated from the access road by a hedge. This might mean retaining and not extinguishing the present footpath. The proposal, as it stands would mean replacing this footpath for a footway that is more intimidating and more dangerous. If the right of way can be accommodated in a safer and pleasant way, we at least ask for that and we do not favour diversions onto footways. If the incinerator does go ahead, we can expect a greater volume of pedestrian traffic along the footpaths, especially by school and College groups carrying out site visits as part of a field course or project work. It's important that we make these visits as safe as possible.

#### Cornwall Regionally Important Geological Group (RIGS)

Not an outright objection, however Cornwall RIGS Group would not like to see further incremental encroachment onto the moor.

#### Friends of the Earth

Consider that more up to date technologies and less polluting technologies are now available. It is stated that the application takes no account of climate change and the increase in heavy traffic associated with the plant.

#### Greenpeace

Consider that as a matter of principle there is opposition to incineration due to the highly toxic chemicals which are produced, and the market for residual waste which it maintains, undermining recycling and waste reduction strategies. Greenpeace have submitted a number of reports to the planning authority in support of this view.

#### South West Water

No objections.

#### National Grid

Information from national gas and electricity networks indicates that the impact of the proposed development would be negligible. Information should also be sought from local gas and electricity networks.

#### Wales and West Utilities

Discussions are underway with the developers to determine whether the underground medium gas pressure pipeline requires diverting or protecting in situ. The applicants should not place a concrete slab over the pipeline (as proposed) until the discussions are concluded.

#### Cornwall County Council internal consultees

#### Landscape Officer

The Landscape Officer advises that the scale of the development is substantially more than anything else in the area, this will result in a substantial adverse effect on the visual amenity of the people of St Dennis, Hendra and Treviscoe and the site is Greenfield and outside the development envelope. There also appears to be a lack of consideration of landscape in the alternative site assessment.

In addition, it is stated that there will be a significant adverse effect on the setting of Listed Buildings, Ancient Monuments & Area of Great Historic Value, the construction materials are not in-keeping with other industrial buildings in the area, the development will impact on the setting of a Special Area of Conservation, Site of Special Scientific Interest and a County Wildlife Site and there will be a significant impact on the road system.

Concerns are also raised regarding cumulative impacts of the proposal when viewed with existing industrial buildings, sub-stations, power lines and pylons a cumulative impact would occur. It is also disputed that the development can be accommodated by the large scale and the dramatic slopes of the local topography. Overall it is considered that the proposals will result in an increasing industrialisation of the landscape and in an area that is viewed from important tourist areas.

#### Natural Environment Service

In general the Natural Environment Service are satisfied with the level and detail of surveys undertaken for protected species and trees and agree with the conclusions and proposed mitigation measures. However a number of queries remain and these relate to: the request for a detailed strategy for dealing with Japanese Knotweed present on site and a request for detailed plans to show the method of protection of trees and their root protection areas.

It is considered the Cornish hedges are undervalued and should be considered for their wider value in terms of landscape, ecology and social importance. The proposed 10mph speed limit on the proposed haul road close to the badger sett is questioned, and consider that underpasses should be provided. In terms of bats the mitigation measures for lighting effects are unclear and it is considered the planting proposals will be a longer term solution and short term measures should be provided. It is not clear how the fragmentation of dormice habitat will be mitigated or compensated for. A detailed design of the river crossing must allow suitable habitat continuity for dormice and otters and other species.

In terms of impacts to the Special Area of Conservation the Natural Environment Service consider Natural England should be the lead ecological advisor on this matter.

#### Historic Environment Service

Recommend that any consent should be dependant upon the satisfactory completion of a scheme of archaeological recording works in accordance with Planning Policy Guidance Note 16 ('Planning and the Historic Environment'). This could be achieved via an appropriate planning condition.

#### Countryside Access Section

The comments from this Section relate only to footpath accessibility and do not relate to any planning considerations. The Section have worked with the applicants when proposing the changes to the rights of way network. There are no overall objections to the proposal on this basis.

#### Fire Brigade Central Division

Access for Fire Appliances is considered satisfactory providing the proposed development complies with Part B5 of the Building Regulations, 2000. Adequate water supplies can be achieved by complying with the requirements as detailed in the attached W100 & W101 guidance note(s). Compliance with Part B5 of the Building Regulations 2000, 2006 edition, Section 15: Fire Mains & Hydrants will also be necessary.

#### County Highways and Transportation Engineer

The potential impacts of the scheme on the local highway network have been considered. The proposed haul road to cater for construction and operational traffic, as well as its design and layout, is an acceptable solution to the unacceptable nature of the approach roads to the CERC from the A30. Approach roads from the south are acceptable subject to a satisfactory lorry routeing agreement.

The applicant's proposed lorry routeing arrangements have been considered however they are not considered acceptable at the present time. Queries are raised regarding the nature of vehicles to be subject to the agreement and the routes to be secured, as well as the proposed duration of the agreement.

*[Planning Officer comments: At the time of writing this report discussions between the Engineer and the applicants on the proposed lorry routeing arrangements are still underway. Any further comments will be reported on the "Update Sheets"]*

#### Waste Disposal Authority

The Waste Disposal Authority strongly supports the proposal by SITA to develop a combined heat and power enabled energy from waste facility able to process approximately 240,000 tonnes of residual solid waste a year at Rostowrack Farm. The CERC will bring significant benefits to Cornwall, through moving up the waste hierarchy away from the landfill-based approach of the past. It is considered the proposal accords with relevant national and local waste policy and strategies.

Failure to grant planning consent for the CERC will have serious and long term implications for Cornwall's waste management system as well as causing substantial additional costs to the Council which could only be met by a reduction in spending in other services and/or significant council tax increases to cover the additional costs of dealing with waste.

The Integrated Waste Management Contract has been structured to maximise recycling and composting and only permits SITA to treat residual waste in the CERC. There are no alternative proposals or alternative sites and therefore a planning refusal will result in the County's continuing reliance on landfill, with all residual waste being transferred out of County from 2014 until 2021 at least.

## Representations

40. To date 994 letters of objection have been received and 1 letter of support. In addition a pro-forma letter of 604 signatures has been received. Appendix B provides a table showing the aggregate number of representations received and the detailed issues which are raised. The fifteen most frequently raised issues from the individual letters of objection are as follows:
- a) Odour will have an adverse impact on residents of St. Dennis (402 comments)
  - b) The Council has not investigated alternative strategies for dealing with the County's residual waste problem (323 comments)
  - c) The proposal will be visually damaging to the landscape (303 comments)
  - d) Inappropriate development for a Greenfield site (294 comments)
  - e) Energy from waste includes other technologies not just incineration (285 comments)
  - f) The proposal will cause environmental damage and pollution through stack emissions (285 comments)
  - g) Air quality will be damaged by emissions from the excessive number of vehicles entering and leaving the site (278 comments)
  - h) The proposal will generate noise and disturbance (276 comments)
  - i) The proposal is excessive in terms of bulk and scale (271 comments)
  - j) The proposal will cause congestion and increase the risk of accidents (269 comments)
  - k) The proposal threatens a public footpath (265 comments)
  - l) The predicted 216 daily lorry movements is an unacceptable increase in heavy goods traffic along the roads of St. Dennis (265 comments)
  - m) The proposal will damage the character of the area (264 comments)
  - n) Cornwall Air Quality Forum has established that 1 HGV produces as much pollution as 22 private cars (264 comments)
  - o) CCC must review their policy and must renegotiate their contract with SITA to provide Anaerobic Digestion (263 comments)
- In addition to the above public representations correspondence has also been received from the following interested parties:

### Liberal Democrat Parliamentary Team for Cornwall (representation on behalf of all 5 MPs)

The Team are not convinced that a single large waste incinerator at St Dennis is the best environmental, financial or practical solution for Cornwall's waste. The proposals contravene the South West Planning Policy guidance on the 'Proximity Principle'. In addition, concerns that the development is to be built on Greenfield land when there are many pre-developed sites in the area in which the incinerator is proposed. This threatens the post-Imerys regeneration of the community, is out of scale with the local village and that it offers few advantages to local people but actually severely impacts on their visual amenity. The Liberal Democrat Parliamentary Team for Cornwall calls for an independent planning inquiry.

Further correspondence has been received from Matthew Taylor MP which reconfirms the above objections, as well as stating the County Council should determine the planning application on planning related matters only.

### St Dennis Anti Incinerator Group (STIG)

The St Dennis Anti Incinerator Group (STIG) are a group of local residents in the St Dennis area who are opposed to the CERC proposals. The objections of STIG relate to the following areas: non compliance with the waste hierarchy, national waste strategy and the "proximity principle"; the method of disposal of hazardous waste; the lack of evidence of need for the proposals, objections regarding site selection; traffic and transport. Their objections also relate to air quality, criticisms of the consultation process; cultural heritage; footpaths; health impacts; landscape and incorrect photomontages; natural heritage and wildlife; site selection and planning; social and community impacts; water consideration and sustainability. STIG have also provided a "Non Technical Overview" and a "Technical Overview" of the Environmental Statement.

A copy of STIG's detailed representation is available in the Member's Library.

### Cornwall Sustainable Waste Network

The Cornwall Sustainable Waste Network is an organisation representing around 30 organisations and around two thousand individuals. The Network has a number of objections and concerns. These objections and concerns relate to most aspects of the proposed development and the information set out in the planning application and Environmental Statement. The most significant issues highlighted relate to the following matters: Assessment of Alternative Sites, Technology Options and Number of Facilities, Traffic and Transport, Air Quality, Health impacts, Landscape and Visual Impacts, Sustainability, Carbon emissions and Social/Community Effects.

The Network have submitted detailed reports and critical observations relating to the CERC. A series of alternative waste strategies have also been proposed.

Copies of the above correspondence are available in the Member's Library.

### Transition Cornwall Network

The Transition Cornwall Network is a group of interested parties who have a common objective to work towards "positive, resilient, low carbon communities in Cornwall". The Network have submitted a detailed report objecting to the proposals. The report provides a technical review of the emissions and energy efficiencies of the applicant's supporting Technical Papers when compared to relevant national, local and European policies and legislation.

### Gover (Valley) Action Group

Gover (Valley) Action Group state that this is the wrong site because it is in an area that is heavily populated and therefore will impact on the area in terms of traffic volume, as well as the impact upon animals and birds. There is also a requirement to divert a footpath, which will disrupt the rural nature of this path. In addition, there will be an impact on air quality in relation to the growth of mistletoe. Concern is also cited over Imerys regeneration programme for the Mid-Cornwall area and the cumulative impact this will have on transport and air quality.

### St Stephen's Residents Association

The St Stephens Resident Association express concerns that Public Rights of way will be affected, that a listed building or buildings will be affected, air quality will be impacted upon and resulting in consequences for human health and impacts on agriculture. In addition, it is considered that the proposed development does not accord with the provisions of the Development Plan.

### Other representations received

Comments have also been received from the following organisations: the "Renewable Energy Office for Cornwall", "Transition Penwith" and "The Power of Cornwall". The main objections and concerns are listed above or within the general comments listed in Appendix B.

In response to the preliminary consultation on changes to the public footpath network, the landowner (the Tregothnan Estate) in principle supports the proposed diversions and stopping up although objects to the proposed linkages to other parts of their Estate and to adjacent footpaths. Also, the tenant farmer has requested that a section of the footpath which would be incorporated into the proposed access road be located south of the site to avoid disturbance to cattle and other stock, and also younger stock close to the farm buildings.

### Planning Considerations

#### Decision Making Process

There are three main legislative requirements for the determination of this application.

The main statutory requirement is the Planning and Compulsory Purchase Act 2004. Other statutory considerations are the Planning (Listed Buildings & Conservation Areas) Act 1990 and the relevant European Directives in respect of Waste and Habitats.

#### **Planning and Compulsory Purchase Act 2004.**

The Planning and Compulsory Purchase Act Section 38(6) provides that "If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

It is for the decision maker to decide the weight to be given to and material considerations.

In respect of the Development Plan the decision maker;

- Must consider the plan and identify any relevant provisions.
- Must interpret the Plan correctly.
- Decide whether the proposal does or does not accord with the relevant provisions.
- If policies pull in different directions the decision maker must assess them all and in light of the whole plan state whether the proposal does or does not accord with it.

- Determine in accordance with the Development Plan unless other material considerations indicate otherwise.

The decision-maker should give reasons sufficient to show the chain of reasoning in respect of determining whether or not the proposal accords with the Development Plan. In making this judgment it should be demonstrated what weight is given to the damage to the interest of the policy arising from the proposal weighed against the weight or lack of weight attached to the countervailing considerations based upon the advantages of the proposal.

It is then necessary to weigh up other material considerations in support or against the proposal and decide whether any other factors are sufficient to override the statutory priority of the Development Plan.

The decision must be made having regard only to material planning considerations. It must exclude considerations that are immaterial. It must take account of all those that are material and must be able to be said to rationally flow from a proper consideration of those matters. It must not appear to be biased, irrational, or perverse.

### **The Planning (Listed Buildings & Conservation Areas) Act 1990**

The Planning (Listed Buildings & Conservation Areas) Act 1990 states that the decision maker shall have regard to the desirability of preserving the building or its setting or any feature of architectural or historic interest which it possesses.

#### **European Directives**

41. European Directives require Member States to undertake appropriate actions in respect of certain matters. In this case there are two Directives of particular relevance: Council Directive 1999/31/EC ("the Landfill Directive"), and Council Directive 92/43/EEC on the Conservation of natural habitats and of wild fauna and flora ("the Habitats Directive").
42. In terms of the Landfill Directive its overall aim is "to prevent or reduce as far as possible negative effects on the environment, in particular the pollution of surface water, groundwater, soil and air, and on the global environment, including the greenhouse effect, as well as any resulting risk to human health from the landfilling of waste during the whole life-cycle of the landfill". This Directive requires significant changes to the way waste is traditionally managed in the UK. One of the key requirements of this Directive is for Member States to reduce the disposal of municipal waste by landfill. The Directive introduces a series of targets to bring about a stepped reduction in the quantity of municipal solid waste disposed to landfill. In the UK these targets are as follows:
  - by 2010 to reduce the quantity of biodegradable municipal waste disposed to landfill to 75% of 1995 levels of waste arisings;
  - by 2013 to reduce the quantity of biodegradable municipal waste disposed to landfill to 50% of 1995 levels of waste arisings;
  - by 2020 reduce the quantity of biodegradable municipal waste disposed to landfill to 35% of 1995 levels of waste arisings;
43. In terms of the Habitats Directive its main aim is to "promote the maintenance of biodiversity by requiring Member States to take measures to maintain or restore natural habitats and wild species at a favourable conservation status, introducing robust protection for those habitats and species of European importance." The Habitats Directive aims to protect

habitats and species of European interest. The Directive led to the setting up of "Special Areas of Conservation" which, together with other protected areas, form a network of protected sites called "Natura 2000". Within a 10km radius of the CERCS the following European sites/Special Areas of Conservation (SAC):

- Breney Common, Goss and Tregoss Moors SAC
- River Camel SAC
- St Austell Clay Pits SAC
- Newlyn Downs SAC (periphery)

### **Examination of the Development Plan**

44. The Development Plan currently in place in Cornwall comprises Regional Planning Guidance 2001, the "saved" policies in the Cornwall Structure Plan 2004, the "saved" Cornwall Waste Local Plan 2002 (This is saved with the exception of two uppercase policies as described later in this report), and the "saved" policies in the Cornwall Minerals Local Plan 1997 and the Restormel Borough Council Local Plan 2001.

### **Examination of the Development Plan: Regional Planning Guidance**

45. Regional Planning Guidance for the south west is contained in Regional Planning Guidance Note 10 (RPG10 dated September 2001) which looks to 2016. The broad policy thrust of RPG 10 is to promote sustainable development. The specific policies in respect of waste facilities seek to guide decisions on the scale and spatial distribution of waste management facilities. RPG10 provides targets for the recovery of value from municipal waste. Policy RE5 is particularly relevant in this context.

#### Policy RE5: Management and Transportation of Waste

In order to achieve sustainable waste management (the Best Practicable Environmental Options) in the region, waste planning, disposal and collection authorities, the Environment Agency and waste management and water companies should cooperate to:

- Establish a mix of waste recovery methods e.g. recycling, composting, energy recovery etc, regionally and sub-regionally, that will reduce reliance on landfill and will avoid creating over-reliance on any one method or facility.
- Pursue the following regional targets:
  - Recycle or compost at least 30% of household waste by 2010; and, 33% by 2015.
  - Recover value from 45% of municipal waste by 2010; and 67% by 2015.
  - Reduce landfilling of biodegradable municipal waste to 75% of the 1995 production level by 2010; and, 50% by 2013.
  - Reduce landfilling of industrial and commercial waste to 85% of the 1998 level by 2005.
- Give priority to the provision of waste management facilities that will recover value from waste at or near the Principal Urban Areas (PUA). Those facilities should take account of waste management requirements in the PUA (s) concerned and its neighbouring county areas and should be planned to contribute to the achievement of the regional targets above, in respect of the urban area(s) and its hinterland.
- Ensure that sub-regional requirements are taken into account in structure and waste local plans and in waste planning decisions. Structure or (where appropriate) waste local plans should propose targets for the provision of value

recovery capacity among participating waste planning authorities. Provision at PUAs and at other urban areas should take the waste management requirements of their neighbouring county areas into account.

The technique of finding (the Best Practicable Environmental Options) has been superseded but a sustainable approach to waste considering environmental, economic and community issues does not take away from the general principles and strategy set out by this policy.

46. RPG10 is in the process of being reviewed and will eventually be replaced by the Regional Spatial Strategy for the south west, prepared under the provisions of the Planning and Compulsory Purchase Act 2004. This is examined in later sections of this report.

### **Examination of the Development Plan: Local Planning Policy**

47. The principal local planning policy context for the proposal is set within the Cornwall Structure Plan 2004 and the Cornwall Waste Local Plan 2002. Other plan documents relevant to the CERC proposal include the Restormel Local Plan 2001 and the Cornwall Minerals Local Plan 1997.
48. The above plans were predominantly created under the "old style" plan making system and will eventually be replaced by the Regional Spatial Strategy and Local Development Framework documents. The Minerals and Waste Local Plans are currently in the course of review. The Cornwall Structure Plan policies are currently proposed to be replaced by the Regional Spatial Strategy, when it is approved in its final form. Until such time the adopted plans currently remain in force.

#### Cornwall Structure Plan 2004

49. Policies in the Cornwall Structure Plan 2004 seek to provide overall capacity for waste arisings in the County, through the sustainable management of waste streams. Development proposals should be compatible with, amongst other criteria, the protection of the environment and local amenity from significant adverse effects of waste management facilities; high standards of design, the management of waste as close as practicable to its origin, and the "Best Practicable Environmental Option". Development should not harm visitor facilities or other features that contribute to Cornwall's attraction for tourism and recreation. Policies in the Structure Plan state that developments should also respect the local landscape character within which they are to be located. In particular the conservation and enhancement of nationally important areas should be given priority when considering development proposals. Policies 1, 2, 3, 6, 7, 13 and 26 are relevant in this context, while policies 27 and 28 deal with transport and accessibility issues.

#### Cornwall Waste Local Plan 2002

50. In the description of this Plan the emphasis of part of the text in bold is the emphasis of the author of this report and is intended to highlight the strategic context for the proposal as described in later sections of this report only. The Cornwall Waste Local Plan states that 'safe, effective and efficient management of waste arisings in Cornwall is vital for the long term safeguarding of the environment, the County's economic well being, and the protection of the amenity of local resident'. The Plan goes on to state that the County Council supports the approach set out in the

Government White Paper "The Waste Strategy 2000" of seeking to deal with waste issues within the context of wider sustainable development goals through waste minimisation and the reduction of quantities of waste requiring landfill by re-use, recycling **and energy recovery**. Having regard to the national policy context and the strategic approach set out in the Cornwall Structure Plan the proposed overall vision for this Plan is set out below:

"To reduce the quantities of all waste arisings in Cornwall requiring disposal to the lowest practicable level, through greater minimisation and re-use. Where minimisation or re-use is not viable or practicable the next goals should be to compost or recycle materials. **Further value in terms of energy and heat should then be recovered through an energy from waste plant with bottom ashes being recycled for aggregating purposes.** Landfill will remain the principal waste management technique until alternative techniques can be provided and in the longer term for residues from which value cannot be recovered. **In all cases waste management techniques will be sought which, having had regard to economic and environmental sustainability, are aimed at minimising impact on environmental quality and local amenity and are not harmful to human health**".

'The following key objectives are identified.

1. encourage the minimisation of waste throughout all stages of the planning process.
2. With the exception of specialised wastes (requiring treatment and disposal outside Cornwall), to ensure the provision of an adequate range of waste management and disposal facilities to meet identified needs within Cornwall.
3. To encourage the development of recycling and composting facilities.
- 4. To provide for the recovery of Energy from Waste (EfW).**
5. To ensure that adequate landfill capacity is developed and maintained to meet the needs of the County for the disposal of waste that cannot be re-used, recycled, or treated in an EfW plant.
6. To have regard to appropriate transport arrangements including more sustainable modes, such as rail and shipping, and the need to safeguard the environment and local amenity'.

The Plan was not supported with sufficient information to determine the most appropriate scientific technique for waste management nor to determine a specific site. An area of search was, however, identified in Mid Cornwall.

Chapter 1 sets out the overall strategy for waste management and disposal. Policy S1 set out this overall strategy as 'an uppercase' policy within this section. Policy S1 has not been "saved" as part of the Development Plan. It refers to the best practicable environmental option which has been superseded. The overall strategy in this chapter remains in the Plan.

Following analysis of waste streams, and having regard to the overall vision of the Plan, specific objectives for individual waste streams are also set out. Specifically in respect of household, commercial and industrial wastes the Plan states that 'the implementation of the EC Landfill Directive and application of the Waste Strategy 2000 unavoidably necessitates a fundamental change in the management of the arisings of household, commercial and industrial waste streams in Cornwall. The level of dependency on landfill in the County

(88% in 2001/2) cannot be maintained. The household, commercial and industrial waste streams are considered in parallel in this plan because of their similar nature and common disposal routes'.

Chapter 5 addresses the development and location of facilities. It states that 'the County Council has a key role to play as Waste Planning Authority in enabling appropriate waste management facilities in suitable locations, and conversely seeking to prevent the development of facilities in inappropriate locations where they would be unacceptable for land use planning reasons. This involves detailed consideration both of the nature of a development and the appropriateness of its location'.

It is recognised in the Plan that 'in Cornwall there exist inherent difficulties for the efficient collection, transfer, management and disposal of waste because of its geographical area, rural nature and dispersed population. These factors can be compounded by the potentially conflicting demands of seeking to manage waste arisings in close proximity to the point of origin while providing facilities of sufficient scale to achieve environmental and economic viability. These will remain as management issues during the Plan period and beyond. It is essential therefore to encourage and facilitate the efficient handling, transfer, treatment and disposal of waste arisings in an integrated and sympathetic manner in order to minimise costs and adverse environmental impacts'.

The Cornwall Waste Local Plan provides specific locational criteria for new waste management facilities which 'are to;

1. 'provide adequate safeguards for the natural and historic environment and local amenity and surrounding land uses;
2. minimise the costs and environmental impact of the transport of waste, at the same time as promoting accessibility of facilities;
3. take advantage of extending and developing facilities, or providing new facilities adjacent to existing facilities;
4. realise opportunities for improving the environment through, for example, the restoration and rehabilitation of derelict or despoiled land or former mineral workings;
- 5. realise opportunities for the integration of facilities with other developments which can maximise the benefits of recovery of materials or energy'.**

In respect of safeguarding the environment and local amenity the plan explains that 'waste must be managed and disposed of in locations and facilities which least compromise the quality of Cornwall's environment. With all waste facilities, from recycling centres, to energy from waste plants and to landfills, there is an inherent risk of pollution and impact on the environment. Therefore, regard will be given to the design and techniques of mitigation to safeguard the environment and minimise the potential impact of waste management facilities. Similarly it is essential that the enjoyment of local amenity and access to it, particularly by residents but also by other users and visitors of land and facilities in a locality, is protected from potential adverse effects which could arise from waste management activities'.

'The transport of waste is one of the most immediate impacts of waste management activity in Cornwall. Currently all waste is transported by road. The Plan states that the County Council will seek to minimise the

environmental impact of the transport of waste wherever practicable (in seeking to apply the Proximity Principle). There are two main ways to achieve this goal: firstly, by reducing the distance that waste has to be transported, and secondly by seeking the movement of waste by modes of transport other than by road’.

‘Where road transport is unavoidable, given the narrowness of many roads in Cornwall it is important that new major facilities that are wholly or primarily road served should be in reasonable proximity to the Primary Route Network. Direct access onto the Primary Route Network should however be avoided. Road served waste management facilities would therefore need to demonstrate reasonable proximity to this network as well as the provision of adequate accessibility to the network. Reasonable proximity as a concept will be interpreted by examining the nature of the existing or proposed access route from the site to the Primary Route Network. If access from the site to the Primary Route Network is favourable, distance from this network will be less of a constraining factor than if access is poor’.

The Plan recognises that ‘the potential for the transport of waste by rail offers a significant opportunity for reducing the quantities of waste currently transported almost exclusively by road with the attendant environmental and amenity impacts’. The Plan also ‘recognises, however, that rail transport is only likely to be a viable option for the transport of wastes in bulk/high volumes. This could include the movement of household and potentially, commercial and industrial wastes within Cornwall and could offer significant financial advantages for the transport of recyclable materials out of Cornwall. **Preliminary work has demonstrated the economic and practical feasibility of transferring waste by rail in Cornwall to a single Energy from Waste plant located in the centre of the County. This would require the development of improved rail infrastructure provision including signalling, transfer facilities and investment in specialist rolling stock’.**

In respect of general principles the Plan states that ‘in examining proposals which utilise particular techniques for the management and disposal of individual waste streams, regard will need to be given to four key principles of this Plan. These principles of waste management are the Best Practicable Environmental Option, the Proximity Principle, the Waste Hierarchy and County self-sufficiency. The Plan states that it is imperative that a balance is struck between achieving potential economies of scale and the need to provide an adequate network of sites to meet local (and in some specific cases regional) needs while minimising the effects and costs of transport and any environmental impacts’. The principles were included in a framework policy (policy L1) which was not “saved” as part of the Development Plan. This policy also referred to the best practical environmental option which is now superseded. The overall strategy of this chapter remains and is part of the Development Plan. This chapter should be read in conjunction with all other policies of this Plan.

On the basis of the strategy for the management of the household, commercial and industrial waste streams set out in the Plan, the Plan states that ‘consideration must be given to the provision of a range of new waste management facilities. These are needed to complement, replace and reinforce the existing network and waste management facilities. There will also always be some requirement for landfill capacity to take non-recovered waste and residuals from recovery processes. To achieve the goal of providing

a system of integrated waste management, new facilities ranging from recycling banks through to new Civic Amenity sites **and to a new Energy from Waste plant will be needed to be provided during the Plan period**'.

The overall strategy in the plan anticipates the provision of **a single Energy from Waste facility** in order to obtain the necessary economies of scale. The Plan states that **such facilities are substantial in scale and have key locational requirements**. These factors include a large flat site (minimum of five hectares) with **sufficient space for provision of residual material recycling and materials recycling facilities, excellent transport linkages in terms of both rail and road, good opportunities for connection to the local electricity distribution network and good proximity to potential heat consumers. Optimally the site should be served by rail from those areas of Cornwall which have reasonable access to the existing rail network** as this mode of transport offers potentially significant environmental advantages over movement solely by road vehicles.

In consideration of the waste hierarchy the Plan states that 'it is essential that the capacity of an Energy from Waste facility receiving household waste does not prejudice the achievement of the policy of significantly increasing the recycling target to 33% by 2010. Policy L6 therefore indicates a maximum gross capacity for an Energy from Waste facility. This gross capacity anticipates a proportion of commercial and industrial waste inputs (200,000 tonnes) and an allowance for maintenance and down time of 10% of the gross capacity. The indicated capacity in policy L6 will therefore, complement, not prejudice, increased levels of recycling and composting'. **(Later in this report it is shown that The Waste Development Framework (WDF) updates the level of capacity needed and whilst the WDF is not adopted policy some weight should be given to the updated capacity figures it contains as these are based on more up to date evidence than the Waste Local Plan.)**

The Plan recognises that this range of key locational factors clearly restricts the availability of suitable sites in Cornwall and when environmental considerations/designations are also added the scope is reduced still further.

The locational requirements for a single Energy from Waste facility, led the County Council in the Cornwall Waste Local Plan to identify an Area of Search located in the centre of Cornwall. The Area of Search is formed by a boundary line commencing at a point to the south west of St Columb Major running in an north easterly direction to a point to the west of Bodmin, southwards to Conce Moor, south westerly to a corner near Nankervis on the A3058 then northwards via Goonbarn, Trefullock and Ennis Barton and onto the Trekenning roundabout. The initial area was extended to include an area of previously used land to the south of Nanpean. This land at Drinnick is adjacent to an existing china clay refining plant at Goverseth. The Plan states that there exists the potential to utilise the heat and power produced by an Energy from Waste facility to enhance clay refining processes. The Drinnick site is poorly served by public highways and therefore could only be developed if such a plant is served by rail with road transferred waste accessing the site via china clay industry haul roads from public roads near the Primary Route Network.

The Plan explains that 'the area within this boundary offers a concentration of locational factors that are not found to the same intensity or level anywhere else in Cornwall. Important elements of the County's road networks cross this area including the A30, the A39, A3058, A391 and the A38 joins the A30 further to the east. In addition, both the Newquay/Par railway line and the Cornwall Minerals Railway traverse the area and the main line is located to the south of the area. Electricity grids at the 33 kilovolts (kv) 132kv and 400kv (The National Grid) cross the area with existing switching stations at Gaverigan and Fraddon. In terms of potential heat consumers, there exist a number of residential areas, a wide variety of sites currently or formerly used by the china clay industry, and industrial estates and as yet undeveloped allocations, particularly at Indian Queens, Victoria, St Columb Major and a potential mixed use site at St Lawrences Hospital, Bodmin'.

The Plan states that 'within this Area of Search, proposed locations for an Energy from Waste facility will be assessed against criteria for prioritising site identification. It is important that locations are optimised to maximise the suitability and range of infrastructure available. Given the permanency of these facilities and their sheer scale it is imperative that the site selection is optimised as much as possible. **However, it is accepted that not all sites will achieve the optimal range of factors listed in Policy L6'.** For this reason the policy itself acknowledges that certain criteria may have to be excluded.

Policy L6 states that 'within the Central Cornwall Area of Search (Inset 1) applications for an Energy from Waste Plant will be approved where the proposals:-

1. demonstrate reasonable proximity and accessibility to the Primary Route Network; and
2. the Plant is to be served by rail; and
3. demonstrate reasonable proximity and a good quality connection to the main electricity grids; and
4. will produce both electricity and heat for off-site consumption; and
5. have sufficient on site capacity to provide for residue processing facilities; and
6. can demonstrate that any adjacent ancillary development will be in accordance with the spatial strategy contained in the relevant development plan; and
7. do not adversely effect the integrity of a candidate Special Area of Conservation; and
8. the Plant has a gross maximum annual capacity of no more than 200,000 tonnes.

Where the proposals for an EfW plant **do not meet all of the above criteria, careful consideration will be given to the exclusion of individual requirements of this policy and components of the design of the scheme'.**

Policy L6 relies upon the overall strategy and locational context set out in the policy within the earlier chapters of the Plan and is a "saved" policy.

**Policy L6 is added to by two further policies. Policy L6A states that applications for an EfW plant should fully assess and quantify any landscape and visual effect and demonstrate that proposals will not adversely impact on the special character of Cornwall's landscape, or cause significant adverse**

impact on the visual amenity of local residents or recreational users. **Any adverse effects will be taken into account in determining the planning application.**

Planning permission will not be granted for EfW proposals which would:-

- harm landscape features such as ancient woodland, significant areas of other woodland, historic parkland, extensive areas of semi-natural vegetation, hedgerows or trees of significant landscape or nature conservation importance;
- cause loss of important local landscapes;
- be incompatible with local landscape character in terms of location, scale, building design or choice of planting;
- cause significant light pollution of surrounding rural landscapes;
- cause significant impact on the visual amenity of local residents or recreational users.

51. Secondly Policy L6B of the Waste Local Plan states that: "The design, siting and external appearance of a proposal should complement its landscape setting and use materials and colours appropriate to the location in which the plant is to be located. Landscaping should be incorporated as an integral part of the overall development of the site. High quality design will be required and innovative design will be sought in appropriate locations".
52. Other policies particularly relevant to the current proposal include E3, E4, E6, E7, E8, E9, E10, E11 and C1.

Cornwall Minerals Local Plan 1997

53. The Cornwall Minerals Local Plan provides a broad overall strategy for minerals and related development in the County. The planning application site and surrounding area lies within the "St Austell China Clay Area" which seeks to control and mitigate the impacts of china clay development. The application site and surrounding area lies within an "Area of Special Environmental Concern" which mainly relates to the disposal of china clay waste. Part of one of the fields located within the planning application footprint is identified for plant development related to the china clay industry. Policies CC3, CC4 and CC5 are relevant in this context.

Restormel Local Plan 2001

54. The Restormel Local Plan 2001 sets out policies and proposals for future development within the Borough of Restormel. One of the key aims of the Plan is to achieve sustainable development, and provides an environmental framework for the development needs of the area. The Plan seeks to balance economic development with the need to protect the environment and communities from harmful effects of development. Policies 1, 2, 3, 6, 11, 15 - 21, 24, 27, 36 - 40, 77, 79, 80, 83, 84, 94 (D), 98 (1), 110, 111, 112 and 114 are relevant to the CERC proposals. This is older and therefore attracts less weight than the Waste Local Plan and Structure Plan retained policies

### **Examination of National Planning Guidance**

National policy and guidance is relevant as a material consideration and where it is up to date and newer than the provisions of the Development Plan it must be afforded significant weight.

55. In May 2007 the government published "The Waste Strategy 2007" that sets out a number of key principles for waste management. Among the main elements and key principles are the Waste Hierarchy (waste prevention, reuse, recycle/compost, energy recovery before disposal) and a series of measures (both fiscal and regulatory) to reduce landfill and to stimulate investment in collection, recycling and recovery infrastructure.
56. Detailed Government planning policy regarding waste planning, as well as the content of Regional Spatial Strategies and Local Plans is contained in Planning Policy Statement 10 "Planning for Sustainable Waste Management" (July 2005). This Statement also deals with the relationship between the planning system and the Environmental Permitting system complementing the advice in other relevant Statements including Planning Policy Statement 23 'Planning and Pollution Control'.
57. Other relevant Planning Policy Statements relevant to the proposal include PPS1 "Delivering Sustainable Development", PPS7 "Sustainable Development in Rural Areas", PPS9 "Biodiversity and Geological Conservation", PPG13 "Transport", PPG15 "Planning and the Historic Environment", PPS23 "Planning and Pollution Control" and PPG24 "Planning and Noise". A summary of the main objectives of these documents is provided in Appendix A.
58. In terms of the Government's position on renewable energy, Planning Policy Statement 22 "Renewable Energy", dated 2004, advises that energy generated from the mass incineration of waste does not constitute renewable energy. However, the Government's current energy policy is set out in the Energy White Paper published in 2007 which placed energy from waste in a wider energy policy context. The 2007 White Paper supports the use of combined heat and power including the recovery of energy from waste. One of the energy policy "goals" is to cut emissions of carbon dioxide (a powerful greenhouse gas) by 60% by 2050. Generating energy from that portion of waste that cannot be prevented, reused or recycled is considered a renewable resource. In 2000 the Government set a target of 10% of electricity supply from renewable energy by 2010, and in 2006 announced an aspiration to double that level by 2020. One mechanism for delivering this growth has been the "Renewables Obligation" which requires electricity suppliers to source a prescribed and increasing proportion of their electricity from renewable sources.

#### **Examination of Other Regional Guidance: Regional Waste Strategy**

59. The Regional Waste Strategy "From Rubbish to Resource" was published in 2004 by the South West Regional Assembly. This is a non statutory document which aims to ensure that by the year 2020 over 45% of municipal waste is recycled and reused and less than 20% of waste produced in the region will be landfilled. To achieve this aim, the strategy defines key areas for action by the people of the region and by organisations. One of the key areas for action is to adopt the waste hierarchy to reduce the amount of waste being produced, before considering reuse, recycling, recovery or disposal of waste. The strategy's policies and actions address local authorities, the waste industry, non-governmental organisations and community groups as they are key

partners to deliver the strategy. The sequential approach advocated in the Regional Spatial Strategy is a reflection of the approach established in this Strategy which states that a sequential approach should be adopted to identify sites for locations of facilities to manage waste from larger urban areas, in the following order of priority:

- i) within the boundaries of the urban area;
- ii) within 10 miles (16km) of boundary of the urban area;
- iii) beyond 10 miles.

Spatial elements of the Regional Waste Strategy have been incorporated in the Regional Spatial Strategy policies on waste management (see below). Policies P10.1 10.2, P10.3 and P10.4, 10.5 and 10.6 are also particularly relevant in this context.

### **Examination of Emerging Plans**

Planning Policy Statement 12 explains government guidance to the decision maker in respect of determining how much weight should be given to emerging plans. The following comments are made in this context.

### **Examination of Emerging Plans: The draft Regional Spatial Strategy**

This is the main policy document setting out the spatial strategy for growth and development in the south west to 2026, and provides the strategic policies that will shape this. Proposed changes to the draft Regional Spatial Strategy were published last summer and currently await the Secretary of State's determination.

60. The main change which is relevant to this application is in terms of locational criteria. In respect of the provision of new strategic waste management facilities the draft Regional Spatial Strategy highlights the need to reduce the transportation of waste, particularly by road and, in terms of spatial approach is to focus the region's principal waste management facilities on "Strategically Significant Cities and Towns" (SSCTs). One such Strategically Significant Cities and Towns is identified within Cornwall and this comprises the combined urban area of Camborne-Pool-Redruth, Truro and Falmouth-Penryn (known as the "Cornish Towns" Strategically Significant Cities and Towns). Other nearby Strategically Significant Cities and Towns to Cornwall include Plymouth and Barnstaple. Policies W1 and W2 are particularly relevant in this context. Policy W1 of the draft Regional Spatial Strategy sets out capacities for the source separation, secondary treatment and landfill of Municipal Solid Waste for 2010, 2013 and 2020 while Policy W2 relates to the spatial distribution of waste facilities. In particular this policy seeks to minimise the burden of transporting waste by road, and states that new strategic waste management facilities should be within, adjacent to, or in close proximity to the Strategically Significant Cities and Towns. Further, this Policy states that sites should be identified taking into account the following sequential approach:
  - Established and proposed industrial sites, in particular those that have scope for the co-location of complementary activities, such as proposed resource recovery parks;

- Other previously developed land, including use of mineral extraction and landfill sites during their period of operation for the location of related waste treatment activities;
- Opportunities for connection to the rail network; and
- Opportunities to maximise efficiency through use of by-products of the waste management process in other processes, e.g. waste heat and/or materials.

**Examination of Emerging Plans: Cornwall Waste Development Framework (“submission stage” version) 2006**

61. The emerging Cornwall Waste Development Framework (“Submission Stage” version) sets out policies and proposals for the management of waste and the development of waste management facilities within Cornwall up to 2016. **It is important to note that the emerging Waste Development Framework reconfirmed the strategy for Energy from Waste that is set out in the Waste Local Plan i.e. to provide a single, centrally located Energy from Waste facility.** The preparation of the emerging Waste Development Framework involved an appraisal of potentially suitable sites for an energy from waste facility within and adjacent to the Area of Search identified within the Waste Local Plan. Potential sites were appraised using anticipated site requirements and dimensions for a typical 250,000 tonnes per annum. This is relevant because it gives a clear understanding of the levels of waste now predicted and updates the waste local plan in this important respect and this accords with the capacity of the proposed development. As a result of this appraisal the emerging Waste Development Framework **identified two “preferred option” sites for the location of such a facility, one being Rostowrack Farm (the application site) and the second being land at Victoria Business Park, near Roche.**
62. **The emerging Waste Development Framework had been approved by the County Council** for progression to the “submission” stage in November 2006. The Waste Development Framework had progressed through two stages of public consultation however given the stage it has currently reached only limited weight can be given to this document at this time. The emerging WDF does not detract from the overall strategy of the Waste Local Plan.

It is important to note, however, that the emerging WDF does update the capacity that is now anticipated to deal with Cornwall’s needs based on more recent evidence.

Progress on the Waste Development Framework has effectively stopped in early 2007 partly on the basis of advice received from the Planning Inspectorate that the document was likely to be considered “unsound” and for the above reasons will not progress to any independent inquiry in its current form. Fresh consultation will commence during 2009 on a revised core strategy under new plan making Regulations. Within the current version of the emerging Waste Development Framework policies 2 - 5, 11 -14, 19 - 22, 24 - 38 and 41 are relevant to the CERC proposals. Policy 13 makes particular reference to Energy from Waste and states that:

*Planning permission for the development of an Energy from Waste facility within central Cornwall will be permitted provided that:*

*i) the capacity of the plant has a gross maximum annual capacity of no more than 240,000 tonnes; and*  
*ii) the design of the facility makes provision for the plant to be served by rail; and the proposed development is at one of the following Preferred Sites, as shown on the proposals map:*

- (a) Rostowrack Farm,*
- (b) Land adjacent to Victoria Business Park.*

### **Further Information in respect of relevant planning policies**

63. The full suite of relevant policies in all of the above documents is set out in Appendix A.

### **Principal environmental designations**

64. Less than 100m to the north of the CERC lies the Goss Moor National Nature Reserve, the Goss and Tregoss Moor Site of Special Scientific Interest and the Breney Common, Goss and Tregoss Moors Special Area of Conservation.
65. The length of the haul road that lies in the vicinity of Trerice Bridge is part of a County Wildlife Site, an Area of Great Historical Value and the flood plain of the River Fal. The Borough Council have recently proposed to designate the area of woodland around Trerice Bridge as a Tree Preservation Order, although at the time of writing this Report the Order has yet to be confirmed. The County Wildlife Site abuts a section of the northern boundary of the CERC.
66. The nearest watercourse to the CERC is "Bodella Brook" which arises by Bodella Farm and passes along the western boundary of the site, before joining the St Dennis stream to the north, this in turn flows into the headwaters of the River Fal situated 2km to the west of the CERC site, and the Breney Common, Goss and Tregoss Moor Special Area of Conservation. The proposed CERC site and surrounding area is designated a "Critical Drainage Area" by the Environment Agency as a result of its sensitive drainage characteristics.
67. The site is also classed as having groundwater vulnerability, with a minor aquifer of variable permeability, and soil of low and high leaching potential. The nearest water abstraction point is approximately 400m to the east and supplies the china clay dryers.
68. Several buildings around the site and surrounding area are noted for their historic importance, and these include Trerice Bridge (Grade II Listed), Parkandillick Engine House (Grade II\* Listed) and St Dennis Church (Grade II\* Listed) and further afield the Castle-an-Dinas Scheduled Monument.
69. The principal environmental designations relevant to this proposal are shown on Figure 2.

### **Financial Considerations**

70. The Waste Disposal Authority of the County Council has stated, in its consultation response to the planning application, that failure to grant

planning permission for the CERC would cause "substantial additional costs to the Council". Financial matters can occasionally be relevant in planning. Arguments based on business viability may require financial aspects to be considered. Similarly, there may be times when delivery of some aspect which is key to the acceptability of a particular scheme may need to be examined in financial terms. However, in the above circumstances it is not the financial aspects per se which are being considered, but the land use consequences of the financial position.

71. When assessing the current planning application for the CERC the relevant considerations should relate to the need for the facility in order for the Authority to meet national policies and international obligations to treat waste by more sustainable methods than landfill. In assessing the current planning application the financial costs or benefits to this Authority, as Waste Disposal Authority, should not be a material consideration, per se.

### **Overall Planning Assessment**

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As already described the Planning and Compulsory Purchase Act 2004 advises that, if regard is to be had to the Development Plan, then the decision must be made in accordance with the Development Plan unless material considerations indicate otherwise. Having set out above the relevant considerations in respect of the Development Plan and other material considerations the main issues before the Council are detailed below:

- i) impacts on European sites of nature conservation importance;
- ii) the case made for the development and relationship to strategic policy contained within the adopted Development Plan and considered in the context of emerging plans and policies
- iii) landscape and visual impacts in the context of the Development Plan;
- iv) agricultural land quality in the context of the Development Plan;
- v) other environment and amenity impacts including in the context of the Development Plan taking into account information and guidance provided by consultees in respect of their particular comments on this development proposal including:
  - a) noise impacts
  - b) public rights of way
  - c) other ecological impacts
  - d) health concerns (including community impacts)
  - e) access and highway considerations
  - f) historic landscape issues

Each of these issues will be considered in detail and then consideration will be given to making an appropriate determination in respect of whether the proposed development accords with the Development Plan, and whether there are any other material considerations which would lead to a different conclusion being reached.

#### **i) impacts on European sites of nature conservation importance**

73. The potential impact of the CERC on nearby European sites of nature conservation importance (in this case the nearby Special Areas of Conservation) is a material consideration when assessing this proposal. The planning authority has a statutory duty as "Competent Authority" to

consider the implications of the proposed development on nearby Special Areas of Conservation and to form a view as to whether an "Appropriate Assessment" is required under "The Conservation (Natural Habitats &c.) Regulations 1994". Where the Appropriate Assessment indicates that the proposed development would harm such European sites the applicant would need to demonstrate that:

- a) there are no alternatives to the proposal; and
- b) there are "Important Reasons of Overriding Public Interest" (a specific test which requires developers to consider a much wider range of alternative options, including the national need for a particular proposal).

If the applicant cannot achieve the above requirements then the Regulations would prevent this Authority from approving the scheme.

- 74. If there is no demonstrable harm to the Special Areas of Conservation then this Authority could proceed to determine the application against the Development Plan and other material considerations that may be appropriate. Consequently the outcome of the Appropriate Assessment is important to the determination of this planning application, as it could prevent the Authority from approving the application.
- 75. At the time of writing this report discussions are ongoing with the Environment Agency who also have a role as "Competent Authority" in terms of their consideration of the Environmental Permit. The planning authority and Environment Agency are seeking to co-ordinate their respective roles and expertise on relevant matters. In this case it is intended that the Environment Agency would initially assess potential impacts relating to air quality, and the planning authority would initially assess other potential impacts which include water quality, water supply and potential dust emissions. An Appropriate Assessment will need to be undertaken should the outcome of this initial assessment show likely significant effects on the nearby European sites from the proposed CERC, either alone or in combination with other relevant plans or projects. As discussions on this issue are still ongoing it is not currently possible to conclude whether the proposals would have an adverse effect on nearby European Sites (see recommendation below).

## **ii) the case made for the development and relationship to strategic policy**

- 76. Examining the proposals against the current policy framework, including the draft Regional Spatial Strategy, and the position on new strategic waste management facilities, the following conclusions can be drawn;

### Waste Hierarchy

- a) The Government's strategy for managing municipal solid waste is to move away from a reliance on landfill to other forms of waste management (in accordance with the "waste hierarchy") to comply with targets in the European Landfill Directive, and this has recently been strengthened in the Waste Strategy 2007. To achieve these targets a range of fiscal and other regulatory measures and targets have been set to increase other forms of waste management e.g. recycling, composting and energy recovery. In terms of energy recovery the Government wishes to see more energy recovered from waste, although it does not prescribe what form of technology should

achieve this. The Waste Strategy also considers that there is a clear policy expectation of delivering energy recovery capacity for this waste stream, in order to move waste "up the waste hierarchy" as part of a more sustainable method of waste management. The proposed CERC facility accords fully with National, Regional and Local Policy in this respect. It would prolong the life of existing landfill facilities while also reducing the demand for additional landfill capacity within Cornwall. In conclusion in respect of this particular issue the proposal accords fully with the over arching principles in respect of the overall strategy for waste management and disposal and the development and location of Waste Management facilities set out in The Cornwall Waste Local Plan. These principles are not changed by emerging Plans or Policies and significant weight must be attached to this compliance in making a decision on the proposed development.

#### Number and Location of Facilities

- b) A number of concerns have been raised regarding the proposal to develop a single, centralised energy from waste plant to manage all the residual municipal solid waste within Cornwall.
- c) The planning application was initially made against the background of the adopted 2002 Waste Local Plan which identified the need for a single centrally located energy from waste facility for municipal solid waste in the County. The Waste Local Plan provides a strategy for the delivery of a single, centralised facility within an "Area of Search", although it does not identify any particular site. The spatial strategy for energy from waste as set out in the Waste Local Plan was considered to achieve the "Best Practicable Environmental Option". Whilst this approach has been superseded an examination of an overall sustainable approach to waste disposal leads to the same conclusion in Cornwall. The applicant's case for a single plant to serve the County is based, in significant part, on support provided in the adopted Waste Local Plan. This locational need for a single central facility has been reiterated in the emerging Waste Development Framework.
- d) Since the submission of the planning application the Regional Spatial Strategy for the south west has developed further and has reached the stage where the Secretary of State has now announced her proposed changes to the Regional Spatial Strategy following the Examination in Public which took place in 2007. The draft Strategy now carries significant weight and is a material consideration in making decisions on planning applications. In terms of waste management the general thrust of Regional Spatial Strategy policy seeks to minimise the burden of transporting waste, particularly by road, and seeks to encourage the management of waste on, or as close as practicable to, the site where it arises and to focus new waste sites in "Strategically Significant Cities and Towns" (SSCTs). In terms of locational criteria for the provision of new strategic waste management facilities, the Regional Spatial Strategy states that such provision should also accord with the sequential approach referred to elsewhere in this Report;
- e) The CERC proposal provides for the exclusive transportation of waste by road, although a railway branch line serving the china clay dryers currently terminates adjacent to the planning application site, and could be utilised in the future. This proximity to a railway line would

facilitate the future transportation of waste by rail to the facility. Whilst the applicant's supporting documents (the 'Assessment of Number of Facilities') confirm that a single centralised facility gives rise to a greater number of vehicle miles when compared to more than one facility, the applicant considers that a single facility offers more "global" environmental benefits, partly as a result of the utilisation of less natural and man-made resources, as well as reduced costs, less risk and ease of deliverability. It is also true that by developing a series of waste transfer stations, which allow waste to be transferred to bulk tippers, the efficiency of road transport journeys is maximised.

- f) In terms of assessing the CERC against the emerging Regional Spatial Strategy, it is considered that there are elements to the CERC proposal which both favour and conflict with emerging Regional Spatial Strategy policy W2. Within a rural County where population is fairly evenly distributed across the six districts/boroughs (i.e. roughly half the waste arises in the west and half in the east), it can be appropriately argued that in its broadest sense a single central location for a facility would, overall, treat waste as close as possible to where it arises and on this basis comply with emerging policy. However a centrally located facility is not "in close proximity" (defined as 16km) to the Cornish Towns Strategically Significant Cities and Towns, and a relatively rural location in mid Cornwall is not near to an urban area. It should be noted that the South West Regional Assembly raise no objection in principle. They state that 'The proposed development will contribute significantly to the annual waste management capacity targets as set out in the draft Regional Spatial Strategy for secondary treatment, and should therefore be seen to be in general conformity'.
- g) In this emerging strategic context, it is necessary to consider the application as proposed and determine whether in this respect it meets the provisions of the Development Plan. The emerging policy in the draft Regional Spatial Strategy does not alter the functional relationship of the settlements in Cornwall. The need for the most sustainable waste management proposals were clearly the context for the creation of both the adopted Cornwall Waste Local Plan and the emerging Waste Local Development Framework. I believe that the proposed single and central facility continues to be the most sustainable option for Cornwall. I do not consider therefore that the emerging policy outweighs the provisions of the adopted Development Plan or would in any event preclude such an approach. In this important respect I also conclude that the proposal accords with the provisions of the Development Plan (including Policy L6 of the Cornwall Waste Local Plan) and this is not outweighed by any other material considerations.

#### Alternatives – Technology and Sites

- h) The consideration of the main alternatives studied by the applicant and the reasons for choice, taking into account environmental effects is a requirement of the Environmental Impact Assessment Regulations. In this case, the main "alternatives" relate to the choice of site and choice of particular energy from waste technology. Planning case law has also confirmed that alternative sites can be a relevant planning consideration even where there is a clear public benefit in the proposal but the planning application site gives rise to adverse effects. In these circumstances alternative sites and technologies to the proposed

scheme, and which could potentially give rise to lesser impacts, should be considered;

- i) In terms of technologies, a number of concerns have been raised regarding the appropriateness of the technology type when compared to other forms of energy from waste technology. The technology proposed by the applicant involves mass burn incineration with some heat and energy recovery. The Waste Local Plan and Waste Development Framework do not prescribe or support any particular technology for the recovery of energy from waste. In terms of alternative technologies, it is considered that this issue is relevant to the determination of the current application due to the potential different impacts associated with the scheme in terms of scale, handling of waste materials and emissions;
- j) In terms of alternative sites, from the information provided by the applicant it is noted that there has been an evaluation of alternative sites in the context of the likely adverse effects of the proposal. The assessment of alternative sites did not adopt, however, the spatial approach to strategic waste management facilities identified in the emerging Regional Spatial Strategy as has already been discussed above.

77. In conclusion I consider that the development of a single energy from waste facility conforms with the key strategic policies in the Waste Local Plan and emerging Waste Development Framework. A single centrally located energy from waste facility located within the Area of Search accords with the general thrust of Policy L6 of the Waste Local Plan. The application site is also identified as a Preferred Option for such a facility within the emerging Waste Development Framework. However the extent to which it complies with Regional Spatial Strategy is unclear because there is an identifiable degree of conflict with the stated requirement to reduce haulage by locating such facilities near to "Strategically Significant Cities and Towns", The Waste Local Plan provides that a single facility should be centrally located and within the identified Area of Search. The principle of a single energy from waste facility in this broad location is also contained in adopted and emerging waste policies. Overall I consider that in Cornwall having regard to the rural nature of the County, the spread of population and the functional relationship between towns the current proposal is the most sustainable option in the context of all of the current and emerging Guidance, Plans and Policies.

### **iii) landscape and visual impacts**

78. On this particular issue the impacts are considered under a) scale and massing (including design considerations), b) landscape resources and character and c) historical landscape issues.

a) Scale and massing (including design considerations)

79. When the Rostowrack Farm site was initially identified as a potential site for an Energy from Waste facility within the Waste Development Framework it was on the assumption, in accordance with Government guidance, that such a facility would require a site of 2-5ha with a building size measuring 100m in length, 50m width and 20m height with an 80m stack. The proposed scheme involves a building and associated stack which exceeds these assumptions. The bulk and scale of the buildings and

associated stack exceeds any of the existing buildings in the area. This impact would be noticeable for those properties in close proximity to the CERC and which would have views of the buildings, particularly for the residents of the two farmsteads either side of the CERC facility which would have appreciable impacts. This impact would also be particularly apparent from the properties of "Trerice Terrace" and surrounding properties which are located to the north and would be approximately 20m lower than the proposed CERC buildings and would therefore experience a more "dominating" presence. The applicant has proposed to mitigate this impact by designing the facility with a curved roof which would have the effect of softening the hard lines, profiles and angles that are often associated with other industrial buildings.

80. For comparison purposes, this Authority has prepared a table of energy from waste facilities elsewhere within the United Kingdom with a similar annual throughput of waste to the proposed CERC facility (see Appendix C).
81. Potential concerns have been raised regarding the proposed eastern and western elevations (i.e. the main side elevations of CERC) which incorporate large translucent sections. Illumination escaping from these translucent sections would introduce additional night time lighting into the local area.
82. In terms of design issues the design aspects of the proposed CERC are considered to be important, in part due to the applicant's intention that the CERC would be a "landmark" building, as well as the Government's desire to seek a high standard of design for prominent and landmark buildings as contributing to its goal of delivering sustainable development. As a general principle a design consideration should take into account not only visual and landscape impact but also other factors including the way a building relates to its surrounding environment. The CERC has been reviewed for its design qualities and in terms of key positive attributes it is considered to be broadly acceptable in terms of its functional layout, and offers a coherent site layout which minimises the use of space. Other key positive features include the provision of ecological habitat to replace those lost, and the provision of educational and visitor facilities.

The proposed development is larger and will have a greater landscape impact than that anticipated when this site was identified in the emerging Waste Local Development Framework. The policies contained in the Waste Local Plan remain relevant and are not out of date in respect of these issues. Policy L6A includes specific environmental criteria which it states should be taken into account in making planning decisions and requires that these criteria should be met. There is an ambiguity in this wording but it is necessary to conclude whether the proposed development is in accordance with this policy or not. In this respect there is conflict with the environmental criteria and also with other policies within the development plan relating to environmental protection.

Conformity with Policy L6A must, however, be considered in the context of the whole Development Plan. The Development Plan in respect of other policies promotes a single central facility and also acknowledges that such plants have significant impacts because of their size and scale.

Overall I do not consider that the conflict with Policy L6A outweighs the conformity with the overall strategy and strategic policies of the

Development Plan. In my opinion the proposal is also in general accordance with the design principles of Policy L6B. In conclusion I believe that the proposal remains in accordance with the whole Development Plan.

b) Landscape resources and character

83. The planning application site lies on the periphery of the "St Austell or Hensbarrow China Clay Area" and is also in close proximity to the "Mid Cornwall Moors" (Cornwall Landscape Assessment 2007 and Cornwall Landscape Assessment 1994). This area is defined by contrasting landscapes: china clay industry and agricultural land with small scale settlements and field patterns. The proposed CERC site lies within a "green bowl" of agricultural land, comprising distinctive field systems and hedgerows, and has close natural linkages to the adjacent Mid Cornwall Moors landscape character. The Mineral Railway provides a distinctive (and historical) edge to the adjacent china clay area to the south and the agricultural land to the north. The landscape does, however, contain buildings and structures reflective of its importance for mineral working.
84. It is also acknowledged that there are already significant non-natural features in the landscape including an electricity sub station and associated pylons, the A30 Trunk road and other industrial developments. The immediate landscape around the planning application site is not quite so disturbed and it is possible to appreciate wider landscape views of the site from a range of viewpoints, including public footpaths. The proposal would introduce a substantial built development into the area which would have a significant impact on this landscape character in terms of its visual impact and form. The 120m stack would be a conspicuous feature in the landscape and would be noticeable from a range of short, medium and longer range viewpoints. The stack would have an impact within the "green bowl". Further, there would be an impact on landscape character caused by the associated highway works including the development and use of the proposed access road and, to a lesser extent, the proposed haul road junction at the bottom of Stamps Hill near to Trerice Bridge.
85. The applicant considers the landscape character to be "low to medium importance", but the opinion of your landscape advisors is that the landscape character is more important than this. Within the Waste Local Plan there is a general acceptance that the development of a waste facility of the size and scale anticipated would represent a "substantial development which could have a significant visual and landscape impact". Policies do, however, seek to moderate and minimise the potential adverse effects of a large facility on the surrounding landscape, in particular policy L6A of the Cornwall Waste Local Plan. The applicant accepts that there is no possible mitigation proposed for the proposed CERC because of its form and layout. It is clear that the proposed CERC and associated infrastructure would have an adverse landscape and visual impact and in this respect conflicts with policies of the Development Plan, including Policy L6A.
86. Conformity with Policy L6A must, however, be considered in the context of the whole Development Plan. The Development Plan in respect of other policies promotes a single central facility and also acknowledges that such plants have significant impacts because of their size and scale.

As previously stated in respect of visual impact I do not consider that this further conflict with Policy L6A outweighs the accordance with the overall

strategy and strategic policies of the Development Plan. I will also repeat that in my opinion the proposal is also in general accordance with the design principles of Policy L6B. In conclusion I believe that the proposal remains in accordance with the whole Development Plan.

b) Historical landscape issues

87. The planning application area lies within "Anciently Enclosed Farmland" which covers large parts of the County but in this area the "pocket" of this land is an important local feature of the landscape character. Field pattern and hedgerows are also important contributors to the landscape character. The undisturbed hedgerows and field systems in this area are thought to be over 1000 years old, and records relating to the farmsteads themselves are thought to date back to a similar date. The historical importance of the landscape is supported by the pattern and morphology of the surrounding field systems and their boundaries which are medieval in character.
88. Concerns have been raised by both English Heritage and the Restormel Borough Council's Conservation Officer that the proposal would significantly affect the local historic landscape, in particular views into and from the twin Hill Forts of St Dennis Church and, further afield, the Castle-an-Dinas Scheduled Monument (this is one of the largest and best preserved Iron Age Hill forts in Cornwall). The setting of the St Dennis Church occupies an elevated position overlooking the application site, and the impact of the CERC and associated stack would have an impact on its setting. The Conservation Officer also raises further concerns that the setting of the Grade II listed Trerice Bridge and the Grade II\* Parkandillick Engine House would be adversely affected by the CERC and associated haul and access roads.
89. Under the Planning (Listed Buildings and Conservation Areas) Act 1990 special regard is to be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses where a development is considered to affect a listed building or its setting. It is considered that the development would cause some harm to both landscape character and the wider setting of both Grade II\* listed buildings within the vicinity of the proposal, but in particular views to and from St Dennis Church.
90. In respect of the Castle an Dinas ancient monument I do not believe that there will be an adverse impact upon its setting nor on long landscape views from it or to it. This is because of the distance from the monument and the nature of the current landscape around St Dennis.
91. Overall there is an adverse impact upon the setting of the historic landscape and listed buildings. These must be given particular consideration as a requirement of both legislation and policy. Concluding that there is an adverse impact on these features does not necessarily mean that the application should be refused. A balanced view should still be reached. The proposal of this site in the emerging Waste Development Framework should be noted and whilst the proposal may be larger than anticipated at the time that decision was taken, I do not believe that these changes make the impacts significantly worse nor do I believe that these impacts are sufficient to outweigh the overall need for the facility and the support for the facility within the Development Plan.

**iv) agricultural land quality;**

92. The planning application site lies within an undeveloped greenfield location, of which 1.6 hectares comprises land classified as the "Best and Most Versatile" agricultural land i.e. agricultural grade 1, 2 and/or 3a. Furthermore, as the development is located outside the development boundary of nearby settlements the general countryside policies in the Development Plan apply. These policies seek to protect agricultural land for its own sake unless the need for the proposed development outweighs the loss of such land.
93. The site has been identified as a "Preferred Option" within the emerging Waste Development Framework 2006, although the detailed extent of Best and Most Versatile land was not known at that time. It is also accepted that part of one of the fields to be developed for the CERC has been allocated for future plant related development associated with the minerals industry within the Cornwall Minerals Local Plan 1997. Nevertheless the permanent loss of approximately 1.6has of Best and Most Versatile land raises conflict with Development Plan policies. Therefore consideration must be given to whether or not it is demonstrated that the need for the scheme in this location outweighs the need to protect the agricultural land. Overall on the issue of agricultural land quality it is concluded that while there would be a policy conflict due to the loss of Best and Most Versatile agricultural land, this is not considered to be overriding due to the mitigation measures to replace the land that would be lost with potential replacement farmland elsewhere, and the overall need for an energy from waste facility.

**v) other environment and amenity impacts including:**

a) noise

94. It is contrary to planning policy to create such noise next to residential properties that the properties become uninhabitable. While some loss of amenity is inevitable with many forms of development the impact on amenity should be given due weight when making decisions on planning applications, and efforts should be made to minimise wherever possible the adverse impacts from noise to within acceptable levels.
95. In noise terms the proposed facility would introduce a range of new noise sources into an area which is currently relatively undisturbed from intrusive noise sources. From site observations in the area background noise levels are influenced to a degree by the adjacent china clay drying and processing operations but outside that influence the area generally assumes a relatively quiet environment. In particular the impact of noise emissions from the china clay drying and processing operations diminishes with distance and is barely discernable at the two properties adjacent to the proposed access road.
96. The planning application advises that existing noise levels would increase during both the construction and operational stages. Some of these noise levels would be particularly acute at close distance. The properties which would be most affected by noise resulting from the proposed CERC facility during both the construction and operation period would be:

- a) the two farmsteads (Bodella and Rostowrack Farms) either side of the proposed CERC building; and
- b) the two residential properties (La Mount and Glen Garth) adjacent to the proposed access road; and
- c) the group of properties in the north west of Treviscoe village; and
- d) the group of three properties to the north of the proposed haul road.

a) The two farmsteads (Bodella and Rostowrack Farms)

97. The applicant has indicated that the land acquisition arrangements for the CERC site include these two tenanted farms. During the construction phase these properties would experience a substantial noise impact above and beyond the thresholds of an acceptable level as defined in relevant guidance. It is acknowledged that the construction period would be temporary in nature. The farmsteads would also experience noise impacts during the operational phase, in particular Rostowrack Farm which is in close proximity to the proposed ash handling building. The farmhouse itself is approximately 80m from one of the main entrance/exit doors to the ash handling facility, although the door to this facility is approximately 20m from the boundary of this property. While it is reasonable to expect the entrance and exit doors to the ash handling facility to remain closed when not in use it would need to be opened to facilitate the loading and unloading of lorries.

98. The applicant has proposed to mitigate the noisiest aspects of the proposed development by facilitating the option of re-locating the occupants of both these farms within 12 months of the commissioning (operation) of the CERC, as these properties are under the control of the applicant. Further, concerns are raised regarding the viability of these farm units and the potential "abandonment" of farm properties once the occupants have been removed, although in terms of farm viability it is accepted that the two farms form part of a wider farming unit and that compensatory farmland may be made available elsewhere. I do not consider that this issue is substantive. The applicant has also suggested the provision of solid acoustic barriers to attenuate noise around the farmsteads during the operational life of the proposed CERC facility, however it is acknowledged by the applicant that any meaningful attenuation would require the barrier to be extended continuously around the sides of the farmsteads, and in any event would need to be positioned higher than the dwelling. These barriers would need to be up to 3m in height and would have a significant amenity impact in their own right. Further, the applicant does not have sufficient land within their current ownership or control to allow this Authority to require the provision of such mitigation by planning condition.

b) The two residential properties (La Mount and Glen Garth) adjacent to the proposed access road;

99. These two properties are located adjacent to the proposed junction of the access road with the public highway. They would be exposed to higher levels of noise and disturbance as a result of lorry traffic during the construction and operation period. The applicant has indicated that the proposed access road would be adopted as a public highway and compensation would therefore be payable to nearby residential properties which experience depreciation in land values from factors which include noise. Whether these legal provisions are applicable is not a matter for the

local Planning authority, and the use of such financial compensatory measures does not remove a planning concern, as existing and future occupants would be exposed to the change to their residential amenity from what is enjoyed at present.

100. The applicant has acknowledged that the provision of perimeter fencing around the front and side of the properties would mitigate against noise impacts, although it is likely that this would be at the expense of their outdoor amenity and the applicant does not have sufficient land within their current ownership or control to allow this Authority to require the provision of such mitigation by planning condition. Other measures include the provision of double glazing but this would require the consent of the occupiers. These measures have not been formally included within the planning application and therefore little weight can be attached to such measures as a form of mitigation. The applicant has also offered the possibility of entering into a legal agreement to ensure that "reasonable endeavours" are undertaken to minimise noise impacts, and to offer to purchase these properties. Without any confirmation of the nature and extent of these measures limited weight is attached to this approach as a form of mitigation.

c) the group of properties in the north west of Treviscoe village

101. These properties are located approximately 55m to the south of the proposed access road. The principal impacts of the proposed development upon these properties would derive from the exposure to noise from lorries travelling along the access road during the construction phase and the operational period. The applicant has acknowledged that a 3.5m high barrier would need to be erected for a distance of approximately 250m at least, to achieve higher noise reduction measures alongside the proposed access road in order to provide acoustic screening for these properties. The erection of this barrier does not form part of the current planning application and would require planning permission in its own right. The provision of this barrier could therefore not be required by planning condition as there is no guarantee that planning permission would be forthcoming and in any event the requisite land is not within the ownership or control of the applicant. Without these mitigation measures it is considered the residents of these properties would experience an additional impact to their amenity in respect of noise. The applicant has offered the same remedial measures as for the two properties adjacent to the proposed access road. For the same reasons it is considered these measures do not mitigate the planning impact.

d) group of three properties to the north of the proposed haul road.

102. These properties are located approximately 25m north of the proposed haul road. They would be exposed to noise from lorries travelling along the haul road during the construction phase and during the operational life of the proposed facility. The applicant has acknowledged that a 3m high barrier would need to be erected for a distance of approximately 50m alongside the proposed haul road in order to provide acoustic screening for these properties. However the erection of this barrier does not form part of the current planning application and would require planning permission in its own right. The provision of this barrier could therefore not be required by planning condition as there is no guarantee that planning permission would be forthcoming and in any event the requisite land is not within the ownership or control of the applicant. The applicant has

potentially offered the same financial measures as above. Without these mitigation measures it is considered that the residents of these properties would experience an impact from additional noise.

103. In appropriate circumstances it may be possible to impose noise limits on any grant of planning permission which would ensure development can take place within specified limits. However in this case noise from vehicle movements would be influenced by noise from vehicles using the public highway, and it would therefore be impractical to set any meaningful noise conditions at these residential properties. Further it would render the possibility of imposing conditions which seek to control noise limits unworkable and therefore unenforceable.

#### Conclusion on noise impacts

104. In summary it is clear from the above that noise arising from the construction and operation of the proposed CERC facility would have a deleterious effect on the occupiers of a number of adjoining and near by dwellings.

As a matter of principle it is reasonable to accept the harm caused by the temporary construction period because of the importance to allow development to take place. Particular concern must be given to the long term impact on the occupiers of dwellings because of the road traffic and operational noise. It should be noted that the Environmental Health Officer has raised no overall objections to the proposed development, despite acknowledging the level of impact. I conclude that whilst harm will be caused this is not so significant to outweigh the need for this facility which is supported by the strategy of the Development Plan.

105. In terms of potential impacts from other emissions, an analysis of local representations shows potential odour concern to be a frequently raised issue for this proposal. The applicant has submitted an odour impact assessment which concludes that odours should not pose a significant concern for this operation. The main waste treatment operations would take place indoors and odours arising from within the building would be drawn under negative pressure through the main incineration process to minimise the potential escape of any odours. The applicant has identified the potential for odours arising from incoming waste vehicles which may affect adjacent residential properties, in particular during the summer months. However the applicant has stated that waste would be delivered in covered containers. On this basis it is considered that odours would be adequately controlled. The Environmental Health Officer has raised no objections on this issue and it is considered that planning conditions could provide acceptable safeguards on this matter.

#### b) public rights of way

106. The general area in and around the planning application site has a network of public footpaths. Some sections of these public footpaths would be directly affected by the proposed development and permanent diversions have therefore been proposed by the applicant in order to accommodate the development. Other public footpaths would not be physically affected but there would be an impact on their users. The footpaths which would be affected are considered important in their own right and have "gold status" conferred on them by the County Council due to their location,

usage, the links that they provide and their general importance in accessing the local landscape.

107. Government guidance (Defra Circular 1/09) states that "Proposals for the development of land affecting public rights of way give rise to two matters of particular concern: the need for adequate consideration of the rights of way before the decision on the planning application is taken and the need, once planning permission has been granted, for the right of way to be kept open and unobstructed until the statutory procedures authorising closure or diversion have been completed." Furthermore this Circular advises that "The effect of development on a public right of way is a material consideration in the determination of applications for planning permission and local planning authorities should ensure that the potential consequences are taken into account whenever such applications are considered." It is clear therefore that impacts to public footpaths would be a relevant material consideration for this planning application.
108. The most significant impact to this footpath network would be the proposed diversion works to sections of public footpaths 2 and 5. These public footpaths run from Treviscoe to St Dennis and provide links to other public footpaths in the area. They also run across the application site and, for approximately 800 metres, follow roughly the same alignment as the proposed access road. The applicant proposes to incorporate the relevant sections of these public footpaths as a pavement adjacent to the access road, and divert a further 260 metre section of the public footpath to a longer route around the perimeter of the proposed CERC. The pavement would be constructed directly adjacent to the access road, with a "swale" (a shallow drainage ditch) on the "outward" side next to the proposed realigned Cornish hedge. Users of the public footpath would therefore be able to traverse a well made footpath route but will be exposed to the frequent passage of lorries serving the proposed CERC facility.
109. Ideally the public footpath could be realigned with a route and design which does not detract from the amenity of its use. While it may be possible to achieve this outcome there is currently insufficient land within the ownership or control of the applicant in which the satisfactory public footpath diversions could be achieved with certainty. The applicant has expressed a willingness to remedy the loss in amenity from the current proposals by the provision of signposts and interpretation boards, and has also offered to use "reasonable endeavours" to bring about further improvements in the future, albeit within an unspecified timescale. Further, the applicant has indicated that any alternative scheme whereby the public footpath would be relocated away from the access road, for example on the other side of the Cornish hedge, would interfere with the proposed surface water drainage arrangements, and may necessitate works "outside" the planning application boundary and would be thus outside their ownership/control. It is considered that no material weight can be attached to the scope of works which could be brought about at an unspecified future date
110. The applicant has stated that the level of usage of the public footpath is low, although this does not reflect the comments expressed in local representations. In any event the perceived lack of usage does not diminish the weight to be attached to the level of harm to users of the diverted footpath.

111. Other footpaths in the locality where no physical works are proposed include Footpath Nos. 13, 17, 18 and 31. These are also important public rights of way in the local network and the amenity value of these footpaths would suffer some impact from visual, noise and general disturbance due to the presence of a major new waste management facility in the locality.

Conclusion on public rights of way

112. Overall to conclude on this issue it is clear that the resultant diverted sections of public footpath would cause some harm to the users of the local public footpath network. While the prospect of future improvements is noted the lack of any clear commitment to deliver these works means that little weight can be added to this, and in any event does not overcome the harm caused by the scheme in its current form. The claimed lack of usage of the footpath does not diminish the weight to be attached to the users of the footpath who would be a sensitive receptor to the proposal. The identified harm is required to form part of the overall balance of acceptability of the scheme, but in my view does not outweigh the benefits of the proposal.

c) other ecological impacts

113. The planning application site is located within a sensitive ecological environment. The proposed haul road and access road would be developed on land where there is an acknowledged ecological importance for a variety of species. The entrance to the haul road would cut through an area designated as a County Wildlife Site for its woodland importance (the Borough Council have taken steps to designate this area as a Tree Preservation Order, although at the time of writing this Report the Order has yet to be confirmed). The fields surrounding the application site are predominantly bordered by established sections of Cornish hedge which are considered by the County Council's Natural Environment Service to be important in their own right for their ecological, landscape and historic importance; although the applicant considers that they are not hedgerows under the Hedgerow Regulations due to their lack of continuous tree cover. Significant sections of Cornish hedge would be removed and realigned to accommodate the proposed CERC and access road.
114. The applicant's submitted ecological assessment advises that there are a range of potential protected habitats at the site and surrounding area, and the existing natural features (e.g. woodland and hedges) also provide suitable habitat for 'transient' wildlife species i.e. species which do not reside in the area but utilise the natural features for migratory and feeding purposes. Ecological Consultants commissioned by this Authority consider that there has been an inadequate assessment of the ecological importance of the Cornish hedges to reflect their importance as a habitat resource. In terms of other ecological species protected by law it is considered that the scope of the survey work is adequate. Should permission be granted for the proposals it would be necessary for the applicant to obtain a specific license from Natural England to undertake the works which would affect the species, and in respect of this matter Natural England have raised no objections to the scheme.

d) health concerns (including community impacts)

115. Apart from the potential amenity impacts from noise and other emissions from the development, consideration should be given to the wider question of the potential impact of the development on the health of residents in the local area. The main concerns in this regard relate to the direct (i.e. physical) effects and indirect (i.e. social/psychological) effects of the proposed development.
116. In terms of air quality impacts on human health the Environmental Statement concludes that all modelled concentrations of emissions fall within the relevant air quality standards and guidelines and on this basis no significant effects on health in the area are anticipated. It is anticipated that due to the processes involved the emissions will be much lower than the maximum permissible levels and also well below emissions from existing waste incineration processes already operating in the UK.
117. Concerns have been raised in local representations that although energy from waste plants may well emit dioxins to within national standards, there is imperfect knowledge of the state of dioxins already in the local environment. Without the benefit of a benchmark it is difficult to assess the full environmental impacts. This issue has been acknowledged by the Food Standards Agency (the body responsible for safeguarding the foodchain) although they envisage the impacts to be negligible.
118. It is concluded on this issue that the proposed facility would inevitably result in the controlled release of emissions to air. However emissions from the facility would be subject to the Environmental Permit regime which is a rigorous assessment process undertaken by the Environment Agency. Planning authorities are advised not to duplicate other statutory controls.
119. Other health related impacts relate to the increased anxiety and concerns raised from the local community living in close proximity to a major waste installation. The Primary Care Trust have advised that while this is a difficult impact to measure there is a probability of increased concerns directly attributable to the proposed development. These impacts relate to the sense of iniquity affecting local residents particularly from the significant scale, visual impact and presence of this facility on the local environment. However while these concerns maybe warranted the amount of weight to be attached to such concerns is difficult to establish and quantify.
- e) access and highway considerations
120. The proposed CERC would receive waste which would be transported to the facility by road. While the facility would be sited alongside a rail-line, there are no proposals to utilise this for the transportation of waste in the current planning application. To mitigate the significant number of lorry movements that would serve the CERC the applicant proposes to develop a dedicated haul road and access road which would minimise the use of the existing public highway network.
121. To mitigate against the increased number of lorries that would be present in the surrounding area, the applicants have proposed to restrict lorries that would serve the site to a fixed route (to be secured by a legal agreement known as a "section 106 agreement") which would effectively direct the majority of lorry movements associated with the facility to use the A30 from the north. It is considered that this can be achieved as the

lorries that would serve the site would fall under the control of the applicant. However at the time of writing this report discussions are still ongoing with the County Highways and Transportation Engineer and the applicant regarding the scope of this agreement, and any further comments will be reported on the "Update Sheets".

122. Whilst there has been an appreciable level of public concern regarding highway safety it is not considered that the operation of the facility would worsen the situation to an unacceptable level. Both the Highways Agency and the County Highways and Transportation Engineer raise no objections to the proposal on highway capacity or safety grounds. It is therefore considered that the local highway network, with the additional mitigation measures proposed, would be able to accommodate the type and volume of traffic that would be generated as a result of the proposed development.

#### Human Rights Implications

123. The provisions of the Human Rights Act and principles contained in the Convention of Human Rights have been taken into account and assessed in accordance with adopted and prescribed planning principles in reaching the recommendation contained in this report. The articles/protocols of particular relevance are:-

Article 8 – Right to respect for private and family life;  
The First Protocol, Article 1 – Protection of Property

124. It is necessary to consider the impacts of the proposed development on all relevant properties and the wider community:

- a) the two farmsteads (Bodella and Rostowrack Farms) either side of the proposed CERC building.

It is accepted that the proposed development would cause harm to the living conditions of the residents of these properties. However there is significant community/public benefit from the provision of this type of waste facility. On balance the benefit and need for this facility outweighs the harm caused to these occupiers.

- b) the two residential properties (La Mount and Glen Garth) adjacent to the proposed access road.

It is accepted that the proposed development would cause harm to the living conditions of the residents of these properties. However there is significant community/public benefit from the provision of this type of waste facility. On balance the benefit and need for this facility outweighs the harm caused to these occupiers.

- c) the group of properties in the north west of Treviscoe village.

It is accepted that the proposed development would cause harm to the living conditions of the residents of these properties. However there is significant community/public benefit from the provision of this type of waste facility. On balance the benefit and need for this facility outweighs the harm caused to these occupiers.

- d) the group of three properties to the north of the proposed haul road;

It is accepted that the proposed development would cause harm to the living conditions of the residents of these properties. However there is significant community/public benefit from the provision of this type of waste facility. On balance the benefit and need for this facility outweighs the harm caused to these occupiers.

- e) the wider community including the villages of St Dennis and Treviscoe.

It is accepted that the proposed development would have an impact on the wider community within the vicinity of the proposed development. Although it is not clear that the impact will be sufficient to engage the articles of the Human Rights Act, if these articles are engaged it is considered that there is significant community/public benefit from the provision of this type of waste facility. On balance the benefit and need for this facility outweighs the harm caused to these communities. Overall it is not considered that there is a conflict with the provisions of the Human Rights Act.

#### Overall Conclusion

- 125. There are clear benefits to be gained from increased energy from waste capacity in the County and a move away from our current high dependence on landfill. There is a need for waste recovery capacity in the County and that this need will become more urgent and pressing as a result of landfill diversion targets and diminishing landfill capacity. It is also clear that there are general benefits to be gained in principle from an energy from waste facility in this general area in that the site has the potential to be rail served, there are heat consumer(s) nearby and the development site is available. It is recognised that a single facility would be large, and by definition give rise to an impact. This would occur wherever a single large facility would be located.
- 126. The adopted and emerging replacement Waste Local Plan favours one installation for an energy from waste facility catering principally for municipal solid waste. It does not however specify a technology type. The application site has been identified as a possible site for an energy from waste facility but this is subject to criteria in the policies.
- 127. This proposed facility should be seen as part of the overall Waste Strategy for Cornwall. It will only take the residue of waste, which is not recycled. The current waste contract requires that all waste which is put out for recycling shall be recycled and this plant will not, therefore, diminish recycling proposals or targets. This accords with National priorities and policy for waste disposal.
- 128. The facility will provide both energy and heat. This particular site has close access to the national grid and unusually will provide heat to a commercial consumer for thermal clay drying. The site is adjacent to a railway line allowing all future transport options and has good accessibility to the A30. It is within the area of search in the Waste Local Plan and accords with the strategic and locational policies of the Local Plan and National strategies for waste.

129. The acknowledged need for such recovery capacity must, however, be weighed against the environmental and amenity impacts that arise. The acceptance of a general need for energy recovery capacity does not establish an overriding case for any particular site or scheme.
130. In this case it is clear that the proposal gives rise to appreciable environmental impact from a visual, landscape and historic perspective. It is also considered that the impacts associated with a single facility at this site have not been fully tested against the spatial approach for new waste management facilities set out in the emerging Regional Spatial Strategy. It is not clear, however, that this overall spatial approach for the South West region can be easily applied to Cornwall for the reasons previously set out in this report. Other impacts include users of the public right of way network, and amenity impacts caused by noise and general disturbance.

These are serious impacts that must be given significant weight. However, I do not consider they are so serious in degree that they outweigh the overall support for the proposals in the Development Plan. It is inevitable that harm of these types will arise to a greater or lesser degree if the aim of providing a single EFW is to be fulfilled within the area of search. It should be noted that this specific location has been identified as a potential site through the emerging Waste Development framework Policy. On balance I do not consider that the degree of harm exhibited by this particular proposal so conflicts with the criteria in specific development plan policies L6, L6A and L6B or any other relevant policies so as to remove the overall support for an energy from waste facility in this broad location and hence justify refusal.

131. Overall, I believe the proposal is in accordance with National policies and the Development Plan. There are no other material considerations that would lead me to make a recommendation other than for approval.

### **Reason for Approval**

The Waste Planning Authority recognises and gives considerable weight to the need for additional waste facilities in Cornwall, and, in particular, Energy from Waste facilities, in order to meet European and National waste targets; that the proposal accords in terms of its nature, scale, position in the waste hierarchy and broad location with policies in the adopted and emerging Waste Development Plan; that any conflict with criteria in those policies, and any harm otherwise caused is not such as to outweigh the positive benefits of the scheme.

132. In reaching the above conclusion it must be accepted that there are also potential impacts on nearby European sites from the CERC which require assessment. Therefore it is:

### **RECOMMENDATION that:**

A. Members record that the receipt of an Appropriate Assessment will indicate whether the Local Planning Authority is obliged to refuse the application, and give delegated powers to the Assistant Director: Spatial Planning of Cornwall County Council or Head of Planning and Regeneration of the Cornwall Council (after 1 April 2009) to refuse the planning application if the outcome of the Appropriate Assessment is such that the

Conservation (Natural Habitats &c.) Regulations 1994 prevent planning permission being granted.

B. Subject to the outcome of the Appropriate Assessment under the Conservation (Natural Habitats &c.) Regulations 1994 not preventing planning permission being granted, Members resolve that they are minded to APPROVE the grant of planning permission for the development, subject to the application being referred to the Secretary of State as a Departure from the Development Plan and the Secretary of State deciding not to 'call-in' the application, to give delegated powers to the Assistant Director: Spatial Planning of Cornwall County Council or Head of Planning and Regeneration of the Cornwall Council (after 1 April 2009) to grant planning permission for the development for the reasons set out in this report subject to;

1) a Legal Agreement under Section 106 of the Town and Country Planning Act 1990 be entered into with the applicant to provide for each of the following items:

- a) the routing of lorries to serve the CERC facility;
- b) dioxin monitoring;
- c) noise mitigation measures.

2) Conditions covering in particular the following:

- a) standard period of commencement;
- b) development in accordance with submitted documents;
- c) control of vehicle numbers;
- d) noise control measures;
- e) submission, agreement and implementation of a landscaping scheme;
- f) submission, agreement and implementation of a lighting scheme;
- g) hours and days of construction and operation;
- h) archaeological recording;
- i) a construction traffic management plan;
- j) life of the facility.

### **Cornwall Energy Recovery Centre Proposed Schedule of Conditions**

#### **Note:**

**For the purposes of these conditions the development hereby permitted has been divided into a number of distinct phases. These are;**

**Phase 1: Haul Road (to include all works associated with the construction of the haul road and associated junctions with the public highway, and river crossing);**

**Phase 2: Access Road (to include all works associated with the construction of the access road and associated junction with the public highway);**

**Phase 3: CERC Building (to include all works associated with the preparation and construction of the CERC facility)**

#### **General**

### **Time Limit for Commencement of Development**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission. Written notification of the date of the commencement shall be sent to the Local Planning Authority within 7 days of such commencement.

### **Approved Documents**

2. The development hereby permitted shall be carried out and completed strictly in accordance with the submitted documents and plans contained in the application documents as set out in the schedule attached hereto.

### **Matters requiring the approval in writing of the Local Planning Authority (LPA) before development commences.**

#### **Haul Road**

3. Prior to the commencement of development details of the proposed bridge over the River Fal, to show how this structure will be sufficient to accommodate abnormal loads, shall be submitted to and approved in writing by the Local Planning Authority. The agreed details shall be implemented as approved.
4. No development associated with the construction of Phase 1 (site haul road) shall take place until a scheme detailing the preparation, design and construction of the bridge over the River Fal has been submitted to and agreed in writing by the Local Planning Authority. The submitted scheme shall include the following details:
  - the bridge deck with soffit levels set 600mm above the 1 in 100 year flood level;
  - abutment and pier designs (to provide allowance for the potential future meandering of the channel);
  - the approach embankments and associated culverts;
  - a construction method statement including details for the prevention of pollution of the watercourse;
  - measures for the protection and reinstatement of the floodplain during and following construction [*Drawing reference to show floodplain to be inserted*].

With the exception of bridge piers no part of the bridge shall be constructed within the area determined as flooding in a 1 in 20 year flood event.

5. No development shall take place until topographic surveys of pre-development and finished ground levels demonstrating no land raising within Flood Zone 3 [*Drawing reference to show floodplain to be inserted*], shall be submitted to and agreed in writing by the Local Planning Authority. The area of Flood Zone 3 around the permitted haul road and beneath the bridge shall be maintained at or below the agreed ground levels for the duration of development.
6. Prior to the use of the haul road for the transporting of materials to the CERC facility, details of the measures to control vehicle access into and out of the haul road shall be submitted to and agreed in writing by the Local Planning Authority. The use of the haul road shall thereafter take

place in full accordance with the agreed details for the duration of the facility.

### **CERC Building**

7. Prior to the commencement of development of the CERC facility details of the depth of the fuel tanks relative to ground water levels, together with the mitigation measures to prevent spillages including details of the interceptor system and details of any drainage isolation system shall be submitted to and approved in writing by the Local Planning Authority. The fuel tanks and mitigation measures shall be completed in strict accordance with the agreed details.
8. Prior to the commencement of development of the CERC facility details of the red obstruction lights to be placed on the stack shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in strict accordance with the approved details.
9. Prior to the commencement of development of the CERC facility a lighting impact assessment, to include how light pollution is to be controlled, the position, height, type and power of each light and the need in safety and security terms, and the circumstances in which the light shall be activated, night views from short range viewpoints and a table outlining mitigation measures for any identified adverse effects shall be submitted to and agreed in writing by the Local Planning Authority. Lighting shall be provided in strict accordance with the agreed scheme.
10. Prior to the commencement of development of the CERC facility a detailed scheme for the control and monitoring of odour shall be submitted to the Local Planning Authority and approved in writing. Such a scheme shall provide for the reduction in the potential odour impact whilst work is being undertaken involving the exposure of previously tipped waste. The works, monitoring equipment and monitoring regime shall be implemented and maintained strictly in accordance with the approved scheme.
11. No development shall take place until details of the culverting of the Bodella Stream have been submitted and agreed in writing by the Local Planning Authority. Details shall include:
  - provision for a self maintaining natural bed to form within the culvert
  - sufficient headroom above the natural bed to allow safe access for maintenance and inspection;
  - approach embankments and associated headwall;
  - construction method statement including details for the prevention of pollution of the watercourse.

A report and "as built" drawings demonstrating that the culvert has been constructed in accordance with the approved details shall be submitted to and approved by the Local Planning Authority.

12. Within three months of the development of the CERC facility having been completed and brought fully into operation, noise measurements shall be undertaken at the site for a continuous 24 hour period by a competent person, or persons, when suitable weather conditions do not distort readings. The results shall be submitted to the Local Planning Authority within four months of the CERC facility having been completed and brought fully into operation.

**The following conditions shall apply to all aspects of the proposed development:**

13. No development associated with the construction of phases 1 – 3 shall take place until details of the following matters have been submitted to and approved in writing by the Local Planning Authority, in respect of the requisite individual phase of development:
- a) A Construction Travel Plan, including: the number of daily and peak hour construction vehicle movements, construction operation hours, construction vehicular routes to and from the site, construction delivery hours, car parking for contractors, methods to encourage public transport use, and methods to restrict large construction related vehicles using the strategic road network and its associated junctions during the AM and PM weekday peaks.
  - b) A plan indicating the location of the contractor's site storage area/compound;
  - c) The number, size (including height) and location of all contractors' temporary buildings;
  - d) Temporary means of enclosure and demarcation of the site operational boundaries, to be erected prior to the commencement of construction operations in any part of the site and maintained for the duration of construction operations;
  - e) The means of moving, storing and stacking all building materials, plant and equipment around the site;
  - f) Measures to ensure that dust emissions are minimised;
  - g) Details of external floodlighting installed during the construction period including hours of operation;
  - h) A construction noise mitigation scheme to ensure that noise emissions at adjoining sites is minimised. Particularly reference shall be provided to the potential noise impact to sensitive human receptors, protected species, breeding birds and their habitats. The scheme should identify those activities that can be considered noisiest, where and when these activities are likely to occur, a threshold level that would trigger a response and what such a response will be in terms of reducing noise for each noise generating activity;
  - i) The method of controlling and discharging groundwater during construction to avoid pollution of surface water and the underlying groundwater;
  - j) Details of any wheel wash facility, use of water bowsers and any other measures necessary to ensure that vehicles do not leave the site in a condition whereby mud, clay or other deleterious materials are carried onto the public highway;
  - k) A detailed strategy and method statement for minimising the amount of construction waste resulting from the development. The statement shall include details of the extent to which waste materials arising from the demolition and construction activities will be reused on site and demonstrating that maximum use is being made of these materials. If

such reuse on site is not practicable, then details shall be given of the extent to which the waste material will be removed from the site for reuse, recycling, composting or disposal in accordance with the best practicable environmental option.

The details shall be implemented as approved during the construction and commissioning of the development.

14. No development associated with the construction of phases 1 – 3 shall take place until a detailed investigation for contamination of land has been submitted to and approved in writing by the Local Planning Authority in respect of the requisite phase. The submitted scheme(s) shall assess the degree and nature of any contamination present, and to determine its potential for the pollution of the water environment. The scheme(s) shall also include measures to prevent pollution of ground water and surface water, including provision for monitoring. All development shall be carried out in accordance with the approved measures.

15. No development associated with the construction of phases 1 – 3 shall take place until a detailed scheme for the provision of surface water management has been submitted to and approved in writing by the Local Planning Authority in respect of the requisite phase. The details shall include:

- Drainage details during the construction phase;
- A timetable of construction;
- Details of the final surface water drainage scheme;
- Provision for overland flow routes;
- A plan for the future maintenance and management of the system.

The approved scheme shall be implemented, managed and maintained in accordance with the approved details at all times for the duration of the development.

16. No development associated with the construction of phases 1 – 3 shall take place until an environmental management plan has been submitted to and approved in writing by the Local Planning Authority in respect of the requisite phase. The plan shall set out:

- Species specific mitigation plans for all legally protected species with the potential to be impacted upon by the development;
- Removal and translocation of hedges method statement; and
- Control of Japanese knotweed method statement.

All works within the environmental management plan shall be implemented in full.

17. No development associated with the construction of phases 1 – 3 shall take place until a Controlled Waters Protection Method Statement has been submitted to and approved in writing by the Local Planning Authority in respect of the requisite phase. The submitted Method Statement shall include details of:-

- The Method of Construction associated with all site excavations and foundation works;
- The Method of Demolition;
- The Method of Piling Foundation works;

- The Method of Controlling and Discharging Groundwater during construction to avoid pollution of surface water and the underlying groundwater;
- Risk Assessments to be undertaken relating to groundwater and surface waters associated on and off the site that may be affected by the above.

The development shall be fully implemented in accordance with the approved details.

18. No development associated with the construction of phases 1 – 3 shall take place until a scheme detailing the measures to manage traffic within the main site and along the access road and haul road has been submitted to and approved in writing by the Local Planning Authority in respect of the requisite phase. The scheme shall include details of all signage, road markings and street furniture and other traffic management measures including details of measures to optimise segregation and safe circulation and minimise conflict between operational and non-operational vehicles, cyclists and pedestrians and restrict the use of the haul road and access road by non-CERC traffic. The scheme shall be fully implemented in accordance with the approved details.
19. No development associated with the construction of phases 1 – 3 shall take place until a scheme detailing the landscaping of the site has been submitted to and approved in writing by the Local Planning Authority in respect of the requisite phase. The landscaping scheme shall include:
  - a) Hard Landscaping:
    - Proposed finished levels or contours;
    - Means of enclosure;
    - Trespass resistant fencing to be erected parallel to the railway fence;
    - Car parking surfacing;
    - Other vehicle and pedestrian access and circulation areas surfacing;
    - Other structures including bridges and culverts.
  - b) Soft Landscaping:
    - Land moulding including earth mounding and bunding, Cornish hedges and surface water features including watercourses and ponds;
    - Planting proposals which are sensitive to the habitat of adjoining sites;
    - Written specifications (including cultivation and other operations associated with plant and grass establishment);
    - Schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate;
  - c) Implementation programme:

- To include timetable of landscaping/planting and arrangements for a minimum of 5 years aftercare/post planting management;
- The landscaped areas shall be maintained thereafter in accordance with the approved management plan. Any trees or shrubs that, within a period of five years after planting, die, are removed or, in the opinion of the Local Planning Authority, become seriously damaged or diseased, shall be replaced in the following planting season with similar specimens to those originally approved.

The approved scheme shall be fully implemented in accordance with the approved details.

20. There shall be no lighting of the access road or haul road.
21. No development associated with the construction of phases 1 – 3 shall take place until a scheme detailing the control and monitoring of noise and vibration during construction and operation of the facility has been submitted to and approved in writing by the Local Planning Authority in respect of the requisite phase. Such a scheme shall include measures designed to ensure that the development will not give rise to unacceptable noise and vibration impacts on sensitive receptors. The works, monitoring equipment and monitoring regime shall be implemented and maintained strictly in accordance with the approved scheme.
22. No operations associated with the development hereby approved shall take place within a lateral distance of 10 metres from the railway boundary. Cranes and jibbed machines used in connection with the development hereby approved must be positioned so that the jib or any suspended load does not swing over railway infrastructure or within 3 metres of the nearest rail if the boundary is closer than 3 metres. All cranes, machinery and constructional plant shall be so positioned and used to prevent the accidental entry onto railway property of such plant, or loads attached thereto, in the event of failure. Trees planted close to the railway should be located at a distance in excess of their mature height from railway property.
23. No development associated with the construction of phases 1 – 3 shall take place until a scheme detailing the rights of way diversions including measures to ensure the safety, security, environment and convenience of rights of way has been submitted to and approved in writing by the Local Planning Authority in respect of the requisite phase. The scheme shall be implemented and maintained throughout the operational life of the facility at all times.
24. No development associated with the construction of phases 1 – 3 shall take place until a scheme detailing the provision of a telephone contact for dealing with complaints from members of the public during construction, operation and decommissioning of the development in respect of matters associated with the development has been submitted to and approved in writing by the Local Planning Authority in respect of the requisite phase. The scheme shall include details of the arrangements for recording and responding to complaints. The scheme shall be operated when any work or activity in connection with that development is taking place. The approved scheme shall be implemented in full in accordance with the approved details.

25. No development associated with the construction of phases 1 – 3 shall take place until a scheme detailing the proposed removal and rebuilding of the sections of Cornish hedge to be removed has been submitted to and approved in writing by the Local Planning Authority in respect of the requisite phase. The approved scheme shall be implemented in full in accordance with the approved details.
26. No development associated with the construction of phases 1 – 3 shall take place until a scheme detailing the formation and position of fencing for the protection of trees on the site has been submitted to and approved in writing by the Local Planning Authority in respect of the requisite phase. The scheme shall be implemented and maintained throughout the operational life of the facility at all times. Nothing shall be stored or placed in any fenced area, nor shall the ground levels within those areas be altered.
27. No development associated with the construction of phases 1 – 3 shall take place until a scheme detailing the control of dust emissions from the site has been submitted to and approved in writing by the Local Planning Authority in respect of the requisite phase. The scheme shall be implemented and maintained throughout the operational life of the facility at all times.
28. No development associated with the construction of phases 1 – 3 shall take place until a scheme detailing earthworks has been submitted to and approved in writing by the Local Planning Authority in respect of the requisite phase. These details shall include the proposed grading and mounding of land areas including the levels and contours to be formed (related to a fixed datum), showing the relationship of proposed mounding to existing vegetation and surrounding landform. The scheme shall be implemented and maintained throughout the operational life of the facility at all times.

#### **CERC site**

29. Within 12 months of the date of commencement of the development, a Travel Plan to reduce reliance on the use of private cars as a means of staff and visitor transport to and from the CERC facility shall be submitted to, and approved in writing by, the Local Planning Authority. The approved scheme measures identified shall be implemented in full in accordance with the approved details.
30. All doors on the eastern elevation of the Ash Handling Facility shall remain closed when not in use.
31. Notwithstanding the details shown on the approved plans, details of the external treatment, finishes and colours of all the buildings and structures hereby permitted including samples of the materials to be used shall be submitted for the further approval in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
32. No loaded lorries transporting recyclable materials or ash shall leave the site unsheeted.

#### **Hours of operation**

33. No vehicles either delivering waste or other materials or removing waste, recyclables or ash from the facility shall enter or leave the site, including the haul road or access road, except between the hours of:
- Monday to Friday 07:00 to 18:00 hours;
  - Saturdays 07:00 to 13:00 hours.

There shall be no deliveries or removal of waste or any other materials on Sundays, Public or National Holidays.

### **Plant Machinery and Buildings**

34. Site construction works audible at the site boundary shall be restricted to 07:30 - 18:00 hours Monday to Friday and 07:30 - 13:00 hours on a Saturday. Piling and soil moving operations shall be limited to 9:00 to 17:00 hours Monday to Friday. There shall be no site construction or restoration activity at any time on a Sunday, Bank Holiday or National Holiday.
35. Soakaways or lagoons constructed as a means of storm/surface water disposal or storage shall not be constructed within 10 metres of the railway boundary or at any point which could adversely affect the stability of Network Rail infrastructure.
36. Following the initial receipt of any waste materials, no storage container, skip, sorted or unsorted waste material or residue of recycled materials or any other items shall be stored outside the building, other than within the designated bays or on operational vehicles.
37. A proposed strategy for alternative water provision in the event of prolonged mains water failure.

### **Archaeology**

38. No development shall take place within the site until a scheme for the implementation of a programme of archaeological work in accordance with a written scheme of investigations has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme of investigation.

### **Landscape Maintenance**

39. Site clearance/preparation operations that involve the felling, clearing or removal of vegetation or disturbance of bare ground shall not be undertaken during the months of March to August inclusive following the submission of report detailing survey work for nesting birds carried out by a suitably qualified ecologist.

### **Decommissioning**

40. Within six months of the decommissioning of the CERC facility a scheme and timetable for the demolition of the buildings, associated plant, haul and access roads shall be submitted to the Local Planning Authority for approval in writing. The scheme shall subsequently be implemented in accordance with the approved timetable.

## **Permitted Development Restriction**

41. Notwithstanding the provisions of Part (4) of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), no buildings, fixed plant or machinery shall be located on site without the prior approval in writing of the details of their siting, design and external appearance by the Local Planning Authority.

## **Informative**

### **1. Airport**

The applicant is strongly advised to contact Newquay Cornwall Airport in terms of the use of cranes and lights during construction.

### **2. Fire Safety**

The applicant is drawn to the attention of Part B5 of the Building Regulations 2000, 2006 edition, Section 15: Fire Mains and Hydrants and Cornwall County Fire Brigade W100 and W101 guidance notes.

### **3. Highways**

Any signage strategy to be implemented will need to be agreed with the Highways Agency.

### **4. Protected Species**

Certain species are protected under Part 1 of the Wildlife and Countryside Act 1981 and others are protected under the Habitats Regulations. Some are protected under their own legislation. The protected species legislation is applied independently of planning permission, and the developer has legal obligations towards any protected species that may be present, including complying with the terms and conditions of any licences required, as described in Part IV B of Circular 06/2005.

### **5. Rail**

The applicant is advised to contact Network Rail prior to commencement of development within 10 metres of the site boundary with their interests.

### **6. Utilities**

The applicant should contact Wales and West Utilities Plant Protection Team prior to the commencement of excavation work. Digging must be carried out in accordance with HS(G)47.

The applicant should contact South West Water as elements of the proposed access road will pass over existing water mains.

7. For the avoidance of doubt the use of the words "agreement" and "approval" have the same

PHIL MASON  
Head of Planning and Regeneration  
PM

List of Background Papers:

Planning Application and Environmental Statement Ref R224 (1)

Location Plans

Appendix A [Relevant national, regional and local planning policies and guidance]

Appendix B [Table of public representations]

Appendix C [Table of other similar energy from waste facilities in the UK]