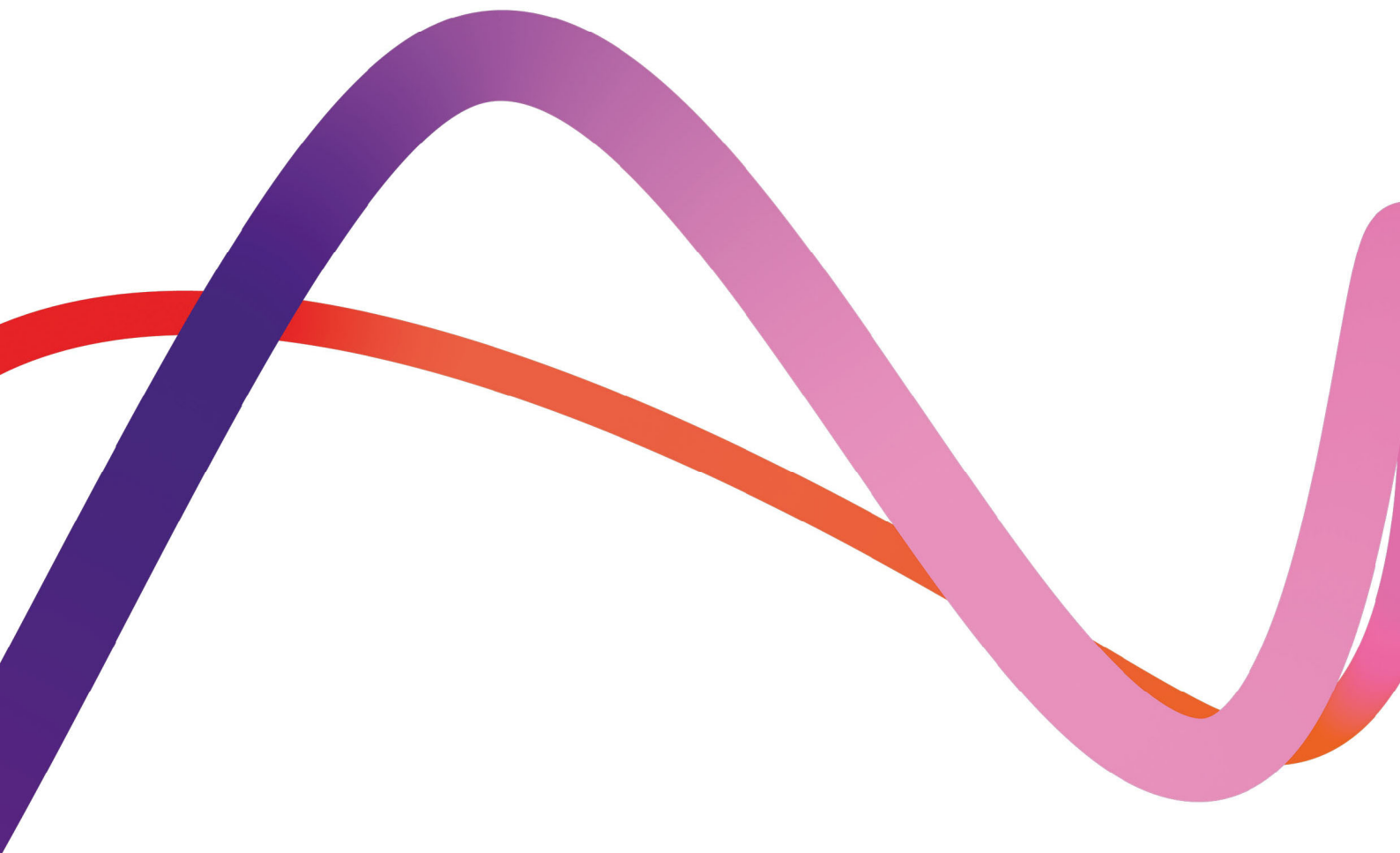


Canford Energy from Waste
Combined Heat and Power Facility



Document Reference: PPL_001(a)
November 2023



**Applicant's response to Powerfuel
Portland Ltd's Representation of
29 September 2023 – Addendum**

**We inspire
with energy.**



1. Purpose of this addendum

1.1.1 The Applicant's response to Powerfuel Portland Ltd (PPL) representation (29 September 2023), was submitted to the Local Planning Authority (LPA) on the 28 November 2023. Following recent case law, the Applicant updates the response at Para ref 83, Table 3.1, see tracked changes in Table 3.1(a), below.

Table 3.1(a): PPL's representation and the Applicant's response – addendum

Para ref	PPL's representation	Applicant's response
83	<p>We are supported on this point by the Inspector in a conjoined appeal for two MSA schemes in Solihull (APP/Q4625/W/21/3273047). This was a specific Green Belt case and in consideration of the planning balance, the Inspector stated (at paragraph 77 of his decision): <i>"It was argued that additional positive weight should be attached to the scheme providing the greatest net gain. That is not an approach I support, even if gains significantly above the minimum necessary are provided, which was the case in particular for Appeal B and accepted by its witnesses. Whilst a greater net gain is undoubtedly a good thing, it is not necessary to make the development acceptable in planning terms and so it cannot attract additional weight in the planning balance, or indeed be secured by condition or obligation"</i>.</p>	<p>Whereas the provision of higher levels of BNG may not be considered part of VSC or generally given weight in the planning balance, despite, to quote the appeal decision opposite being "undoubtedly a good thing", it is a fact and the Applicant merely states that fact.</p> <p><u>It is of course important to consider that for this application there is no statutory requirement to deliver BNG. That part of the Environment Act 2021 is expected to come into force in January 2024 and will apply only to planning applications made after that date. In a recent High Court case, <i>NRS Aggregates v Secretary of State for Levelling Up, Housing and Communities ([2023] EWHC 2795)</i>¹, an Inspector's decision to uphold an LPA's refusal of planning permission for a Green Belt quarry was quashed on the basis that the Inspector had only taken account of the additional BNG the proposal offered above the as proposed statutory 10%. In awarding this moderate positive weight within a finely balanced Inspector's decision the judge found that had all of the BNG, not just that above 10%, been taken into account of by the Inspector, there was a reasonable prospect that the planning balance would have tipped in favour of granting permission. This is of relevance to the Proposed Development at Canford Resource Park (CRP) because it underlines that for planning applications made before the formal start of the BNG regime, the whole of any BNG, not just that part above 10%, should be taken account of.</u></p>

¹ <https://www.baillii.org/ew/cases/EWHC/Admin/2023/2795.html>

