



Department for
Communities and
Local Government

Mr A Bickerdike
Turley Associates
1 New York Street
Manchester
M1 4HD

Our Ref: APP/F5540/A/12/2174323

15 May 2013

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL BY PEEL ENERGY LTD
LAND TO SOUTH OF MANCHESTER SHIP CANAL & WEST OF BARTON BRIDGE
APPLICATION REF: 76153/FULL/2010**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, David Richards BSocSci Dip TP MRTPI, who held a public local inquiry which sat on 9 days between 13 and 27 November 2012, into your client's appeal against the refusal of Trafford Borough Council ("the Council") to grant planning permission for erection of a 20MW biomass fuelled renewable energy plant with associated access, car parking, internal roads, canal side mooring and landscaping on land to the south of Manchester Ship Canal and west of Barton Bridge, Davyhulme, Trafford (application 76153/FULL/2010 dated 2 December 2010).

2. On 3 July 2012 the appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, as it is considered to be a proposal of major significance for the delivery of the Government's climate change programme and energy policies.

Inspector's recommendation and summary of the decision

2. The Inspector, whose report is enclosed with this letter, recommended that the appeal be allowed and planning permission granted. For the reasons given in this letter, the Secretary of State agrees with the Inspector's conclusion and recommendation. All paragraph numbers, unless otherwise stated, refer to the Inspector's report (IR).

Matters Arising After the Inquiry

3. Following the close of the inquiry the Secretary of State received a number of further representations about the appeal scheme. These are listed at Annex A. The Secretary of State has given very careful consideration to all the issues raised in these representations, and is satisfied that there is no need for him to refer back to parties for further comment prior to reaching his decision. Copies of the correspondence received

Christine Symes, Decision Officer
Planning Casework Division
Department for Communities and Local Government
1/H1, Eland House
Bressenden Place
London, SW1E 5DU

Tel 0303 444 1634
Email pcc@communities.gsi.gov.uk

following the close of the Inquiry are not attached to this letter, but will be made available on request to the address at the foot of the first page of this letter.

Policy Considerations

4. In deciding this appeal, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.

5. In this case, the development plan comprises the Trafford Core Strategy (CS), adopted January 2012 and the Greater Manchester Joint Waste Development Plan Document (GMJWDPD) adopted in April 2012 and, until the North West (Revocation) Order 2013 comes into force on 20th May 2013, the Regional Strategy for the North West. The Secretary of State does not consider that the revocation of the Regional Strategy for the North West raises any matters that would require him to refer back to the parties for further representations prior to reaching his decision on this appeal, and he is satisfied that no interests have thereby been prejudiced. He agrees with the Inspector that the development plan policies most relevant to this appeal are those identified by the Inspector at IR24 – IR30.

6. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework (the Framework) and the associated Technical Guidance (March 2012), Planning Policy Statement 10: *Planning for Sustainable Waste Management* (PPS10), Circular 11/1995: *The Use of Conditions in Planning Permission*; and the Community Infrastructure Levy (CIL) Regulations 2010 as amended. The Secretary of State agrees with the Inspector that other policy relevant to this case includes the UK Biomass Strategy (2007), the UK Renewable Energy Strategy (2009) and energy policy documents EN-1 and EN-3 (IR37 – IR41).

Main Considerations

7. The Secretary of State agrees that the main issues to be considered are those identified by the Inspector at IR493.

Air Quality and Perceived Health Impacts

8. The Secretary of State has had regard to the Inspector's remarks at IR35 to IR36 and IR494 to IR496 and he agrees with the Inspector that a fundamental consideration is that the proposal is the subject of an Environmental Permit issued by the Environment Agency (EA) and accompanied by a Permit decision document which sets out the reasons for the EA's decision in considerable detail (IR496).

Air Quality

9. The Secretary of State sees no reason to disagree with the Inspector's reasoning about NO₂ at IR497 to IR515. He has taken account of the Environment Agency's (EA) conclusion that "the process contribution is 1.7% of the Air Quality Standard (AQS) at the worst affected residential receptor in the Air Quality Management Area (AQMA). This is only slightly above the 'insignificance' level and so could not reasonably be considered significant taking likely modelling uncertainties into account." (IR509). Like the Inspector, he considers that it is not the role of the planning inquiry to review the standard operational and monitoring practices of the regulatory authority and that PPS10 is clear that consideration of planning applications should proceed on the assumption that the relevant pollution control regime will be applied and enforced (IR513).

10. The Secretary of State has taken account of the Inspector's remarks about stack height (IR516 – IR520). He shares the Inspector's view that the key issue is not the height of the stack but whether the particular configuration can be made to operate within the limits imposed by the Permit and without bringing about a harmful deterioration of local air quality, particularly having regard to the AQMA (IR520). He further agrees that the permit sets a substantially lower limit for lower level NO₂ emissions than would be permitted by the Waste Incineration Directive to take into account existing air quality issues in the AQMA and that this offers a high degree of confidence that emissions will result in no significant adverse health effects (IR520).

11. Having had regard to the Inspector's analysis at IR521 to IR531 the Secretary of State agrees with the Inspector that the ES indicates that no new exceedences at residential properties within the AQMA would occur as a result of appeal proposal, and that there is no clear evidence to contradict this (IR531). The Secretary of State also gives weight to the EA's conclusion that, 'when looking at the AQMA as a whole, there will be no measurable effect' (IR531).

Other Pollutants

12. The Secretary of State has had regard to the Inspector's comments at IR543 to IR571. He has taken account of the fact that the EA has concluded that the theoretical risk of arsenic exceeding the EU target value is highly unlikely (IR549), and that it considers that particulate emissions from the installation will not give rise to significant pollution (IR552). He has also taken account of the Inspector's advice that it can be concluded that predicted emissions of Chromium VI would not give rise to any significant increased health risk for the population of the area (IR562). He sees no reason to disagree with the Inspector's comments on dioxins and furans (IR563 – IR567) or with his remarks on validation (IR568 – IR571).

Health Impacts

13. The Secretary of State has had regard to IR572 to IR576 and he sees no reason to disagree with the Inspector's remarks at IR576.

Overall Conclusion on Air Quality and Health Impacts

14. The Secretary of State has had regard to the Inspector's comments at IR577 to IR582. He agrees that PPS10 remains current guidance for this type of development and that it clearly sets out the respective roles of the planning system and the environmental permitting regime (IR577). He observes that the Environmental Permit was issued shortly before the inquiry commenced and some 6 weeks after the date of the planning application so that the advice on concurrent processing in PPS10 is satisfied (IR580). The Secretary of State agrees with the Inspector that the EA's decision making process fully satisfies the requirement for openness and that community representations were responded to at length in the decision document (IR580). He also agrees with the Inspector that whilst there is a level of fear amongst objectors and this is a material consideration to which some weight can be attached, it is not supported by substantive evidence of actual harm to health arising from the proposal (IR582).

Effect on Regeneration and Community Confidence

15. The Secretary of State has had regard to IR583 to IR585 and, for the reasons set out in those paragraphs, he agrees with the Inspector that the proposal would not automatically be rendered inappropriate because it lies in an area which is described as predominantly residential (IR585).

16. The Secretary of State has had regard to the Inspector's comments on the scheme's scale and visual impact at IR586 to IR589. He agrees with the Inspector that the nature and scale of the proposed structures and the locally controversial nature of the proposal mean that many people would have a heightened degree of consciousness of its presence (IR589). However, in view of the intervening distance, the presence of established planting, and the context of existing large structures, the Secretary of State shares the Inspector's view that the scheme's visual impact would not cause material harm to the diverse character and appearance of the surrounding area (IR589).

17. The Secretary of State has had regard to the Inspector's remarks about local concerns in respect of regeneration and improvement (IR590 – IR592). He has gone on to consider the Inspector's analysis of the research evidence on this matter presented to him at the inquiry (IR593 – IR598) and he sees no reason to disagree with the Inspector's concluding remarks in respect of the evidence (IR598). Turning to the local factors considered by the Inspector at IR599 to IR611, the Secretary of State agrees with him that it is inherently unlikely that the appeal proposal would have an adverse effect on the vitality and potential of Urmston town centre (IR601) and he also agrees that the overall picture in terms of housing is not one of decline or lack of confidence (IR606). Like the Inspector (IR611), the Secretary of State accepts that in an area where there are already air quality concerns, any additional contribution is likely to be perceived as unwelcome by existing residents. However, like the Inspector he concludes that it has not been demonstrated that the fears expressed, in terms of arresting the process of regeneration and damage to community confidence, will materialise in practice (IR611).

Whether the Proposal Would be Sustainable Development

18. The Secretary of State has given very careful consideration to the Inspector's reasoning on this matter at IR612 to IR627. He agrees with the Inspector that, although the evidence on waste wood availability is clearly a matter that affects the public perception of the scheme, the evidence is insufficient to show that existing generating capacity exceeds the likely supply of suitable sustainable waste wood (IR627). Like the Inspector, the Secretary of State attaches greater weight to the strong support expressed in national and local policy for a development which has the potential to contribute to renewable energy capacity, and the related benefits of security and diversity of supply (IR627).

19. Having had regard to the Inspector's comments at IR628 – IR629, the Secretary of State agrees that, although the climate change benefits of the scheme would be greater if Combined Heat and Power (CHP) had been designed as an integral part of the scheme, as the location offers the prospect for use of heat from the generation of electricity, he does not consider that the lack of specific proposals for CHP should stand in the way of granting planning permission (IR629).

20. In conclusion on this matter, like the Inspector, the Secretary of State considers that the Government's planning policies offer strong support for an increase in generating capacity from renewable sources and that, whilst the questions raised in respect of wood waste supplies are relevant to the determination of the appeal, he does not consider that they outweigh development plan support for the scheme (IR630). In common with the Inspector, he concludes that the proposal constitutes a sustainable form of development (IR631).

Other Matters

Appropriate assessment

21. The Secretary of State has had regard to the Inspector's comments in relation to the Special Areas of Conservation (SACs) at Manchester Mosses and Rixton Clay Pits, and he agrees with the Inspector that there is no evidence of significant impact on SACs, and that it is not necessary to carry out an Appropriate Assessment (IR632).

Transport impacts

22. The Secretary of State agrees with the Inspector that it is clearly not the intention of the local authority that there should be no additional development until existing congestion is eased, and that is not the basis on which national planning policy operates (IR633). He further agrees that notwithstanding high levels of congestion, the appeal site lies in an area with very good access by road (IR633). Having taken account of the Inspector's analysis at IR633 to IR635, the Secretary of State shares his view that there is no reason to disagree with the conclusion of Trafford Borough Council's officers at paragraph 106 of the committee report (CD 46) that 'the environmental impact of the proposal from a traffic, transport and highway perspective is considered to be negligible when measured against the IEMA 'Guidelines for the Environmental Assessment of Road Traffic' (IR635).

Risk

23. On the issue of risk of fire and explosions where large quantities of biomass are stored on site and the possibility of visual emissions causing problems for drivers on the Motorway Bridge, like the Inspector, the Secretary of State is satisfied that these matters can be effectively dealt with by condition (IR636).

Localism

24. The Secretary of State has had regard to the Inspector's analysis at IR637 to IR642. He sees no reason to disagree with that analysis and he shares the Inspector's view that there is clearly a pressing national need for the development of renewable energy capacity (IR641). The Secretary of State has taken account of the particular concerns which have arisen in this case, but he sees no reason to disagree with the Inspector's conclusion that these concerns are not supported by any substantial evidence of any actual harm to health (IR641). In common with the Inspector, he considers that PPS10 is clear that in considering planning applications for waste management facilities, waste planning authorities should concern themselves with implementing the strategy for the development plan and not with the control of processes which are a matter for the pollution control authorities (IR641). Like the Inspector, the Secretary of State has attributed some weight to the strength of local feeling against the proposal but he agrees with the Inspector that it remains a fact that an Environmental Permit has been issued and that he must proceed on the assumption that the relevant pollution control regime will be properly applied and enforced (IR642). In conclusion, like the Inspector, the Secretary of State considers that the perception of harm on the part of a large section of the local population does not outweigh the presumption in favour of granting permission for development which accords with the Development Plan.

Conditions and Obligation

25. The Secretary of State has given careful consideration to the Inspector's comments at IR479 to IR492 and IR643 to IR647, the conditions set out in the Annex to the IR, the Framework and Circular 11/95. He sees no reason to disagree with the

Inspector's analysis at IR644 and he has not included the two conditions proposed by the Council within the list of conditions set out in the Annex to this letter. For the reasons given by the Inspector at IR645, he too considers that there is no compelling reason in this instance to extend the time limit for commencement of the development beyond the normal period of three years. In conclusion, the Secretary of State is satisfied that the conditions recommended by the Inspector are reasonable and necessary and that they comply with paragraph 206 of the Framework and with Circular 11/95. He is also satisfied that the executed planning obligation meets the requirements of the CIL Regulations and he has taken it into account in determining this appeal.

Overall Conclusion

26. The Secretary of State sees no reason to disagree with the Inspector's concluding remarks at IR648–658. In respect of CS Policy L6, like the Inspector (IR654) he is satisfied that concerns about the availability of waste wood in the region do not amount to a sufficient reason to refuse permission for development that is otherwise acceptable. He also shares the Inspector's view that the air quality and health impacts would be acceptable and that there is no substantial evidence that the development would harm any area in need of regeneration (IR654). Having had regard to the Inspector's comments at IR655, the Secretary of State is satisfied that the proposal does not give rise to material conflicts with GMJWDDP policies 8 and 10. In common with the Inspector, he attributes substantial weight to the matters set out at IR656. He agrees with the Inspector that, in other respects, the policies in the CS are supportive of the scheme and that the proposal accords broadly with the development plan in respect of energy and waste management (IR657). Overall, the Secretary of State is satisfied that the scheme does not give rise to material conflicts with the development plan.

27. The Secretary of State acknowledges that there are genuine concerns and fears in connection with the impacts on air quality and health which have given rise to a perception of harm, and the effects on the community in terms of regeneration and confidence. However, like the Inspector (IR658), he gives greater weight to the presumption in favour of sustainable development, and the need to approve development which accords with the development plan without delay.

Formal Decision

28. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby allows your client's appeal and grants planning permission for erection of a 20MW biomass fuelled renewable energy plant with associated access, car parking, internal roads, canal side mooring and landscaping on land to the south of Manchester Ship Canal and west of Barton Bridge, Davyhulme, Trafford (application 76153/FULL/2010 dated 2 December 2010), subject to the conditions attached at Annex B.

29. An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period.

30. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.

Right to Challenge the Decision

31. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.

32. A copy of this letter has been sent to Trafford Borough Council and to the Breathe Clean Air Group. A notification letter/email has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

CHRISTINE SYMES

Authorised by Secretary of State to sign in that behalf

ANNEX A – POST INQUIRY REPRESENTATIONS

Date	Name
14 Nov 2012	B Logan
18 Nov 2012	K Hurd
18 Nov 2012	I Williams
27 Nov 2012	L Baylis
1 Dec 2013	P Haworth
5 Dec 2012	Northern Electricity
6 Dec 2012	Turley Associates
13 Dec 2012	D Buckley
20 Dec 2012	P Kilvert
6 Dec 2012	Turley Associates
18 Nov 2012	I Williams
14 Jan 2013	P Kilvert
18 Jan 2013	P Kilvert
30 Jan 2013	H Hemsall
1 April 2013	K Pilgrim
22 April 2013	M Underhill
24 April 2013	S Madden
29 April 2013	Kate Green MP
29 April 2013	Cllr Tom Ross
30 April 2013	Cllr C Hynes
1 May 2013	R Mills
1 May 2013	Cllr J Baugh
3 May 2013	Cllr D O'Sullivan
5 May 2013	E Starkie
5 May 2013	J Dillon
5 May 2013	M Bates
6 May 2012	D Howarth
7 May 2013	Graham Brady MP
7 May 2013	Cllr M Cordingley
7 May 2013	Cllr A Western
7 May 2013	Cllr D Western
7 May 2013	Cllr D Acton
7 May 2013	C Currie
7 May 2013	Graham Brady MP
7 May 2013	Cllr L Walsh
8 May 2013	K Madden
8 May 2013	G Brown
8 May 2013	Cllr M Freeman
9 May 2013	Cllr J G Smith
9 May 2013	Cllr M Colledge
10 May 2013	S Anstee

ANNEX B - CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) Unless otherwise controlled by conditions attached to this permission or as agreed in writing by the Local Planning Authority, the development hereby approved shall be carried out in accordance with the following plans:

Site Location Plan	L(00)10 Rev C
Existing Site Plan	L(90)01
Proposed Site Plan	L(90)02 Rev A
Ground Floor Plan	L(00)11
Level 1 Plan	L(00)12
Level 2 Plan	L(00)13
Staff Accommodation Ground and First Floor Layouts	L(00)16
Elevations	L(00)15
Sections	L(00)14
Use of Davyhulme WWTa Construction Track	M10023-A-026 Fig 5.6
Part WGIS and Biomass Access/Egress Constructed	M10023-A-026 Fig 5.7
Part WGIS/WGIS and Biomass Access/Egress	M10023-A-026 Fig 5.8
Integration into part WGIS during construction	M10023-A-026 Fig 5.9
Proposed Security and Access Measures	M10023-A-32
Vehicle Tracking Plan	M10023-A-33

Details required prior to the commencement of development

- 3) Prior to the commencement of development, samples of all materials to be used on the exterior of the buildings shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.
- 4) Prior to the commencement of development, a soft landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of vegetation to be retained and its means of protection during construction, earthwork materials, proposed finished levels or contours, proposed plant species, plant mixes and location, planting density and sizes, timescales for implementation and provision for long term maintenance and management. The soft landscaping scheme shall thereafter

be implemented in accordance with the approved scheme. If within a period of five years from the date of any tree planted that tree, or any tree planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, another tree of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.

- 5) Prior to development commencing, full details of hard landscaping works shall be submitted to and approved by the Local Planning Authority and the works shall be carried out in accordance with the approved plans. The details shall include proposed finished levels or contours; means of enclosure (i.e. perimeter and security fencing); security and operational lighting; hard surfacing materials and a programme for implementation and maintenance.
- 6) Prior to the commencement of development, a scheme to deal with contamination of the site shall be submitted to and approved in writing by the local planning authority. The scheme shall include an investigation and assessment to identify the extent of contamination and the measures to be taken to avoid risk to the environment when the site is developed. Development shall not commence until the measures approved in the scheme have been implemented.
- 7) Prior to commencement of development, full design and construction details of the required highway works shown in outline on TTHC drawing no. M10023-A-32 shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 8) Prior to the commencement of development, full details of site foul and surface water drainage shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall thereafter be implemented in full.
- 9) No development shall take place, other than the carrying out of site clearance and preparatory works, until the applicant or their agents or their successors in title has secured the implementation of a programme of archaeological works in accordance with a Written Scheme of Investigation (WSI) submitted to and approved in writing by the local planning authority. The WSI shall cover the following:
 - i) A phased programme and methodology of site investigation and recording to include:
 - geoarchaeological evaluation, which shall then inform the need for;
 - palaeoenvironmental assessment and analysis;
 - a comprehensive archaeological watching brief, which shall then inform the need for;
 - targeted evaluation trenching and/ or open area excavation.
 - ii) A programme for post investigation assessment to include:
 - analysis of the site investigation records and finds
 - production of a final report on the significance of the archaeological interest represented.
 - iii) Provision for publication and dissemination of the analysis and report on the site investigation.

- iv) Provision for archive deposition of the report, finds and records of the site investigation.
- v) Nomination of a competent person or persons/organization to undertake the works set out within the approved WSI.

The development shall be carried out in full accordance with the agreed provisions of the WSI.

- 10) No development shall commence until a Construction Environmental Management Plan (CEMP), detailing control measures in relation to noise, dust and waste during the construction phase has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall also include measures to protect the water environment and include measures to control and manage silt-laden runoff and mud deposition on local roads. The CEMP as approved shall be operated during the construction phase.

Details required prior to first operation

- 11) Prior to first occupation of the development, a Noise Management Scheme setting out all mitigation measures to be implemented during the operational phase of the development to meet the noise criteria set out in the Noise and Vibration Section (Chapter 7) of the Environmental Statement (Volume 1) shall be submitted and approved in writing by the Local Planning Authority. The development shall be carried out and thereafter operated in accordance with the approved Noise Management Scheme
- 12) Prior to first operation of the development, a Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall be implemented within 6 months of occupation of any part of the development hereby approved.
- 13) Prior to first operation of the development, a Crime and Risk Prevention Plan (CRPP) shall be submitted and approved in writing by the Local Planning Authority. The plan should include:
 - an assessment of the risk, and any necessary mitigating measures, to contain the effects of a
 - fire in the fuel stores;
 - perimeter security, security to individual buildings (including details of a security lodge) and
 - plant; and
 - an ongoing-security management plan for the site (to include site access controls, lighting,
 - CCTV and manned security provision).

The approved CRPP shall be implemented in full and subsequently retained.

- 14) Prior to first operation of the development, details of external lighting (including security lighting) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Details required prior to decommissioning

- 15) Prior to decommissioning, a Decommissioning Method Statement (DMS) shall be submitted and approved in writing by the Local Planning Authority. The

scheme shall include details concerning the required decommissioning works including the dismantling and removal of the biomass plant and associated structures and restoration of the site upon cessation of operations. It shall also provide consideration of impacts identified within the Environmental Statement and guidance on how the above will address any identified impacts. The applicant shall decommission and restore the site in accordance with the approved DMS in accordance with a programme to be agreed with the Local Planning Authority.

Other Conditions

- 16) No construction (and demolition) works shall be permitted outside the following hours:

Monday to Friday 08.00 to 18.00

Saturdays 08.00 to 13.00

Access and egress for delivery vehicles during the construction phase shall be restricted to the working hours indicated above. Construction work or delivery vehicles shall not be permitted on Sundays or Bank or Public Holidays.

- 17) No part of the development shall be brought into its intended use unless and until the highway improvements as shown in outline on TTHC drawing no. M10023-A-32, and agreed in detail in accordance with the condition no. 7 above, have been implemented in accordance with the agreed plans.
- 18) Development shall be carried out in accordance with the mitigation measures proposed by the Flood Risk Assessment (Ref. JL30072fin_rep_FRA) dated 12 Oct 2010.
- 19) The ecological mitigation measures, including the Ecological Enhancement Plan, shall be implemented in full as set out within Chapter 10 and Figure 10.2 of the Environmental Statement. Details, setting out the long term ecological maintenance and management of the site including the retained vegetation strip along the Manchester Ship Canal, shall be submitted to and be approved in writing by the Local Planning Authority prior to the carrying out of the mitigation measures set out in the Environmental Statement.
- 20) The rating level (LAeq, T) when assessed in accordance with BS 4142:1997 "Rating industrial noise affecting mixed residential and industrial areas", from all fixed plant and machinery associated with the development, when operating simultaneously, shall not exceed the background noise level (LA90, T) by more than -5 dB during the night time period (any 5 minute period between 23.00hrs to 07.00hrs) and by +5dB during the daytime (any 1 hour period between 07.00hrs to 23.00hrs) when measured at the nearest noise sensitive premises.



Report to the Secretary of State for Communities and Local Government

by David Richards BSocSci Dip TP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Date: 8 February 2013

TOWN AND COUNTRY PLANNING ACT 1990

TRAFFORD BOROUGH COUNCIL

LAND TO THE SOUTH OF MANCHESTER SHIP CANAL AND WEST OF BARTON
BRIDGE, DAVYHULME

APPEAL BY PEEL ENERGY (BARTON) LTD

Inquiry held between 13 & 27 November 2012

Land to the south of Manchester Ship Canal and west of Barton Bridge, Davyhulme.

File Ref: APP/Q4245/A/12/2174323

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File Ref: APP/Q4245/A/12/2174323

Land to the south of Manchester Ship Canal and west of Barton Bridge, Davyhulme.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Peel Energy (Barton) Ltd against the decision of Trafford Borough Council.
- The application Ref 76153/FULL/2010, dated 2 December 2010, was refused by notice dated 5 December 2011.
- The development proposed is erection of a 20MW biomass fuelled renewable energy plant with associated access, car parking, internal roads, canalside mooring and landscaping.

Summary of Recommendation: The appeal be allowed and planning permission granted, subject to the conditions set out in annex A.

Introduction

1. The Inquiry sat on 9 days between 13 and 27 November 2012. Accompanied site visits were made to the site on 12 November and to the site and surrounding area on 28 November 2012. I made other unaccompanied site visits to various locations during the course of the Inquiry.
2. The application was recommended for approval by the Council's Chief Planning Officer¹. However, Members of Planning Committee resolved to refuse planning permission at committee on 11th November 2011 with the decision notice being formally issued on 5th December 2012. The application was refused for the following reasons:
 1. *The proposed development of a facility which involves the incineration of biomass fuels would, by reason of its scale of operation, presence and location, have a detrimental impact upon the vitality and attractiveness of, and the self-confidence of communities within, the nearby established areas of Davyhulme, Flixton and Urmston and would thereby prejudice the continuing regeneration and improvement of these areas which have been identified by the Council as being in need of investment. The proposals would therefore be contrary to Policy WD5 of the Trafford Unitary Development Plan.*
 2. *The proposed development raises significant concerns amongst nearby communities that, on the basis of publicly available and respectable scientific evidence about possible adverse impacts of the incineration of biomass waste, it would contribute to a substantial reduction in air quality in an area which is already designated an Air Quality Management Area. As a result there is a widely held objective perception substantiated by independent objective scientific evidence that the development poses an unacceptable risk to the health and safety of those communities. Government guidance as set out in Planning Policy Statement 23 Planning and Pollution Control states that the objective perception of unacceptable risk to the health and safety of the public*

¹ CD46

arising from a proposed development is a material consideration which should be taken into account when determining a planning application. The nature and extent of the perceptions held by people living in nearby communities with regard to the risk to health and safety arising from the proposed development is such that it has considerable weight when considered against the proposal and requires that the proposal be refused.

3. The appeal has been recovered by the Secretary of State for his determination, as it is considered to be a proposal of major significance for the delivery of the Government's climate change and energy policies.
4. The Council issued a screening opinion on 9 July 2010 that an Environmental Statement (ES) was not required, as the development would be unlikely to have any significant environmental effects. Nevertheless, the Appellant produced an ES on a voluntary basis, submitted with the application, and an Addendum to the ES dated 24 February 2011, responding to comments from Trafford Borough Council's (TBC) environmental health officer (EHO). These formed the basis of the Appellant's assessment of potential air quality, health and other impacts, and I have considered it along with all other evidence to the Inquiry in reaching my conclusion and recommendation. The Secretary of State issued a screening direction on 18 July 2012 confirming that the development was not Environmental Impact Assessment (EIA) Development.
5. Shortly before the Inquiry opened, the Environment Agency (EA) issued an environmental permit for the development (CD67 A). This was accompanied by a document setting out in some detail the EA's decision making process (CD 67B). A draft permit had previously been the subject of public consultation. Many of the comments on the design of the plant, emissions and health impacts made to the Inquiry had been taken into account by the EA and responded to by the EA during the consultation process.
6. A final version of a Statement of Common Ground (SoCG) was issued on 19 September 2012. This sets out matters of agreement between the Council and the Appellant. Breathe Clean Air Group (BCAG) were not party to the SoCG, and there is no suggestion that any matter in the SoCG was agreed by them.

The proposal

7. The application seeks full planning permission for the development of a 20 MW, biomass fuelled power plant referred to by the Appellant as Barton Renewable Energy Plant (BREP). It would be capable of producing renewable electricity to be exported to the electricity grid and renewable heat which could potentially be exported to local commerce, industry and development. The key components of the development are a fuel store building 23m high, a fuel reception and loading building 27m high, a boilerhouse/turbine hall up to 42m high and flue gas treatment equipment including a 44.2m high stack, together with ancillary buildings, equipment and storage areas. Electricity generated at the plant would feed into the local grid by means of an underground cable to the existing network substation on Redclyffe Road.
8. To generate electricity and heat the combustion process will fuel a boiler which will power a steam turbine and generating unit, producing up to 20 MWe of renewable electricity. Ammonia would be injected into the combustion chamber

to reduce oxides of nitrogen (NO_x). This technique is referred to as selective non-catalytic reduction (SNCR). Hydrated lime (to remove acidic gases) and activated carbon (to reduce dioxins and other trace compounds) will be injected into the flue gases, which then pass through a bag filter to remove particulates. The cleaned flue gases will then discharge via the stack. It is anticipated that the plant will produce about 10,000 tonnes per year of ash. Ash which cannot be recycled and for which a subsequent use cannot be found will be disposed of to landfill.

9. The plant will require approximately 200,000 tonnes of fuel per annum, comprising a mix of the following:
 - up to 30% waste wood material consisting of chipped virgin timber, wood pellets, short rotation coppice and energy crops;
 - 65 %-75% waste wood, sourced from various sources including waste transfer stations, wood processing facilities and other sources.
 - Up to 5% solid recovered fuel.
10. Fuel is intended to be sourced from a number of suppliers based in the North West region, to minimise the distance the fuel will be transported. The development includes the provision of a mooring facility to allow for the possibility of fuel being transported by water in future.

The Site and Surroundings

11. The site and its surroundings are fully described in section 3 of the SoCG.
12. The appeal site is located within the northern part of Trafford Borough, in the Davyhulme East and West wards of the Borough. It lies to the west of the Barton High Level Bridge which carries the M60 over the Manchester Ship Canal (MSC). The immediate surroundings include a range of non-residential uses and several structures which are significant in presence and scale. Junction 11 of the M60 is located approximately 900 m to the north of the site and Junction 10 some 900m to the south east. The MSC bounds the site to the north, and is also the boundary between Trafford Borough and the City of Salford. The recently constructed Salford Community Stadium, home of the Salford Reds Rugby League Club lies on the opposite bank of the MSC. The Barton High Level Bridge (immediately to the east of the site) forms part of the M60 motorway, which serves as the outer ring road to Manchester.
13. The site is also located within an area containing a mix of commercial and industrial uses, most notably, Davyhulme Waste Water Treatment Works (WWTW), which lies immediately to the south of the site and occupies an area of over 80 ha. A planning application for the expansion of the Waste Water Treatment Works to provide a sludge treatment facility, including a combined heat and power plant and gas holders was approved by the Trafford Borough Council (TBC) in 2009 (under reference H/70123), and is under construction with (at the time of the inquiry) completion expected late 2012. Other notable surrounding uses are set out in detail at section 3 of the SoCG but there is an extensive range of commercial and industrial uses in the surrounding area which include the Trafford Centre, Trafford Retail Park and the wider Trafford Park area.

14. Other significant recent permissions within the wider area include the development of two new power stations at Carrington, approximately 4.5 km to the southwest of the site, adjacent to the MSC.
15. The main application site itself extends to 4.3ha and is largely rectangular in shape. The application boundary also includes land to the east of the M60 Motorway which encompasses the vehicular access for the site. The site itself consists partly of open unkempt scrubland with the balance being covered by self-seeded trees and other vegetation.
16. The site is not accessible to the public and there is currently no vehicular access serving the site. It does not form part of any statutory ecological or ornithological designation. Similarly, it does not form part of any landscape designation nor is it the subject of any Tree Preservation Orders. There are no listed buildings within the site and it does not form part of a Conservation Area. However, part of the site is included in an Air Quality Management Area (AQMA) adjacent to the operational part of the site, which has been declared due to nitrogen dioxide levels.
17. Access to the development will be provided via an existing dedicated access to the east of the site under Barton Bridge. This road is presently in use by United Utilities, running parallel to the MSC to provide access to the WWTW. This road connects the site to the road network within the Trafford Leisure Village, which links into the wider strategic road network including Trafford Boulevard and Junctions 9 and 10 of the M60.
18. Vehicles will access the site via Junction 10 of the M60 and through the adjacent Leisure Village. In the longer term, the access will connect into Peel's approved Western Gateway Infrastructure Scheme (WGIS). The WGIS is a major highway scheme which will include a road to draw traffic that would normally travel between junctions 10 and 11 on to a dual carriageway, a swing bridge over Manchester Ship Canal, the closure of the anti-clockwise slip road at junction 10, which will instead be linked to the new road, and an extra anti-clockwise lane between junctions 9 and 10 of the M60. The new road and bridge will also include room for a tram line in case a Metrolink extension to and from the Trafford Centre goes ahead and will include a new footpath and cycle link across the Ship Canal.
19. Alongside the implementation of WGIS Peel will also be taking forward the implementation of its £120m Salford Port proposals to create an inland port at Barton and a substantial investment in roads across Greater Manchester and Merseyside.
20. The site is located within Greater Manchester, an urban conurbation which has the largest population of any sub region in the North West and is the largest generator of waste, including waste wood². The site has good access to the strategic road network and, by that means, to all parts of the conurbation without the need for the use of minor or other unsuitable roads. The MSC provides an opportunity for fuel and residues to be transported by the water in future.

² See Joint Waste DPD CD65 para 4 – Executive Summary

21. The site is less than 1.5km away from an existing electricity substation providing the opportunity for an underground cable connection and a direct entry into the local electricity grid. There is also a significant range of industrial commercial and leisure developments in the area which provides opportunities for connection to a range of large process and space heat users.
22. The Council and the Appellant are agreed that the nearest residential property is located between 500m and 520m(approximately) from the appeal site, and the nearest concentration of residential development (at Skipton Drive) is located between 551m and 570m away from the development (Doc Peel 6). (The distance to the nearest dwelling was disputed by BCAG, which gave a figure of some 490m).

Planning Policy

23. The Development Plan for the area includes the North West of England Plan: Regional Spatial Strategy 2008 (RSS), Trafford Core Strategy (CS), adopted in January 2012, and the Greater Manchester Joint Waste Development Plan Document (GMJWDPD) adopted in April 2012.
24. The RSS was part of the Development Plan at the time of the Inquiry. Policy EM10 promotes the provision of sustainable new waste management infrastructure. Policy EM11 states that efforts should be made to minimise waste, maximise re-use and maximise opportunities for the use of recycled material. Residual waste should be managed at the highest practicable level in the Government's waste hierarchy. Policy EM12 requires local authorities to ensure that waste management facilities are sited in such a way as to avoid the necessary carriage of waste over long distances. Policy EM13 seeks to ensure that an appropriate range of sites for waste management facilities are provided, while ensuring that they satisfy general planning and licensing conditions including the likely cumulative impact on the environment. Policy EM15 promoted the use of renewable energy and the development of renewable sources. Policy EM17 sets a target for 20% of the electricity within the region to be provided from renewable sources. It requires local authorities to give significant weight to the wider environmental, community and economic benefits of renewable energy proposals. It also sets targets for the development of a range of carbon efficient and renewable energy schemes including biomass fuelled combined heat and power (CHP) schemes. Renewable energy capacity should be developed with the aim of meeting or exceeding these targets, and where targets are already met it will not be a reason for refusing otherwise acceptable proposals. It also sets out a range of considerations which should be taken into account including impact on local amenity, visual impact, effect on nature conservation and potential benefits to the local economy and community.
25. The CS is a very recent statement of adopted planning policy for the Borough. The Vision for Trafford set out in the CS is that by 2026 Trafford will have vibrant and inclusive, prosperous and well designed sustainable communities and a high performing economy that makes a significant contribution to the North West Region by continuing to attract and retain internationally competitive businesses, maintaining a strong local business base and positioning itself as a centre for enterprise.
26. Of relevance to the appeal are the spatial profiles for Urmston and Trafford Park, which describe Urmston as 'predominantly a residential area', and recognises

Trafford Park as a core industrial area which continues to have a very significant role to play in the economy of the region and more specifically in terms of achieving a significant improvement in the performance of the sub-regional economy.

27. The CS sets out a number of Strategic Objectives, of which it is agreed that SO7 is the most relevant, and which seeks to promote the reuse of resources, the principles of sustainable construction and the use of new technologies to combat and adapt to climate change to minimise the impact of new development on the environment. Place objective UR07 is specific to Urmston and aims to protect and enhance the existing town centre and small neighbourhood shopping centres in the area, whilst UR08 seeks to consolidate and improve the retail and comparison offer of Urmston Town Centre and diversification to other uses.
28. CS Policy L3 identifies a number of Priority Regeneration Areas where the Council aims to reduce inequalities, secure regeneration benefits and create sustainable communities. Other regeneration areas are also defined based on 2007 indices of multiple deprivation. The Urmston area is not amongst these. CS Policy L5 sets out the Council's approach to dealing with the effects of climate change. L5.12 recognises the role that renewable and decentralised energy generation and distribution facilities can play in reducing CO2 emissions and providing viable energy supply options. L5.13 requires mitigation measures to be put in place for development that has potential to cause adverse pollution. Where development proposed is close to existing sources of pollution, L5.14 requires that it should be designed and sited in such a way as to confine the impact of nuisance from these sources to an acceptable level. L5.15 requires development within the Borough's Air Quality Management Zones to adopt measures identified in the greater Manchester Air Quality Action Plan to ensure that development would not have an adverse impact on air quality.
29. CS Policy L.6 recognises the need for Trafford to make an appropriate contribution towards enabling Greater Manchester to meet its waste management needs. Waste management proposals should demonstrate consistency with the waste hierarchy and should plan for using sustainable transport including the MSC. In determining applications, the Council will have full regard to the environmental, social and economic impacts of such developments. Policy L8 sets out criteria for the consideration of Planning Obligations.
30. The GMJWDPD came into force on 1 April 2012. The spatial strategy directs new waste management to places that are accessible by different modes of transport, close to where waste is expected to arise in future and near existing waste management facilities, but avoiding places with a sensitive natural or built environment or close to existing communities. Policy 4 identifies specific sites for waste management facilities. Policy 5 – Area Allocations – is intended to provide additional choice to developers for new, unidentified waste management technologies. The appeal site is not identified under either of these policies. Policy 8 indicates that applications for waste management facilities must have the potential to utilise biogas or energy from waste unless it can be demonstrated that this would prevent the development of waste management facilities. Policy 10 states that applications for waste management facilities on unallocated sites will be permitted where the applicant can demonstrate that the proposal fits within the spatial strategy, contributes to the Plan's aims and objectives and meet the same assessment criteria as allocated sites.

31. Relevant National planning policy is set out in a number of documents.
32. The National Planning Policy Framework ('the Framework') came into effect on 27 March 2012, and replaces all the former Planning Policy Statements except PPS 10. Paragraph 14 sets out the presumption in favour of sustainable development which means approving development proposals that accord with the development plan without delay, and where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the framework taken as a whole.
33. Relevant core planning principles identified in the framework are that planning should proactively drive and support sustainable economic development, always seek to secure high quality design, take account of the different character and roles of different areas, support the transition to a low carbon future and encourage the use of renewable resources (for example, by the development of renewable energy), and take account of local strategies to improve health, social and community wellbeing. Paragraph 97 requires that authorities should recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources. Paragraph 98 further advises that when determining planning applications, they should not require applicants for energy development to demonstrate the overall need for renewable or low-carbon energy and approve applications if the impacts are or can be made acceptable.
34. Planning Policy Statement 10: Planning for Sustainable Waste Management (March 2011) remains current guidance. The overall aim of waste policy is to protect human health and the environment by producing less waste and by using it as a resource wherever possible. By moving the management of waste up the 'waste hierarchy' the Government aims to break the link between economic growth and the environmental impact of waste. Positive planning has an important role to play by providing sufficient opportunities for new waste management facilities. Paragraph 24 advises that planning applications for sites which have not been identified as suitable for new or enhanced waste management facilities in a development plan document should be considered favourably when consistent with the policies in the PPS and the waste planning authority's core strategy.
35. Paragraph 26 requires that in considering planning applications for waste management facilities, waste planning authorities should concern themselves with implementing the planning strategy in the development plan and not with the control of processes which are a matter for the pollution control authorities. On this matter paragraph 27 states that:

'The planning and pollution control regimes are separate but complementary. Pollution control is concerned with preventing pollution through the use of measures to prohibit or limit the releases of substances to the environment to the lowest practicable level. It also ensures that ambient air and water quality meet standards that guard against impacts to the environment and human health. The planning system controls the development and use of land in the public interest and should focus on whether development is an acceptable use of the land, and the impacts of those uses on the development and use of land. Waste planning authorities should work on the assumption that

the relevant pollution control regime will be properly applied and enforced.'

36. Paragraphs 30 and 31 address the approach to potential health issues:

Modern, appropriately located, well-run and well-regulated, waste management facilities operated in line with current pollution control techniques and standards should pose little risk to human health. The detailed consideration of a waste management process and the implications, if any, for human health is the responsibility of the pollution control authorities. However planning operates in the public interest to ensure that the location of proposed development is acceptable and health can be material to such decisions.

Where concerns about health are raised, waste planning authorities should avoid carrying out their own detailed assessment of epidemiological and other health studies. Rather they should ensure, through drawing from government advice and research and consultation with the relevant health authorities and agencies, that they have advice on the implications for health, if any, and when determining planning applications consider the locational implications of such advice. In turn the relevant health authorities and agencies will require sufficient understanding of the proposed waste management process to provide considered advice. A concurrent process and transparent relationship between the planning and pollution control regimes will help facilitate this.

Other Relevant Policy

37. The Government's policy approach to renewable energy is summarised in Chapter 7 of the SoCG. It is common ground that there is a national drive to increase the proportion of the national energy and heat demand through the development of renewable energy technology and to reduce greenhouse gas emissions. Biomass is specifically addressed in the UK Biomass Strategy published by Defra in 2007 which outlines ambitions to expand the supply of sustainably produced biomass and to increase the use of biomass to provide energy to generate heat and electricity. A key objective of the strategy is to facilitate the development of a competitive and sustainable market and supply chain. It estimated that *'Wood recovered from all waste streams in the UK is estimated at 7.5 million tonnes annually. The majority, 6 Mt (80%) is currently disposed of to landfill. 1.2 Mt (16%) are recovered for re-use. Currently 0.3 Mt (4%) is used in energy from waste (EfW) plants'*. The strategy actively encourages the development of bio-mass plants to enable the market to grow.
38. The UK Renewable Energy Strategy (2009) sets a target for 30% of the UK's electricity to be sourced from renewable resources by 2020. It identifies an important role for biomass generation: *'The UK biomass sector has the potential to expand without detrimental effects of food supplies and the environment if it is done in a sustainable manner. Greater recovery of wood from managed and unmanaged woodland, increasing the planting of energy crops, and better exploitation of the existing supply of organic waste materials could make a significant contribution to energy targets, particularly in the electricity and heat sectors.'*

39. The Government has also published two relevant energy policy documents, EN-1 and EN-3. While these are intended to provide guidance in the determination of energy infrastructure applications, they can be material considerations in the determination of planning applications. The Overarching National Policy Statement for Energy (EN-1) reflects the Government's commitment to achieve carbon emission reduction and renewable energy targets and includes reducing carbon emissions by 80% by 2050. The need to move towards a low carbon economy is driven by the need to reduce carbon emissions in the face of climate change, and to ensure security of supply for the UK in a competitive and potentially unstable world market. Achieving energy security is vital to the UK's economy. Securing a significant increase in the UK's renewable energy capacity is a fundamental part of this response. Allowing for the forecast closure of existing energy plants EN-1 identifies a requirement to deliver 59 GW of new capacity to 2025, with at least 33 GW coming from renewable sources. Achieving diversity in the range of supply is also vital as reliance on one type of technology would ensure resilience.
40. It reaffirms that 15% of energy from renewable resources should come from renewable sources by 2020 and that new projects need to continue to come forward to ensure the target is met. It confirms that biomass is a significant source of renewable and low carbon energy as is energy produced from the biomass fraction of waste, which also reduces the amount of waste going to landfill in accordance with the waste hierarchy. Only waste that cannot be reused or recycled with less environmental impact and would otherwise go to landfill should be used for energy recovery. Paragraph 3.4.4 confirms that biomass and energy from waste can be used to generate 'dispatchable' power, providing peak load and base load electricity on demand. As more intermittent renewable energy comes onto the UK grid, the ability of biomass and EfW to deliver predictable, controllable electricity is increasingly important in ensuring security and continuity of supply.
41. The National Policy Statement for Renewable energy Infrastructure (EN-3) provides specific guidance on renewable technologies, and reiterates the importance of this source.

The Case for Peel Energy

42. The Appellant seeks planning permission for the erection of a 20 megawatt biomass fuelled renewable energy plant with associated access, car parking, internal roads, canal side mooring and landscaping. This is otherwise described as the Barton Renewable Energy Plant (BREP).
43. As is now clear from the Environment Agency (EA) decision document (CD 67 B) the BREP already has the benefit of an Environmental Permit. The Appellant will be required to operate the development in accordance with the terms set out in the Permit. Before granting the Permit, the EA considered, in detail, the potential for the operation of the BREP to give rise to any significant environmental or health impacts.
44. In view of the partial coverage of the site by the AQMA, Peel have committed to operating the BREP at a lower emission limit for nitrogen dioxide than would normally be required under the Waste Incineration Directive (WID), and this has been made a condition of the Permit. In view of the decision made by the EA it can safely be concluded that the BREP will not give rise to any significant environmental or health impacts.
45. The proposed development occupies approximately 85% of the main site area and consists of a series of buildings and structures, as well as areas of hard-standing, internal roads, car parking and landscaping. The key components of the built structure are set out at paragraph 4.3 of the SOCG³.
46. At 44.23m in height, the proposed stack is appropriately sized to ensure emissions are distributed away from local sensitive areas, but without impacting on the operation of City Airport Manchester, located to the north west of the site within Salford.
47. Construction of the Proposed Development will take approximately 3 years and the BREP is expected to be operational for a period of 25 years following which the BREP will be decommissioned.
48. As a consequence of the site's location and the careful site selection process the development is located where it avoids any environmentally sensitive locations whether ecological, heritage or otherwise. TBC's formal response to the Appellant's request for a Screening Opinion⁴ confirmed the view that it did not constitute EIA development and that TBC considered as it was not situated in an environmentally sensitive location and would not have unusually complex or potentially hazardous environmental effects. Notwithstanding this opinion, an Environmental Statement representing additional environmental information was voluntarily submitted by the Appellant.
49. The proposal was subject to extensive consultation and it is noted and agreed that⁵ no objections were received on the application from:
 - the EA;

³ CD54

⁴ CD2

⁵ CD 54 para 5.7

- Greater Manchester Geological Unit (GMGU) – the body responsible for the production of the Greater Manchester Waste Local Plan, who confirmed that they were satisfied that the proposals comply with Waste Plan Policy 10 and raise no other objections with regard to compliance with the plan. It is noted that GMGU’s consideration of the application proposals was made having had the benefit of visiting the Site after they had received the application documents and plans⁶.
- Greater Manchester Archaeological Unit (GMAU);
- Greater Manchester Ecology Unit (GMEU) who considers that the proposals should have no significant effect on biodiversity but recommends a planning condition requiring the mitigation measures outlined in the ES to be implemented together with a management plan for the vegetation strip along the Manchester Ship Canal.
- Greater Manchester Police (Security issues);
- Highways Agency (HA);
- Health Protection Agency (HPA);
- NHS Trafford; and
- United Utilities.

50. An objection was received from Salford City Council, though its own consultants Miller Goodall had advised Salford City Council’s that *‘It is recognised that the development would have a negative impact on air quality within the Air Quality Management Area (AQMA). However, the impact would be minimal and as such it would be inappropriate to object to the development as a result of its location. PPS23 encourages Local Authorities to enter into a S106 agreement with the developer to provide the financial means required to develop and implement the Air Quality Action Plan or Air Quality regime.’*⁷

51. It may also be noted that TBC’s Environmental Protection: Pollution and Licensing Team and their independent advisor, Dr Mark Bloomfield of AEA Technology, raised no objection.

Main issues

52. The main issues for the inquiry, have been identified at the Pre-Inquiry Meeting by the Inspector originally appointed as
- the effect of the proposed development on air quality;
 - the perception of the effect of the proposed development on human health;
 - the effect of the proposed development on the continuing improvement and regeneration of the local area; and,

⁶ See GMGU letter 4.1.11 at page 2 CD 40

⁷ SO/1 para 2.7.4

- whether the proposal would be sustainable development, as set out in the National Planning Policy Framework (the Framework).

53. At the outset of the Inquiry the appointed Inspector identified the following as the main considerations:-

- Air quality
- Perception of harm
- Effect on the improvement and regeneration of the local area
- Whether it is sustainable development in accordance with the NPPF
- The weight to be given to the Regional Strategy
- The weight to be given to the National Planning Strategy – EN1 and EN3 (even though the proposal does not fall within the 2008 Planning Act).
- The Environmental Permit matters, being otherwise not matters before this inquiry.

Matters agreed

54. An SoCG [CD54] has been agreed between the Appellant and the Council dealing with a wide range of matters. It demonstrates a wide range of agreement on important issues and upon which the Inspector and the SoS can rely. The importance to be attached to such agreed statements was noted by Sullivan J (as he then was) in *Poole (R. on the application of) v Secretary of State for Communities & Local Government* [2008] EWHC 676, at paragraph 44, when he observed *'... the imperative in the Rules requiring the principal parties to focus their attention on the issues that are in dispute would be wholly frustrated if appellants and local planning authorities were unable to place any degree of reliance on matters that had been apparently resolved in a statement of agreed facts. It would be entirely unsatisfactory if, having agreed such matters, the principal parties to an inquiry would still have to prepare their evidence on the basis that the inspector might wish to pursue a particular line of reasoning that departed from the agreed statement.'*

55. The following points are of particular significance:

- The Council, in providing its screening opinion on 9th July 2010, confirmed that the proposed development did not constitute EIA development, that the development is not situated in an environmentally sensitive location and that it would not have unusually complex or potentially hazardous environmental effects.
- The MSC bounds the site to the north, on the opposite side of which is the Local Authority area of Salford.
- The recently constructed Salford Community Stadium is located to the north of the MSC.
- The Davyhulme WWTW lies to the immediate south of the appeal site. This is a strategic facility which occupies an area in excess of 80 ha and comprises a range of industrial buildings and structures ranging in scale and form to treat and process sludge. A planning application for the

expansion of this facility, including a combined heat and power plant and gas holders, was approved by TBC in 2009. This development is currently under construction.

56. In addition, the following commercial uses are nearby:

- Trafford Industrial Park - Located approximately 1.5km to the north east of the appeal site, this area occupies 4.7 square miles, and is the biggest industrial estate in Europe. It is home to 1,400 companies employing over 40,000 people.
- Dimplington Sewage Treatment Works to the north east.
- Major visitor attractions such as Manchester United FC and the Imperial War Museum North in the east and
- The Trafford Centre is located approximately 1km to the south east of the appeal site and comprises a regional shopping and leisure destination. The Trafford Centre provides over 130,000m² of retail floor-space accommodating over 200 stores and attracts over 30 million visitors a year. In addition to its 20 screen Odeon cinema and the Great Hall, the Trafford Centre now offers facilities such as Paradise Island Adventure Golf; Laser Quest; Rock Climbing Way; and Aerial Extreme. The Trafford Centre is also home to the first Legoland Discovery Centre in the UK.
- The Trafford Quays Leisure Village - comprises the DW Sports Fitness and Gym; Powerleague Soccer Dome; David Lloyd Fitness Centre; a hotel; and the Chill Factor-e skill centre – Britain's first real snow leisure facility.
- Salford Community Stadium – recently opened 12,000 capacity stadium for the Salford City Reds Rugby League Football Team, together with associated facilities. The overall planning permission also allows for non-food bulk retail development of approximately 21,500 m² of retail/commercial floorspace.
- Davyhulme Millennium Park.
- Trafford Retail Park.

57. Permission has also recently been granted for the Port Salford development⁸, which is also relevant due both to its scale and proximity to the Site.

58. It was agreed in the SoCG that the BREP would be capable of producing renewable electricity to be exported to the local electricity grid and renewable heat which could potentially be exported to local commerce, industry and development.

59. A range of environmental and technical issues have been agreed:

- **Ecology** - the findings of the Environmental Statement with regards to ecology have not been challenged and conditions are proposed to

⁸ SOCG para 6.8

require the submission and approval of a detailed landscaping scheme and undertaking of the Ecological Enhancement Plan.

- **Noise & Vibration** - A full noise impact assessment of the development has been carried out as part of the Environmental Statement. Subject to appropriate mitigation measures being secured via a planning condition, it is agreed that the proposed development will not give rise to any significant impacts with respect to noise and vibration.
- **Landscape and Visual Impact** - A full Landscape and Visual Impact Assessment (LVIA) has been carried out which demonstrates that the visual impact will only affect the immediate surroundings to the application site and this is likely to diminish with distance to such an extent that beyond 2km virtually no impacts have been identified. The plant will appear well proportioned in both scale and massing and would not dominate any of the views considered within the LVIA other than those immediately adjacent on the banks of the MSC. In addition, the architectural styling of the building offers the opportunity to create a building which will be a positive contribution to the MSC and add to the modern transformation of this area, currently underway. The findings of the Environmental Statement with regards to landscape and visual impact have not been challenged and it is agreed that the proposed development would not give rise to any significant impacts in respect of landscape and visual amenity.
- **Transport** - a Transport and Traffic Assessment has been undertaken as part of the Environmental Statement. This shows that the majority of traffic generation will be accounted for by fuel deliveries. The additional vehicle movements to and from the site⁹ would represent less than a 1% increase in traffic on the existing surrounding highway network. This increase is classed as negligible. It is agreed that the development would not have a significant adverse impact upon the safe and efficient operation of the existing highway network.
- **External Design** - The design of the development is commensurate with its end use, consisting of a series of buildings in a linear arrangement housing various operations associated with the biomass process. The design, with a mix of modern cladding and glazing, responds to the site's setting in providing a frontage and associated landscape screening to the MSC. It is agreed that this would successfully integrate the proposal into its physical setting and provide an attractive frontage to the MSC.
- **Hydrology, flood risk and soils** - It is agreed that the proposals do not give rise to any significant effects in respect of these factors. A Flood Risk Assessment has assessed the site to be within Flood Zone 1 (an area at least risk to flooding). The site is not considered to be at risk from fluvial, tidal or groundwater sources. A specific design drainage system across the site will provide sustainable management of runoff from the site into the MSC. The potential effects on surface water,

⁹ Being between 65 and 100 movements per day

groundwater and soil from the proposals are agreed to be considered insignificant, with impacts being identified as low and negligible.

- **Ground conditions** - A Phase I Site Investigation was undertaken which identified a number of potential sources of contamination. These include made ground, uncontrolled tipping of waste products and residues from the adjacent WWTW and hazardous gases from nearby landfill sites. The Council's Pollution and Licensing team advised that the issues identified were considered capable of being addressed through appropriate works on site prior to commencement of development and recommended conditions regarding the assessment of detailed contamination risks on site and remediation works as appropriate.

Reasons for refusal

60. No clear reasons for refusal were given on the day of planning committee and full reasons were not agreed until after the meeting. The decision notice¹⁰ was not issued until 5th December 2010. The decision notice¹¹ set out two grounds of refusal as detailed in paragraph 2 above.
61. The evolution of the Council's case during the course of the inquiry has, to say the least, proved somewhat surprising and disappointing. The Council's case is set out in its statement of case¹² and in its reasons for refusal¹³. The Council complied with its statutory duty in framing the reasons for refusal which provide that where planning permission is refused, *'the notice shall state clearly and precisely their full reasons for the refusal, specifying all policies and proposals in the development plan which are relevant to the decision;...'*¹⁴. In that light the Appellant was entitled to proceed on the basis that the Council's reasons were full and precise.
62. Where the members' decision differs from their officers' recommendation, it is essential that their reasons for doing so are similarly clear, precise and comprehensive. Given that the Council took from 10 November 2011 until 5 December 2011 to issue its decision notice with its reasons, there was ample time to ensure that the matter and the terms of the decision were carefully considered.
63. The reason for refusal referred to Policy WD5 of the UDP. The Statement of Case of 25 July 2012 did not change that policy reference even though that was issued after the adoption of both the Core Strategy (CS) and the Waste Plan.
64. The Council did not seek to amend its reason for refusal or Statement of Case nor did it seek to take the matter back to members for them to suggest or authorise any alteration to its case.
65. It was clear that the Draft CS was a material consideration at the time that the decision was taken. Indeed the CS itself was adopted only one month

¹⁰ CD 48. See also section 4 of Closing Submissions.

¹¹ CD 48

¹² CD51

¹³ CD48

¹⁴ Article 31 (1)(b) of the Town and Country Planning (Development Management Procedure) (England) Order 2010

(approximately) after the issue of the notice of decision. Further, in respect of the Waste Plan, the consultation response from GMGU was reported and members were told that that was an up to date document, a material consideration and its policies were to be given significant weight¹⁵ because it was at an advanced stage of preparation, Policies 8 and 10 had not been subject to objection, and it was more up to date than the Trafford UDP. Notwithstanding that advice the reasons for refusal were silent both on the CS and upon the Draft Waste Plan.

66. The Council's Statement of Case¹⁶ is silent with regard to any suggested conflict with any development plan policies other than those contained in the reasons for refusal. Indeed, it is acknowledged that there is general compliance with a number of Government and development plan policies¹⁷.
67. The Committee Report¹⁸ was very full and supplemented by an 'Additional Matters Report'¹⁹. TBC's planning witness did not suggest that they were in error or had failed to take account of any relevant matters either in her proof of evidence or orally. There is no criticism of the Appellants in those reports, nor any suggestion that they had failed to provide information which the Council had sought.
68. As to sustainable energy production and renewable energy there is no suggestion, in any of the reports or the refusal reasons, of any conflict with the Government's policies. It was also acknowledged that, having regard to the consultees listed at paragraph 2.3 of Mr Singleton's main proof (PNS/1), that no objection had been received from any of them to the proposal and that the GMGU had specifically considered Policy 10 of the emerging Waste Local Plan. In consequence, the view of the plan making authority of that plan was that the proposal complied with it.
69. There was no other material before the committee at the time it took its decision. In consequence, the decision made by members, to the extent that it may have engaged with Policy 10 of the Waste Local Plan, was made without any evidence to support any alleged conflict with that policy.

Development Plan

70. Regard must be had to the statutory test set out in Section 38(6) of the Planning and Compulsory Purchase Act 2004 which states 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'.
71. The statutory test set out above has been the subject of judicial consideration of (in context of the like provision in the 1990 Act (as amended)) both in Scotland in the City of Edinburgh Council v Secretary of State for Scotland (1997) 1WLR and in England by Sullivan J in R v Rochdale MBC ex parte Milne (2000). As

¹⁵ CD46 p7

¹⁶ CD51.

¹⁷ CD51 paragraph 4.4.

¹⁸ CD46.

¹⁹ CD47.

Sullivan J made clear in his judgment the proposal falls to be considered against the development plan as a whole.

72. However, as Ouseley J noted in *R (Cummins) v Camden London Borough Council* [2001] EWHC 116(Admin)

'It may be necessary for a Council in a case where policies pull in different directions to decide which is the dominant policy: whether one policy compared to another is directly as opposed to tangentially relevant, or should be seen as the one to which greater weight is required to be given'.

73. This is important when considering the proper application of policies in the development plan. In this instance, Policy 10 of the Joint Waste DPD²⁰ might properly be regarded as the dominant Waste Plan policy with which GMGU has carefully and specifically considered and has identified no conflict with the appeal proposal²¹. The Council accepts that the proposal is in general compliance with a number of Government and Development Plan policies (see Statement of Case [CD51] paragraph 4.4). No development plan policy from an extant development plan is cited in the Reasons for Refusal. No development plan policy from an extant development plan is cited in the Reasons for Refusal.

Regional Spatial Strategy (RSS)

74. In considering the weight to be accorded to the RSS it is necessary to have regard to paragraph 214 of the NPPF which, given that it is a post 2004 Act plan, full weight must be attributable to it. Further, any decision as to when the SoS intends to abolish the RSS must be given less weight to than the RSS itself.
75. The Council agrees that the proposal complies with Policies EM10, EM11 and EM12²². The Joint Waste DPD had to be in conformity with the RS and it has not been suggested that the CS was not in accord with Policy EM12. As for EM15 the Council specifically accepts that this is a proposal for sustainable energy production. This necessarily involves that it is a sustainable form of development and in an appropriate location. The reasons for refusal are silent upon these.
76. In addition, Policy EM17 gets no mention either in the Reasons for Refusal or the Council's Statement of Case²³, notwithstanding that members' attention was specifically drawn to it in two places, at pages 30 and 3 of the Committee Report²⁴. TBC's planning witness accepted²⁵ that the renewable energy target had not been achieved. Even if it had been achieved that would not represent a reason for refusal of an otherwise acceptable development²⁶.
77. It is evident that, the statement of case and the reasons for refusal are silent in respect of renewable energy source material. The Council seeks to make reference to the DEFRA²⁷ report in respect of wood fuel sources but that was

²⁰ CD65

²¹ See CD40 – letter of 11th March 2011, final page.

²² See SoCG, CD54, paras 8.8 – 8.12

²³ CD51

²⁴ CD46.

²⁵ JH Proof paragraph 5.2.11.

²⁶ See RS Policy EM17 (CD63) and PNS1 para 7.27

²⁷ CD94

known about prior to the conclusion of the SoCG which, at a number of points, specifically addresses fuel for the plant with no intimation of any difficulty. SoCG para 7.9 specifically identifies the emerging biomass market, the stimulation which would be provided for it, and the beneficial consequences of that occurring.

78. As to the waste stream to support the plant, the GMGU did not say at any stage that there would be an inadequate supply of waste wood to support the proposal. This is important because in respect of a renewable energy plant, fired with wood waste, the GMGU was the authority with both the expertise and the knowledge to say something about if there was a matter of concern. Nor had the GMGU sought to say so subsequently despite the fact that TBC's planning witness had been in subsequent discussions with them. GMGU still did not suggest that it had any concerns as to the availability of waste wood to be utilised in the plant.

Trafford UDP

79. It is common ground that the only saved policy applicable to the appeal proposal is policy ENV10 and TBC's planning witness accepted that the proposal was not in conflict with that policy. As for the UDP policies referred to at JH 5.3.1 and Appendix 1, it was accepted that none of those policies are still in existence and therefore should be taken in account by the Secretary of State as material considerations.

Core Strategy

80. The Core Strategy has recently been adopted²⁸ and its evidence base is accepted to be right up to date. It is notable that with regard to the regeneration areas and areas for improvement set out in the UDP, those must now be regarded as out of date.
81. TBC's planning witness specifically agreed that the appeal site is located between Trafford Park and Urmston and is not located within any area that has a specific spatial profile²⁹. Further, none of the areas to which reference is made, in context of the appeal proposal (Davyhulme, Flixton or Urmston), are identified for any specific improvements in the Core Strategy. Nor are they identified as priority regeneration areas (as other areas are).
82. If one looks at Policy L3, where such areas are identified, the areas identified for regeneration do not include any areas in Davyhulme, Flixton and Urmston. In particular the appeal site is not located in an area within the lowest 10% on any Indices of Multiple Deprivation. So far as Trafford Park is concerned, the CS states that³⁰ '*the Trafford Park core industrial area continues to have a very significant role in the economy of the region and more specifically in terms of achieving a significant improvement in the performance of the sub regional economy*'. As to the key issues facing Trafford Park³¹ this includes '*the decline of manufacturing employment and the need to accommodate diversification of land uses*'. This proposal would contribute to that objective.

²⁸ January 2012.

²⁹ See JH Proof para 5.4.7

³⁰ Page 11.

³¹ Page 12.

83. As to Urmston, it is noted from its spatial profile³² to be adjacent to the Trafford Centre rectangle and to be home to two strategic facilities, the Davyhulme WWTW and Trafford General Hospital. CS Policy L6 promotes the co-location of waste facilities. The location of the proposal would also allow the promotion of the MSC for the purposes of transport. In particular the plan objectives TPO18 and TPO20³³ seek 'to encourage and support opportunities to locate low-carbon decentralised energy facilities' and 'to support the development of waste management facilities'. TBC's planning witness accepted that the proposal was not in conflict with any 'place objectives' either for Trafford Park or for Urmston (though she sought to add 'not at any cost'). However no conflict with the development whatsoever was provided so the caveat is without significance.

*Waste Development Plan*³⁴

84. This plan has been drawn up by ten authorities acting jointly and is accepted as being up to date having been adopted in April 2012. The aim of the plan³⁵ is 'to provide a spatial planning framework to deliver sustainable waste management in Greater Manchester consistent with National Planning Policies and the Waste Strategy for England 2007. The purpose is to provide sufficient opportunities for new waste management facilities to come forward within Greater Manchester that are of the right type, in the right place and provided at the right time'.

85. TBC's planning witness accepted that this description 'chimed well' with the EM policies of the Regional Strategy. In particular, it was a proposal that was of the right type in the right place and at the right time.

86. The assumptions for the proposal being in the right place are set out at paragraphs 1.27 – 1.42 of CD65. In particular, paragraph 1.32 makes reference to how Greater Manchester is served by its extensive transport network and the objective that places be 'accessible by different modes of transport' is met here. In particular the Council did not take any objection to the proposed use and utilisation of the MSC.

87. Further, the plan looks for the utilisation of 'places close to where additional waste is expected to arise in the future'³⁶. TBC's planning witness accepted that Greater Manchester will produce waste and that, as paragraph 4 of the summary states,³⁷ 'Greater Manchester has the largest population of any sub region within the North West and is the largest producer of waste for all streams...'. Whilst waste wood is not specifically mentioned there is no indication that it is intended to be excepted from the description of waste streams.

88. The plan also looks for locations of 'places near to existing waste management facilities'. Self evidently the Davyhulme WWTW (recently upgraded) is located next to the appeal proposal.

89. Section 9 of the SoCG sets out agreement on a range of environmental and technical matters relating, inter alia to ecology, noise and vibration, landscape

³² CD62 p15

³³ CD62.

³⁴ CD65.

³⁵ Page 16 following paragraph 1.25.

³⁶ Paragraph 1.32, CD65.

³⁷ CD65, page 1.

and visual impact, transport, external design, hydrology and soils and ground conditions. In no respects are the proposals found to be wanting, as was accepted by TBC's planning witness in cross-examination.

90. As to the heading dealing with 'places with a sensitive natural or built environment, hydrology or close to existing communities' that has largely been met by the matters identified above. It is of note that the site selection threshold used in the Waste Plan for residential properties and existing communities is 250m³⁸ and the proposed development is around twice the distance used to assess proximity in the plan. Indeed, even the figure of 250m is not regarded in itself as too close to residential property, as a matter of principle. Proposals less than 250m distant would be considered on their merits. In consequence, applying the Development Plan approach to the consideration of site selection, the proposed development cannot be regarded as inappropriately close to residential properties. The plan took account specifically of the proximity of AQMA as did the proposal.
91. It is disappointing that there had been a wholesale failure on the part of TBC's planning witness to acknowledge this. The consequences of this is that the Council's case has been pursued on a basis which is directly contrary to that upon which a part of the Development Plan has been prepared and found to be sound.
92. It was a fundamental basis upon which the plan was drawn up for there to have been a screening out of the locations of residential properties and existing settlements. For the Council to suggest then, as a matter of principle, that a site should be regarded as unacceptable when the nearest residential property is in the order of 500m away is to attack the basis upon which plan has been prepared and waste sites (for treatments that include thermal treatment) are identified. If, in this instance, a decision taker chooses to adopt a different policy then sound and clear cut reasons must be given in order that the recipient of the decision would know why the decision was being made as an exception to the policy in the plan and the grounds upon which such a decision was taken³⁹.

National Policy

93. The Government's 'Overarching National Policy Statement for Energy' (EN-1)⁴⁰ reinforces the urgency in providing renewable energy⁴¹. In addition, paragraph 3.3.10 observes that some renewable sources such as wind, solar and tidal are intermittent and cannot be adjusted to meet demand⁴². National policy in respect of renewable energy (and heat), is patently clear on the urgent need to address climate change and deliver low carbon solutions. This includes the need to provide for a dramatic increase in renewable energy production capacity, which could hardly be given greater weight in Government policy.⁴³

³⁸ JWDPD CD 65 Policy 10

³⁹ See the observations of Woolf J (as he then was) in **E C Gransden and Co Ltd v Secretary of State for the Environment [1986] JL519**, upheld in the **Court of Appeal [1987] JPL365**.

⁴⁰ CD58.

⁴¹ Paragraph 3.1.3.

⁴² 3.3.11.

⁴³ see PNS/1 paras 10.1-10.3

94. The National Policy Statement for Renewable Energy Infrastructure (EN-3) is relevant to the extent that it is to be considered on a case by case basis⁴⁴.
95. In addition to the benefits of BREP in respect of waste diversion, the fact that BREP accords so clearly with Government policy on renewable and carbon reduction (and energy security) cannot be overstated.

Localism

96. It is often argued that allowing a controversial development proposal would conflict with the principles of localism. However, as the Inspector concluded in the recent decision at Sinfin (PNS Appendix 7, paragraph 131) the views of local residents cannot ultimately be determinative or it would be to hold much needed major development to ransom. TBC's planning witness accepted that there was nothing in what the Inspector at Sinfin said with which she could disagree. Certainly, the principles of localism (and the wider responsibility that entails) would not provide any proper justification to reject these proposals.

Other Policy Considerations

97. National Policy has been extensively identified and explained both in the SOCG (sections 7 and 8.1 – 8.4) and in the evidence of PNS (PNS/1 sections 6, 7.1-7.19 and 10; PNS/4 2.21 - 2.27). The Inspector and Secretary of State are invited to review and accept that analysis.
98. It is sufficient here to note the positive support given to the appeal proposals by the Framework⁴⁵, EN-1⁴⁶, EN-3⁴⁷, PPS10⁴⁸, and The Waste Strategy 2007⁴⁹
99. That support for the proposal is both in the context of sustainable renewable energy generation and sustainable waste management.
100. In respect of renewable energy production, the acute need for this type of proposal is not in contention. Government policy on the need for and development of new electricity generating infrastructure, including biomass fuelled generating stations, is set out in the overarching National Policy Statement for Energy and the National Policy Statement for Renewable Energy Infrastructure, designated by the Secretary of State on 19th July 2011 under the Planning Act 2008. Nothing in this evidence should be taken as challenging the need for renewable generating capacity. It is clear that if the UK and EU targets are to be met then significant additional renewable generating capacity will be required.
101. Further, given the apparent focus of the inquiry it is well to recall the provisions of paragraph 122 of the Framework: *'... local planning authorities should focus on whether the development itself is an acceptable use of the land, and the impact of the use, rather than the control of processes or emissions themselves where these are subject to approval under pollution control regimes. Local planning authorities should assume that these regimes*

⁴⁴ CD59 paragraph 1.2.3.

⁴⁵ CD56

⁴⁶ CD58

⁴⁷ CD59

⁴⁸ CD57

⁴⁹ CD76

will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities.'

102. If one considers the approach in the recent SoS decision in Cornwall⁵⁰ (paras 2125 and 2126) there would be significant adverse policy implications of not proceeding with the BREP:
- The clear need for this type of facility would not be met.
 - There is a pressing need to meet targets in diverting waste from landfill and to manage waste further up the waste hierarchy, thereby meeting national targets and complying with European, national and local policy.
 - It would entail that the objective of managing waste in a more sustainable manner would not be achieved.
 - The Waste Local Plan accords with national policy objectives in seeking to recover value from residual waste and seeks the diversion of waste away from landfill. The appeal proposal, as a means of delivering that strategy, should be accorded considerable weight.
103. The benefits of the proposal should also be recognised and accorded great weight:
- the BREP facility would divert waste away from landfill and enable the Greater Manchester area to meet national and EU targets for reducing the proportion of wood waste which goes to landfill. Accordingly, this benefit should be given very great weight.
 - The proposal would move the management of waste up the waste hierarchy.
104. In short, there is significant recognised accord of the proposals with national policy.

Air Quality

105. This is at the heart of the contention between the parties in respect of this appeal. However, it is crucial to appreciate, at the outset, that the objection to the proposal is not based (at least so far as the witnesses for the TBC and BCAG with professional expertise are concerned) upon there being any actual harm to health, but on the 'Perception of Risk'.
106. The Appellant's evidence shows that the impact of the BREP on local air quality would be negligible. The proposal will utilise tested technologies (and could not realistically be described as 'experimental'). The EA had rigorously assessed the proposal including cumulative impacts⁵¹.
107. None of the professional advisors and regulatory bodies who reviewed the air quality assessment suggest that there will be an adverse impact on health, specifically:

⁵⁰ PNS/1 App5

⁵¹ CD67b para 5.6.2 pp 63-65

- Trafford Council's environmental health department, and its very experienced professional advisor, Dr Mark Broomfield of AEA Technology⁵²;
 - Salford City Council's professional advisors, Miller Goodall; and
 - The Environment Agency's specialist air quality modelling and assessment unit, AQMAU, and
 - The HPA
108. Further, BCAG's air quality witness confirmed that her case was based simply upon there being an exceedance of the existing EU standard. In response to the Inspector's question upon this issue she stated that 'for most people an exceedance of 40µg/m³ would not be significant. When WHO reviewed the position, in conjunction with the EU, they took the view that there was no reason to change that figure because it was not possible to measure or contend for a different level for combustion pollutants'.
109. As to her perception of the degree of protection afforded by that level she expressed the view that '*the vast majority of the population are not adversely affected but here we're talking about parts of this area being above that level.*'
110. It was unfortunate but evident that BCAG did not provide their professional witness with either the February 2011⁵³ or September 2011⁵⁴ additional information which the Appellant provided. However, that information is clearly of crucial importance in appreciating the assessment which she undertook, given that was an issue was raised by the EA and by TBC's pollution control team and information provided in reply. It is also clear that that information informed their assessment of the proposals.
111. BCAG were participants in the application process and it is clear that they undertook work and submitted representations to TBC which were the subject of specific consideration by the Council's pollution control team⁵⁵. It would be fair to observe that the Council's detailed assessment of those representations as to their methodology, content and conclusions was quite damning. The Pollution and Licensing team concluded that: 'the measurements and techniques forming the basis of the BCAG report are inappropriate and not fit for purpose; the Trafford air quality strategy is competent and fit for purpose and the BCAG report is based on serious misunderstandings of the air quality regime.'
112. Paragraph 76 of the officer's report further stated 'The BCAG report is based upon monitoring samples of air taken in the Davyhulme area. The Council recognise the value of the study, which aims to assess local Air Quality through the taking of samples in the vicinity of the proposed facility. However the report suffers from major shortcomings. Firstly, the samples were taken over a short period of less than 24 hours, and so represent only a 'snapshot' of local conditions. The measured levels of airborne metals may provide useful data,

52 See Officer's Report to Committee, CD46 para 37 (pg 35)

53 CD 15b

54 CD 23

55 CD46 paras 74 - 79

and it is understood that this information has been passed to the applicant for their consideration. Secondly, some of the measurements were carried out using inappropriate techniques and instruments better suited to measuring the much higher concentrations of substances found in flue gases. These measurements can therefore not be relied on to give robust information on the much lower levels encountered in the atmosphere. Thirdly, some of the data provided in the report from the BCAG is useful but this study cannot be relied upon to fully demonstrate the air quality in the area. The data cannot also be used to demonstrate the impact of the proposed Barton Renewable Energy Plant. The study does not provide an assessment of the ground level concentrations due to emissions from the proposal, other than assumptions that pollution levels would be worse'.

113. The report was careful to consider each the issues raised and the Council's Pollution and Licensing team gave its considered assessment in paragraphs 77 - 79. It concluded that the BCAG report is flawed and therefore not credible.

'77. The BCAG work concludes that "this comprehensive report has proved that the legal limits stipulated in the Air Quality Standards Regulations 2010 are being breached in Trafford on a daily basis." However this is not substantiated. The reported measurements of metals within the study are considered to be reliable, but do not constitute a breach of the legal limits set out in the Air Quality Standards Regulations 2010. The measurements of other substances reported in the BCAG study are not considered to be reliable.

78. 'The BCAG work concludes that "there is a case to state that Trafford Metropolitan Borough Council (TMBC) are failing their residents due to the poor air quality in the area." In view of the unreliability of the air quality data within the report, the study does not demonstrate any failure on the part of Trafford Council. The Council is engaged on a programme of air quality management in the local area in fulfilment of its statutory duties in this regard. The BCAG study suggests that the Council is 'in direct contravention of AQMA law.' The Pollution and Licensing team has indicated that this is not the case and that there is no reliable scientific basis on which to make this claim.'

114. The EA took a similar view. It is clear from the permit decision document that both studies produced by BCAG were considered also by EA⁵⁶ which made clear that it too had reviewed the reports and found many inaccuracies and discrepancies which brought into question the conclusions drawn and the validity of the reports. On page 43 of the decision document the EA states 'Nor do we consider that at the point of highest impact, assessed against what we consider to be a reasonable and representative background level, there will be an exceedance of the EU EQS. However, even if there was an existing exceedance at this point any impact on it would be negligible.'
115. Fundamentally, the BCAG position is simply that by reason of the potential or existing exceedance of AQ standards in this part of Manchester that permission ought to be refused. This is, in essence, simply a standards based approach to the issue rather than an assessment of whether any actual harm would arise

56 CD 67b at p43

from the development. BCAG's witness acknowledged that it would be inappropriate to sterilise all development due to air quality.

116. It is quite clear that the new installation at BREP would only make a minor contribution to the nitrogen dioxide emission taking place in the locality. Further, what is actually happening in Greater Manchester is that local planning authorities are continuing to grant planning permission but have in place an AQMA in order to deal with the main sources of such emissions, namely traffic. This was accepted by BCAG's witness. She conceded that, by reference to paragraph 109 of the Framework, the Government's approach was to look at unacceptable risks or unacceptable levels of air pollution. On her analysis it was a question of judgement and on that basis she accepted that being "above 40 $\mu\text{g}/\text{m}^3$ was not unacceptable territory but perhaps 68 $\mu\text{g}/\text{m}^3$ may be".
117. By reference to paragraph 124 of the NPPF the correct test is one of consistency with the Local Air Quality Action Plan. It was no part of TBC's case that the proposal is contrary to the Local Air Quality Action Plan. That was also accepted by BCAG's witness.

Blue NG

118. TBC's witness contended that the Blue NG proposal⁵⁷ at Ealing involved a different affected population but that the air quality issues were very similar⁵⁸. The date for compliance with the EU Air Quality Directive is 1st January 2010 and it was argued that the further away any proposal is from the compliance date the more weight that can be attributed to the non compliance with the air quality standards. The contentions for similarity simply do not withstand scrutiny. There are a number of material differences between that decision and this proposal:
- i. The absence (in Blue NG) of an Environmental Permit.
 - ii. The absence of comment from the HPA or the local health authority.
 - iii. Proximity to dwellings. It is clear from SO/4 Appendix 3 that the Blue-NG plant is closer to residential areas.
 - iv. The greater population density in the Blue NG case. There are as many people living within 1km of the Blue NG site as there are within 2km of the BREP site. On any measure this does not lead to the conclusion the area surrounding BREP is densely populated.
 - v. The highest predicted impact of the NOx emissions from the Blue NG scheme occurs in an AQMA at a point of relevant exposure. The highest predicted impact of the NOx emissions from the BREP is in the canal.
 - vi. The predicted impact of the Blue-NG scheme at a relevant receptor of 1.1 $\mu\text{g}/\text{m}^3$ was higher than the equivalent for the BREP of 0.69 $\mu\text{g}/\text{m}^3$. The predicted peak impacts from the Blue-NG plant occur in areas where the background levels are clearly higher than the AQO at 49-62

57 CD150

58 See AW/1 para 76 and xc

$\mu\text{g}/\text{m}^3$, whereas the peak impacts for the BREP occur in areas where the background level is below or around $40 \mu\text{g}/\text{m}^3$.

119. The Blue NG decision is one which involved actual anticipated harm to health by reason of an exceedence of relevant air quality standards in the three wards surrounding the site by something over 50%. In addition, the entire London Borough of Ealing had been subject to an AQMA.
120. However, as TBC was keen to reiterate on more than one occasion, its case to this inquiry is exclusively directed and solely to the perception of harm to health. There is no contention, nor any evidence, that there will be harm to health due to BREP. Indeed, all of the principal regulatory and advisory agencies (namely the EA, the HPA and the Council's own pollution and licensing teams) are all of a like mind, in this regard.
121. In the current appeal the EA has granted a Permit, in this case having taken account of the existence of the AQMA in this area⁵⁹. The issue is one of judgement and at each stage all of the relevant agencies⁶⁰ have all assessed the proposal as acceptable.
122. In consequence, when the policy set out in paragraph 120 of the Framework is applied, this proposal does not fall within the definition of "unacceptable risks" by reference both to the evidence presented and the assessment made by those agencies. The consistency of the proposal with both local and national policies indicates clearly that the proposal is appropriate to its location. Further, the effects (including cumulative effects of pollution on health, the natural environment or general amenity) have been specifically taken into account as has the potential sensitivity of the area. In short, there is compliance and conformity with the policy set out in the NPPF. The same propositions also flow from the terms of the Trafford CS⁶¹.
123. With regard to CS Policy L5.13 (development that has potential to cause pollution), adequate mitigation measures have been put in place and that is dealt with within the terms of the Permit. As for Policy L5.14 (development close to existing sources of pollution) once again the levels of the emission source impacts are largely those elsewhere but the acceptability of the proposals has once again been confirmed by the relevant agencies.
124. Considering Policy L5.15 (development affecting the AQMA) one may note that none of the physical components of the plant itself (as opposed to the access road) is located within the borough's AQMA. Given the conformity of the proposal with the Local Air Quality Action Plan this aspect of policy is also complied with. All of this is in the context of a policy which is directed to seeking to foster forms of development that assist in meeting the challenges of climate change. The proposal makes its contribution to those climate change objectives. As paragraph 14.19 of the CS⁶² makes clear the Air Quality Action Plan is mainly concerned with tackling transport related issues rather than seeking to prevent proposals such as those being advanced by the Appellant.

59 See CD67b, for example, at paragraphs 5.2 and 5.6

60 The Environment Agency, the Council's Pollution and Licensing Control Team and the HPA.

61 CD62.

62 CD62.

125. The EU Air Quality Directive has been transposed into UK law. No significance can be read into the Government's withdrawal of its application for an extension for its period of derogation under the Directive. TBC's witness contended that the Government's submission had been rejected by the commission. This was not in fact the case and the submission by the UK Government was withdrawn. However, this withdrawal was not due to any lack of conviction in respect of the modelling and does not cast any doubt upon the accuracy of its own submission to the EU. As the Appellant's Air Quality witness made plain (in SO/4 para 2.36) Defra has not sought to resile from the position set out in its submission, in any way.
126. The Permit and the Permit conditions expressly have regard to the location of the proposal which has been specifically endorsed by the EA, the Council, TBC's Pollution and Licensing Control Team and their highly experienced external independent consultants (Dr Mark Broomfield of AEA Technology), as well as the other agencies dealing with health protection.
127. Part of the argument being advanced against the proposal was a suggestion of an excess of uncertainty for the purposes of decision making. However it is clear from the Permit decision document⁶³ at page 26, that the EA was able to 'screen out insignificant emissions'. Both the 1% and the 10% thresholds still provide a substantial safety margin which validates the approach adopted by the Environment Agency and the other agencies.

Chemistry Module

128. Use of the chemistry module in the Appellant's air quality assessment was criticised by TBC and BCAG. The EA rejected the use of the module but were nevertheless able to conclude⁶⁴ *'that assuming that the existing background levels already exceed the EU EQS that process contribution is negligible'*. The EA went on to say that *'the impact will be small and localised. Compliance with the EU EQS is assessed over the Greater Manchester geographic area as a whole and so we do not consider that the Installation will affect whether there is overall compliance or not. The annual mean is only actually known where it is continuously measured and at these points there would be no discernible impact'*.
129. In addition, the EA stated *'Nor do we consider that at the point of highest impact, assessed against what we consider to be a reasonable and representative background level, there will be an exceedance of the EU EQS. However, even if there was an existing exceedance at this point any impact on it would be negligible'*.
130. BCAG's witness sought to contend that the figure would be higher than the 1.7% referred to in the decision document. However, she accepted that this is addressed at paragraph 5.2.6 of the Permit decision document which (at page 41) re-evaluated the NO₂ background figure and took account of Liverpool Road, and took account of the whole assessment.

63 CD67b.

64 CD67b, page 42.

131. With regard to traffic, BCAG's witness specifically accepted that her belief was the traffic impacts of the development would not be significant. In respect of one of her criticisms contained in her proof, namely that the background concentrations are higher, CH accepted that the addendum ES⁶⁵ took on board all of the background concentrations and she was simply not aware of that at the time that she submitted her proof of evidence.

Location of Diffusion Tubes

132. A considerable amount of inquiry time was spent considering whether the chosen location for the sampling points which had formed part of TBC's data set (which were used by the Appellant as a proxy for locations close to its own plant) were reliable. The Appellant's witness made clear that he did not rely solely on the Salford Eccles continuous monitor. He explained (SO/1 para 3.2.5) that other diffusion tubes in the area, in background locations, are consistent with a background concentration below the AQO. That is supported by the illustrative figures 3-3 and 3-4 in SO/2 Appendix 2. This is then further supported by the Stroma Gardens continuous monitor, which is closer to the M60 than Tindall Street and, again, showed a concentration below the AQO
133. Liverpool Road is not in a representative location (being next to a roundabout and busy road as well as being close to the M60) and the specific location (under overhanging trees) adds to the inadvisability of relying on it as representative of the wider area. There was an apparent confusion in BCAG's witness.
134. BCAG's witness referred to a small adverse impact at paragraphs 5.2.2 and 5.2.3 of her evidence, and then in 5.2.6 this has then been characterised as a substantial adverse impact. Her view appears to be that exceedance of EU limit values was enough to characterise the air quality impact as significant. However, she accepted that the Council has an up to date development plan, an up to date waste development plan and that the proposal is not in conflict with the AQMA Action Plan.
135. In respect of the health concerns that have been raised by various parties Professor Bridges has helpfully provided a report⁶⁶ on the state of knowledge of the effects of emissions from modern waste to energy plants on the health of local communities. That evidence is authoritative and is commended to the Secretary of State.

Dr Raabe's additional papers

136. In response to Dr Raabe's evidence citing three additional papers by FLOURET ET AL, 2003; ZAMBON ET AL 2007, AND CORDIER ET AL 2010 Professor J Bridges has given a clear and succinct response in his additional note submitted by Mr Othen (Doc SO6). All of the three papers cited by Dr Raabe are subject to a range of methodological criticisms which call into question their reliability. None of these papers relate to modern incinerators. Since emission levels of chemicals such as dioxins were much higher for old

65 CD15b.

66 SO/2 App 1

incinerators than is permitted for modern incinerators, the three papers cited by Dr Raabe are not relevant to the present Inquiry.

137. A number of third parties also raised a range of miscellaneous points in their evidence to the inquiry. It is not proposed to deal with every point but the following may be noted:
138. Dr Peter Butler contended that temperature inversions would have an adverse effect and/or had not been properly considered. These were fully considered in the modelling that has been undertaken⁶⁷.
139. One of the points that Jo Burgess made was that the HPA recognised food as a key route and went on to suggest that nobody would be able to eat home-grown food. However, that is clearly not what the HPA said⁶⁸.
140. It was also suggested by Mr Peter Kilvert that SO had accepted that plasma gasification is BAT. That is not correct.

Perception of Harm

141. The Council's second reason for refusal is founded on public perceptions regarding the possible risk of an impact upon health of those living within local communities. This issue has also been raised by a number of local residents and third parties in their written representations.
142. As already observed, this reason for refusal is concerned only with perceptions, and does not allege that there would be any actual impact on health. The Council's stated case has not at any time deviated from this position.
143. It is acknowledged that perception of harm to health is capable of constituting a material consideration in the determination of a planning appeal. However, this proposition must be applied with caution. In *Gateshead MBC v Secretary of State for the Environment (1994)*, where there was public concern about an increase in the emissions of noxious substances from a proposed clinical waste incinerator, Lord Justice Glidewell in the Court of Appeal (with whom Lord Justices Hoffman and Hobhouse agreed) held that if public concern could not be objectively justified then it could not be conclusive. He continued: *'If it were, no industrial – indeed very little development of any kind - would ever be permitted.'*⁶⁹ Further, the Secretary of State's policy in dealing with proposals such as this is one which does not accord material, let alone, decisive weight to perception, as a factor in the planning balance.
144. National policy makes it clear that matters of health and pollution are the responsibility of the pollution control regime and not the planning process. PPS 10 remains part of Government Policy. The first point to note from national policy is that a clear distinction is drawn between the pollution control regime and the planning system. PPS10 explains that the pollution control and planning system regimes are separate but complementary. The former seeks to prevent pollution through the adoption of measures to restrict or prohibit the release of substances to the environment to the lowest practicable level. It

67 See CD67b

68 CD34 p6

69 At p95 of the judgment

also ensures the ambient air and water quality standards which guard against the impacts to the environment and to human health.

145. In contrast, the planning system controls the use of land and development of land in the public interest. Paragraph 26 of PPS10 makes the point that, in the determination of a planning application for waste management facilities, planning authorities should 'concern themselves with implementing the planning strategy in the development plan and not with the control processes which are a matter for the pollution control authorities'. PPS10 further explains that planning authorities should work on the assumption that the relevant pollution control regime will be properly applied and enforced. That too was a proposition with which the relevant witnesses for both the Council and BCAG concurred, without demur.

146. PPS 10 Paragraph 27 advises:

'The planning and pollution control regimes are separate but complementary. Pollution control is concerned with preventing pollution through the use of measures to prohibit or limit the release of substances to the environment to the lowest practicable level. It also ensures that ambient air and water quality meet standards that guard against impacts to the environment and human health. The planning system controls the development and use of land in the public interest and should focus on whether development is an acceptable use of the land, and the impacts of those uses on the development and use of land. Waste planning authorities should work on the assumption that the relevant pollution control regime will be properly applied and enforced.'

147. Further, paragraphs 30 and 31 provide, under the heading "Health"

'Modern, appropriately located, well-run and well-regulated, waste management facilities operated in line with current pollution control techniques and standards should pose little risk to human health. The detailed consideration of a waste management process and the implications, if any, for human health is the responsibility of the pollution control authorities. However, planning operates in the public interest to ensure that the location of proposed development is acceptable and health can be material to such decisions.

'Where concerns about health are raised, waste planning authorities should avoid carrying out their own detailed assessment of epidemiological and other health studies. Rather, they should ensure, through drawing from Government advice and research and consultation with the relevant health authorities and agencies, that they have advice on the implications for health, if any, and when determining planning applications consider the locational implications of such advice. In turn, the relevant health authorities and agencies will require sufficient understanding of the proposed waste management process to provide considered advice. A concurrent process and a transparent relationship between the planning and pollution control regimes will help facilitate this.'

148. It may also be noted that the Inspector in the Ince Marshes case⁷⁰ followed that reasoning. He said:

*'...the position giving rise to doubts in the mind of the public, concern over health effects of incineration of waste, is one that is in direct conflict with a position taken by Government in a statement of national policy (paragraph 22 of Chapter 5 of Waste Strategy for England). Such a statement will not satisfy everyone but should act to allay anxiety amongst the public at large. My conclusion is that, although the proposal raises public anxiety, this should not carry great weight in relation to planning decisions on the proposals before the Secretary of State.'*⁷¹

149. This stance continues to be the view held by the Secretary of State. In a recent decision on a proposed waste to energy plant in Cornwall, the Secretary of State said:

*'The Secretary of State agrees with the Inspector's reasoning and conclusions with regard to the impact of the proposal on health as set out in IR2086-2104. He agrees that there is nothing arising from evidence in this case to justify taking a different view from national policy that the use of the facility would affect the health of those living in the locality and that there is nothing in the evidence to warrant an intervention in a matter which is properly to be dealt with by another regulatory regime, that of the permit.'*⁷²

150. This position was upheld in the High Court⁷³ and subsequently in the Court of Appeal⁷⁴.

151. The issue of public perception of health impacts was also considered in the recent Sinfin, Derby appeal⁷⁵. In that case the Inspector noted that the HPA and PCT had not objected to the proposals and that, in issuing a Permit for the proposed plant, the Environment Agency had accepted the soundness of the conclusions reached in the appellant's health impact assessment.

152. The Inspector commented: 'Whilst I understood the concerns expressed by those in the local community as to potential health impacts...these concerns are not supported by any objective review of the evidence. They are also not supported by those who have a responsibility for safeguarding public health' (Paragraph 116).

153. The Inspector concluded that there was no evidence that the proposal would adversely affect the health of local people and hence no conflict with any of the related development plan policies in this regard. He went on to say that 'The city Council suggests that this is an unusual case. In my experience, most major proposals for waste management facilities are deeply controversial'. In

70 PNS4 App8

71 See Inspector's conclusions at para 11.28 – PNS Appendix 8

72 PNS 4 App5 – DL para 26

73 [2011] EWHC 2761 (Admin)

74 [2012] EWCA Civ 379

75 See PNS App 7

dealing specifically with the issue of perception he found⁷⁶, *'I give the benefits that will be generated by the proposed development very substantial weight, particularly in respect of the waste management and renewable energy benefits. In my judgement, the fact that local concerns and anxieties seem to me to have been based on perception rather than substantive or proven evidence mean they cannot outweigh the benefits I have identified nor the fact that the proposal complies with the development plan'*.

154. That observation is highly relevant to this appeal.
155. The consistency of approach by the Government on this key matter is also shown in a recent decision by the SoS for Energy and Climate Change to approve a 60MW EfW plant at Lostock Works, Lostock in Northwich, Cheshire⁷⁷. In his decision, issued on the 2nd October 2012, the SoS wholly accepted the conclusions of the Inspector with regard to 'the proper distinction between the planning process and the pollution control process'⁷⁸ In her report⁷⁹ the Inspector notes that: *'National policy in EN1, PPS10 and WS2007 all say that decision makers should work on the assumption that the appropriate pollution control regimes be properly applied and enforced by the regulator'*. PPS10 has not been superseded by the Framework and this policy strand continues to apply.
156. In consequence, in applying his own policy, the SoS should necessarily come to the view that this reason for refusal should be rejected. It would require the clearest reasoning to explain why an objection based upon perception of harm to health would succeed in circumstances where all of the regulatory agencies were content with the proposal and where the EA has itself granted a permit following detailed consideration and subject to appropriate conditions.
157. The perceptions and concerns stated in respect of BREP are focused on the emissions to air from the proposed plant. These concerns are understandable and not unexpected, particularly given the content of the literature and press material produced and widely distributed throughout the community by the public opposition group, BCAG. Following a complaint made on Peel's behalf to the Advertising Standards Agency (ASA), BCAG agreed to withdraw material, including claims about these impacts, that had been distributed and posted online in the period from October 2010 to 2nd March 2011.
158. Notwithstanding that withdrawal, the Appellant suggests that BCAG have played a major part in creating anxiety, apprehension and fear within the local community and in generating the perception of adverse health impacts.
159. The response from those authorities responsible for safeguarding health in this case, should limit the weight to be attached to fear or anxiety about possible health effects. There is an absence of objective evidence in respect of any actual harm which would be sufficient justification to deviate from Government policy and advice.

76 At paragraph 123.

77 PNS2, App9

78 DL paragraph 7.13 – see PNS Appendix 9

79 IR paragraph 16.49

160. In this case, the relevant pollution control regime is the environmental permitting regime operated by the Environment Agency (EA) under the Environmental Permitting (England and Wales) Regulations 2010. The health concerns raised by third parties and others are a matter for regulatory authorities such as the EA through the environmental permitting process. Here an Environmental Permit application has been granted by the EA (CD67b).
161. The consultation exercise for the Permit process generated a number of responses, including representations from BCAG. The EA gave careful consideration to the representations received. However, having completed its consideration of the matters raised the EA was still satisfied that the proposed plant will meet all the relevant guidance and requirements.
162. The Permit includes a suite of conditions designed to control the operation of the plant and to ensure that limits on emissions to air and other matters are complied with over the operational life of the plant. The conditions will also require appropriate monitoring regimes and the keeping of records for inspection by the EA.
163. For this appeal, the proper approach must be that the EA will apply all the appropriate standards and enforce them through the permitting regime. This was accepted by TBC's witness. It can be assumed that the standards for emissions to air, as reflected in the permit conditions, will safeguard the health of all parts of the local community⁸⁰ given that the safeguarding of health is one of the main functions of the permitting regime. The HPA and the Primary Care Trust raised no objection to the proposals.
164. In respect of the HPA, the Committee Report (CD 46, page 15-16) repeats verbatim its formal response on the application including:

'The advice offered by the Health Protection Agency is impartial and independent....'

'Typically, emissions from a well-managed and well-regulated biomass incinerator should pose little risk to the health of local residents. As we understand the Regulations, because Barton Biomass incinerator will be mainly burning waste wood (as well as a small amount of virgin biomass material) it will come under the Waste Incineration Directive. Therefore, we expect the same strict emission limits to apply as they do to any new waste incinerator and there will be no significant difference in the generality of its emissions compared to other modern incinerators. The HPA has reviewed the evidence on incinerators and health and has published a Position Statement on the health risks from incinerators. The Position Statement contains the HPA's independent expert advice based on reviews of peer reviewed research on the health impacts of emissions from incinerators and also takes into account the views of the Expert Advisory Committees. The HPA's view is that typically, a well-managed and well-regulated energy from waste facility presents little risk to local residents. The HPA's statement concludes: 'Modern, well managed incinerators make only a small contribution to local concentrations of air pollutants. It is possible that such small additions

80 Whether fit, unwell, young or old

could have an impact on health but such effects, if they exist, are likely to be very small and not detectable. The Agency, not least through its role in advising Primary Care Trusts and Local Health Boards, will continue to work with regulators to ensure that incinerators do not contribute significantly to ill health.' It is assumed by the Health Protection Agency that the installation will comply in all respects with the requirements of the following domestic and European legislation: - Environmental Permitting Regulations 2010 - Waste Incineration (England and Wales) Regulations 2002 - Groundwater regulations 1998 and the European Groundwater directive (80/68/EEC) - European air quality framework directive (96/62/EC) and daughter directives. Compliance with the legislation listed above, together with good management and regulation should ensure that activities conducted by this installation present a low risk to the local population. It is expected that the regulator for the site (Environment Agency) will adequately monitor the installation and that they will ensure that any failures in plant or management procedures do not result in the release of substances which could adversely impact on public health."

165. The response from the HPA clearly aligns with national policy. They have clearly considered the site specific circumstances and found no basis for departing from it.
166. For public anxiety or perceptions to be accorded sufficient weight to warrant a departure from established Government policy and the Development Plan, such perceptions would need to be justified by objective evidence. Given the conclusions reached by the EA and the other relevant authoritative bodies there is no proper basis to conclude that there is objective evidence to support the Council's assertion that public perceptions of harm to health are well founded.
167. The suggestion that public concern is compounded by a lack of trust in the regulator and is understandable in that context does nothing to advance TBC's case. It would depend upon the SoS denying the explicit policy presumptions in PPS 10 that the pollution control regime will be operated effectively.
168. The evidence overwhelmingly points towards the conclusion that the appeal proposals would result in a modern, well run facility operating in line with current pollution control techniques and standards which will pose little risk to human health.

Regeneration

169. The Council's first reason for refusal seeks to contend that there will be an adverse economic impact on identified areas arising from the proposed development at the BREP.
170. That contention was explored during the course of the Inquiry and for the reasons that follow it is clear that neither the location of the appeal site nor the areas that are surrounding it have shown or will show, if planning permission is granted, any material adverse impact arising from the BREP. A number of discrete topics arose under this heading when seeking to explore these contentions and these are set out below.

Levels of Deprivation

171. As the evidence of TBC's planning witness indicates (paragraph 6.8.2) '*overall the wards of Davyhulme East and West, Flixton and Urmston have a reasonable economy and standard of living, and do not demonstrate high levels of deprivation against the Indices of Deprivation*'. The suggestion was nevertheless made that, looking at super low output areas (SLOAs), high levels of deprivation did exist. However, her evidence also shows (Table 3 on page 46) that the area overall exhibits lower unemployment levels than the Borough as a whole or, for that matter, in England and a lower level of economically inactive people. Indeed, there is a higher level of employment relative to the borough and English averages save in respect of Davyhulme, which is about at the borough level. The mean gross weekly household income is also higher than that within the north west. There is good access to employment with a high proportion of those employed being within 10km of their place of work. Table 8 also indicates the high levels of home ownership which occur in Trafford and Urmston as well for that matter East and West Davyhulme and Flixton.
172. The CS (CD62) also makes clear that there is no reference to deprivation or lack of employment in respect of the Urmston Spatial Profile⁸¹. In respect of Urmston there is no suggestion that the town centre or shopping area is otherwise than thriving. The only area identified is one SLOA (Super Lower Output Area) which is below ward level. That is hardly surprising in any city.

Urmston Town Centre

173. The Council made a quite deliberate change from the UDP to the CS in respect of regeneration action and acknowledged that the major town centre scheme at Eden Square⁸² is bucking the trend with construction almost complete. All of the housing units in that development have been sold⁸³. As to the retail units Phase Two is now nearing completion having achieved a number of significant pre-lets in advance of construction. Urmston's catchment is recognised as affluent⁸⁴ and has already moved significantly up the national rankings of shopping destinations. The most recent health check⁸⁵ identifies that only some 9.5% of the units were vacant, which is well below the national average of 14-15%. This includes vacancies in the more problematic Victoria Parade which will have inevitably been impacted upon by the new Eden Square development.
174. The appeal proposal has been the subject of a blanket of publicity within the local area. Notwithstanding this, all of these developments have occurred. TBC's witness was unable to point to any instance of Urmston town centre being disadvantaged by the appeal proposal. On the contrary, Urmston is in a healthy economic state and has continued to thrive.

81 Page 15.

82 Proof JH 6.10.3.

83 JH 6.10.4.

84 6.10.9.

85 6.10.13 and Appendix 8.

175. TBC's witness was not aware of the Cornwall decision⁸⁶ which involved consideration of an argument as to adverse economic impact upon china clay communities, which were a priority for economic regeneration. Reference in that decision (at paragraph 2078) was made to evidence that was advanced in respect of other EfW proposals elsewhere in country. That demonstrated that food processing companies were not deterred from setting up near to EfW plants and that companies do not as a matter of principle automatically shy away from such plants. That decision letter made reference to a report produced by DTZ Pineda that had been commissioned by East Sussex County Council when considering a proposed EfW plant at Newhaven in East Sussex. Surprisingly, TBC's witness omitted to make any reference to it. What is notable is that in the context of the Cornwall decision letter the Secretary of State at DL25 specifically endorses the Inspector's conclusion *'that there is no evidence that the proposal would adversely affect the regeneration of the China Clay communities by deterring economic investment or that it would impinge upon the County's tourist trade, agriculture or food processing industry'*.
176. At Battlefield Farm near Shrewsbury⁸⁷ the Inspector carefully examined the potential impact of the proposed EfW plant upon agriculture, food production and processing which were acknowledged as being *'very important for the local economy'*. Once again in paragraphs 97 – 99, the inspector rejected those contentions. He attributed little weight to reported experience in other locations due to the lack of local relevance to the case before him.
177. In this case there is no evidence whatsoever of any adverse impact upon any economic activity whether commercial or residential development arising from the promotion and knowledge of the appeal proposal. The Council's own evidence points rather to the opposite conclusion. The attack on the evidence of Mr Hetherington's report it is to be seen in the context of the Council having no evidence of its own to counter Mr Hetherington's evidence of site performance.
178. In the Sinfin decision⁸⁸ the Inspector at DL61 makes a similar point with regard to ongoing investment in housing proposals. Notwithstanding this the Council seeks to persevere with its contention of potential for adverse impact relying upon the Newhaven study produced by CEBR. However, the Council did not produce the Local Plan Inspector's conclusions, which clearly rejected the conclusions of the CEBR report.
179. In this case the Appellant's evidence demonstrates that, notwithstanding the extensive knowledge of this proposal in the locality there has been no shortage of people willing to occupy residential and commercial property in the area.

Woodsend Circle

180. Nor is there any evidence that Woodsend Circle has been subject to any adverse impact related to the appeal proposals. The current marketing

86 PNS – 04 Appendix 5.

87PNS – 04 Appendix 6

88 PNS 05 – Appendix 7.

process⁸⁹ began in 2011 with eight developers formally expressing an interest, and four selected bidders then being chosen, prior to a preferred developer being put in place. There is no evidence of any lack of interest or a deterrent to interest arising from the Barton proposal. It would be nonsensical for developers to invest in proposals such as Woodsend Circle if they felt that no-one would occupy them.

181. When it was put directly to the Council's witness, the most she could say was that it was 'very difficult at this stage to say there were any development deterrent effects' and that it was 'very difficult to say developments would not be carried out by developers' but she suggested that 'values would not be what they should be'. She made no claim to have expertise or experience or qualifications in property valuation, and had not sought to bring forward any evidence by a qualified practitioner..

Other Matters

182. The Inspector raised the issue of sustainability.
183. It will be evident from the extensive range of references to both Development Plan and National Policy (both in respect of waste and renewable energy production) that the proposal accords with those policy objectives. Hence the proposal is one which can properly be described as sustainable by reason of its accord with policies, the objective of which is sustainable development. Note particularly the Council's position on the RS policies in the SOCG which deal expressly with sustainability.
184. However it may, in addition, be observed that the North West Development Agency which was, until April 2012, the regional body with prime responsibility for promoting and supporting economic development and regeneration across the north west region, commented in respect of this site:⁹⁰

'The proposed development would contribute to agreed regional objectives by reducing carbon emissions and increasing the share of electricity and heat generated for renewable energy sources. It will contribute to national and regional objectives for sustainable waste management by recovering energy from waste and reducing the amount that is sent to landfill...'

'We appreciate that, in determining the application, the local planning authority will need to assess site-specific environmental impacts. These are, essentially, detailed technical matters on which the Agency is not in a position to comment. However in terms of high-level objectives identified in 'Future North West' we see considerable merit in the proposal and would wish to express our support for it.'

185. Further, it has been identified that in order to ensure that the plant's operation remains environmentally sustainable (and economically viable), fuel will be sourced from a number of north-west based suppliers. That will

89 6.11.2 JH.
90 CD17.

minimise the distance that the fuel will need to be transported and the Appellant is currently in discussions with a number of potential suppliers⁹¹.

186. By reclaiming a resource which would otherwise be sent to landfill and extracting the energy potential from the material in order to create clean energy and heat the proposal is, by definition one that may be regarded as sustainable. So much was reinforced by the Ministerial Statement by Charles Hendry MP (the then Minister of State for Energy) during a parliamentary debate on the proposed development⁹². Renewable energy involving the use of both biomass and waste wood forms a part of the Government's own sustainable energy strategy.
187. The Council has argued a lack of compliance with Policy 8 of the GMJWDPD (Greater Manchester Joint Waste Development Plan Document). This argument is undone by the agreement in the SoCG and the EA position in the Permit. The site is well placed to provide local single users with heat and with many requiring year round supply no difficulty of seasonal variations arises.

Conclusions

188. As to the first reason for refusal it is clear that there is no evidence whatsoever that there will be a detrimental impact upon the vitality and attractiveness of, and the self confidence of communities within the areas of Davyhulme, Flixton and Urmston. Nor is there any evidence that the continuing regeneration and improvement of those areas would be adversely affected.
189. The only policy referred to in the Council's Reasons for Refusal disappeared with the expiry of the UDP and its replacement by the CS.
190. There is no evidence whether from studies elsewhere or locally derived evidence of any harm attributable to the proposal. To the contrary, there is positive evidence for the absence of harm and in respect of a period during which there was extensive public comment in the media regarding the appeal proposal.
191. In addition, the Council sought to run their argument upon a wholly inconsistent basis: the Council contended for evidence based upon the Newhaven Study and the CEBR (Centre for Economics and Business Research) Report. When it was conceded that these reports had been considered and specifically rejected (both by the original Inspector at the East Sussex and Hove Waste Local Plan) as well as subsequently at decisions such as Cornwall (a fact which the Council was aware of but omitted to inform the inquiry) the Council changed tack and said only local evidence would be relevant. However not one appeal decision to which reference has been made during the inquiry supports the Council's contention.
192. In context of the appeal proposal, the only evidence of local impact is that provided by Mr Hetherington. There is simply no evidence to support the Council's assertion that the proposal would be harmful to regeneration and confidence.

91 See PNS4/ App E – Peel Statement

92 PNS1 paragraph 6.15.

193. However, the proposal does accord with the provisions of the extant Development Plan.
194. As for the second reason for refusal, this is exclusively directed to a contention of perception of harm to health. None of the relevant competent agencies suggest that there would be any adverse impact upon health by reason of the proposed development.
195. That is the view of the EA who have issued the Environmental Permit. It was and is the view of the Council's Environmental Protection Team. It is also the view of the Council's external air quality consultant, Dr Mark Broomfield of AEA Technology and Salford City Council's external consultants, Miller Goodall.
196. Further, none of the professional witnesses who appeared before the inquiry on behalf of the Appellant⁹³, TBC⁹⁴ or for BCAG⁹⁵ contended that there would be any adverse health impacts arising from the proposed operation of BREP.
197. Upon the issue of perception, the SoS's policy, properly understood and applied, would expect the relevant competent regulators to carry out their function of pollution control and safeguard against adverse health impacts. That is the accepted common position of all parties in the evidence before this inquiry.
198. All of the relevant appeal decisions in which the issue of perception of harm to health has arisen have consistently accorded this factor only limited weight such that it has not been upheld by the SoS or his Inspectors in determining applications for proposals of this sort. In case there could be any misunderstanding upon the point, the decision in Blue NG related to actual harm to health and in circumstances where no environmental permit had been applied for or issued by the EA, and no advice proffered by the HPA or local health authority.
199. Faced with this difficulty the Council embarked upon a forensic exercise to seek to establish that there was some objective basis for perceived health concerns, but to no avail. The questions to the Appellant's Air Quality witness were all predicated upon the assumption that notwithstanding the policy approach set down by the SoS⁹⁶, there is nonetheless a residual suspicion and concern on the part of the public that the EA will be incapable of enforcing the conditions of the Permit and exercising proper control.
200. That approach does not provide a valid basis for reaching a planning determination on a matter such as this. Nor does it support rejecting a proposal which accords both with the Development Plan and a raft of government policy directed to renewable energy generation, appropriate waste handling and sustainable development. This is extensively set out in the SoCG.
201. Neither TBC nor its witnesses assert that there will be an adverse health effect arising from the operation of the proposed BREP which, in accordance with

93 SO.

94 AW.

95 CH.

96 Most recently at NPPF para 122

Government advice, will be properly regulated by a competent regulator. The Council's lately emerging argument about wood supply is not supported by any credible evidence and is undermined by the agreed compliance with RS policies, the GMGU position and the agreement on fuel supplies in the SoCG.

202. The Council's position on CHP is inconsistent with the agreed position on this matter and Policy 8 in the SoCG and the views of the EA in granting the Permit.
203. In short, there was no sound basis for refusing planning permission in December 2011 and nor is there any sound basis to do so now.
204. Accordingly the Secretary of State should grant planning permission subject to the imposition of appropriate conditions and the terms of the agreed Section 106 Obligation.

The Case for Trafford Borough Council

Background and introduction

205. The application was refused by the Council on two grounds which essentially relate to the impact of the proposal upon the continuing regeneration and improvement of the area as a result of its impact upon the attractiveness and self-confidence of the area and the public perceptions as to the risks posed by the proposal.
206. At the time that the application was determined by the Council the development plan comprised the saved policies of the UDP and RS. Since the application was determined the UDP has been replaced by the CS and the greater Manchester Joint Waste Development Plan Document (GMJWPD). It is therefore necessary to consider the proposal in the light of the policies which currently apply and relate the Council's reasons for refusal to those policies.
207. Much time was taken up at the inquiry by the Appellant in questioning whether the development plan was up to date at the time of the determination and the absence of any reference to the draft CS or draft GMJWPD policies in the reasons for refusal. This was misconceived and a distraction from considering the real issues before the inquiry.
208. The application was quite properly determined by the Council in accordance with the development plan at the time of the determination of the appeal. This was the appropriate basis upon which the Council was required to determine the application. The officers' report⁹⁷ set out the relevant policies. No criticism was made of the officers' assessment of the policies or the manner in which they addressed those policies, nor could any such criticism be made. The report explains that the CS provided *'an up to date expression of the Council's strategic planning policy and as such can be considered to be a material consideration, alongside the Regional Spatial Strategy, the Revised Trafford UDP, and other relevant planning policy documents'*⁹⁸. The principle of the development is considered at the beginning of the Observations section of the report. The report specifically draws attention to UDP policy WD5 and makes it clear that the proposal must be assessed in accordance with this policy⁹⁹. Reference is made to policies within both the CS¹⁰⁰ and the GMJWPD¹⁰¹. There is no suggestion in the report that the policies within these draft plans conflict with the UDP policies or mark a material departure in policy or approach; there is no suggestion that the relevant UDP policies are out of date in any form or should not be given full weight. Significantly the report states that the GMJWPD *'carries some limited weight in respect of consideration of the proposal'*¹⁰². Whilst no comment was made on the weight to be given to the CS, as the CS was no further advanced than the GMJWPD there could be no logical reason for adopting any different approach to the CS. In the

97 CD 46

98 4th page CD 46

99 Paragraphs 3 to 6 of CD 46

100 Paragraphs 17 & 18

101 Paragraphs 19-22

102 Paragraph 19

circumstances the only conclusion to be drawn from the report is that the then extant development plan was the proper basis upon which to determine the application.

209. The statutory requirement when a local planning authority refuses planning permission is that the decision notice shall specify the policies and proposals in the development plan¹⁰³. The decision notice complies with this requirement.
210. It is common ground that the appeal must now be considered against the relevant policies of the current development plan. There is agreement that these include CS policy L6 and that this policy requires consideration to be given to the impact of the proposal on the regeneration of areas in need of regeneration. The Appellant's planning witness accepted that this effectively carries forward and is consistent with the policy in the UDP, policy WD5, which was referred to in the Council's first reason for refusal. It was therefore agreed that the concerns raised by the Council in the first reason for refusal continue to be supported by the development plan and that the first reason for refusal now falls to be considered against this CS policy.
211. It was also agreed and recorded in the SoCG that in determining the appeal other particularly relevant development plan policies are GMJWPD policies 10, 4, 5, and 8. The SoCG makes it clear that there is disagreement between the parties as to whether the proposal complies with these CS and GMJWPD policies and that this is a matter to be considered at the inquiry¹⁰⁴.
212. The forensic analysis of the wording of the reasons for refusal takes the matter no further and distracts from consideration of the merits of the appeal proposal.
213. In addition to the changes at the local level there has also been a significant policy change at the national level with the replacement of most policy by the National Planning Policy Framework ('the Framework'). Plainly the proposal needs to be reassessed against the Framework. The Inspector at the PIM identified one of the main issues for the inquiry identified from the Council's reasons for refusal to be 'whether the proposal would be sustainable development, as set out in the National Planning Policy Framework'¹⁰⁵. The Council's Statement of Case confirmed that the Council would address how the application should be considered in relation to these new policies and in particular in the context of whether the proposal constitutes sustainable development¹⁰⁶. The issue of the sustainability of the proposal is particularly important in relation to the balancing exercise and the weight to be given to the local perception of risks against any benefits of the proposal¹⁰⁷.
214. The Appellants have spent much time making the point that this is a renewable energy project and appeared to suggest that the proposal should be considered primarily against renewable energy policies. However, the planning witness agreed in cross examination that both renewable energy policies and

103 DMPO art 31(1)(b)

104 CD 54 paragraphs 8.41 and 8.55

105 PIM Notes para 9(4) and AW para 10

106 CD51 para 4.6 and AW para 8

107 AW para 9.

waste policies required consideration and did not suggest that there was any conflict between the renewable energy and waste policies.

215. At the pre-inquiry meeting the main issues for the inquiry arising from the Council's reasons for refusal were identified as –
- The effect of the proposed development on air quality;
 - The perception of the effect of the proposed development on human health;
 - The effect of the proposed development on the continuing improvement and regeneration of the local area; and
 - Whether the proposal would be sustainable development as set out in the NPPF.
216. These main issues are addressed in these closing submissions (albeit in a different order). In addition the Inspector requested submissions on other matters which have been dealt with in the evidence during the course of the inquiry.
- Whether the proposal would be sustainable development
217. The application is founded on the proposed plant burning mainly waste wood, diverted from landfill, avoiding imports and sourced locally¹⁰⁸. This is central to consideration of the sustainability of the proposal.
218. The Appellant's witness agreed in cross-examination that –
- The source of the fuel for this proposal has implications for the sustainability of the proposal.
 - The proposal has been promoted on the basis that it will be diverting waste wood from landfill¹⁰⁹.
 - The principal purpose of combustion of waste through energy from waste is to reduce the amount of waste going to landfill.
 - Only waste that cannot be re-used or recycled with less environmental impact and would otherwise go to landfill should be used for energy recovery¹¹⁰
 - Government policy only envisages and supports recovery of energy from the combustion of waste when in accordance with the waste hierarchy. This is seen for example in NPS EN-3 paragraphs 2.5.2 and 2.5.5 1st and 3rd bullet points. This demonstrates that the presentation of the proposal as a renewable energy project does not alter the approach to be taken.

108 AW para 32

109 See PS paras 3.8 and 3.9

110 See PS para 6.42

- Government policy is that the sustainability of the biomass fuel is a relevant and important consideration in deciding on any application for consent (NPS EN-3 para 2.5.7).
- It is for the applicant to provide an assessment to demonstrate that the proposal conforms with the waste hierarchy (NPS EN-3 para 2.5.66).
- Government policy is that the decision maker must be satisfied that the proposal accords with the waste hierarchy (NPS EN-3 para 2.5.70).
- Government support is only for sustainable biomass – it does not support biomass which is not sustainable.
- The recovery of energy from waste is only supported when it is in accordance with the waste hierarchy.
- The application will have been considered by consultees on the basis on which it was presented namely that it was diverting waste from landfill in accordance with the waste hierarchy.
- The Inspector and S of S will need to consider the latest information and evidence on whether the proposal will divert waste from landfill.

219. There has been a significant change in the evidence with respect to waste wood to landfill since the application was determined in the form of the latest information published by Defra¹¹¹. The Appellant was aware of this information and its importance was raised by TBC's witness when discussions were held with respect to the drafting of the SoCG. Surprisingly despite the obvious relevance and importance of this material the Appellant refused to address it in the SoCG. The Appellant's planning witness attempted to explain this position on the basis that the SoCG was limited to addressing matters raised in the reasons for refusal. This would have been an unusual approach to take, and all the more inappropriate given (i) the fact that the question of whether the proposal represented sustainable development had been identified by the Inspector as a main issue for the inquiry, and (ii) the need for the Appellant to address this matter and satisfy the SoS in accordance with the national policy identified above. It was not in any event the approach that had been taken; there are numerous examples of issues addressed in the SoCG which did not arise out of the reasons for refusal. There are for example extensive references to agreement on environmental and technical matters which had not been raised in the reasons for refusal and there are extensive reference to national policy on renewable energy and biomass. In passing it can be observed that the passages in the SoCG relied upon by the Appellant as an agreed position on supply are in fact no more than agreement as to what various policy documents stated¹¹² and all of these documents pre-date DEFRA's latest assessment of the position.

220. Although the Appellant was not prepared to record it in the SoCG it is common ground that CD 80 sets out the latest up to date position with respect to the

111 CD 80

112 See for example CD 54 para 7.9 which is merely a summary of what the UK Biomass Strategy (2007) says..

potential supply of waste wood going to landfill¹¹³. This document reviews the latest data and concludes that approximately 0.6M tonnes of waste wood is going to landfill in England. Although this is accepted to be the up to date position, and the appellant's witness failed to draw attention to this despite extensively quoting other figures. This omission is repeated in the AEA report¹¹⁴ which again quotes many other figures but fails to acknowledge this figure¹¹⁵. There is again no satisfactory explanation provided for the failure to refer to this figure.

221. The Appellant agreed that government policy has been to divert waste from landfill by increasing landfill tax at a rate of £8 per year and in accordance with the government's policy this can be expected to have had an effect. Whilst he accepted this for waste in general going to landfill he claimed that he was not sure that the same conclusion would apply to waste wood.
222. The Appellant's response to TBC's evidence on this issue is the report from AEA, which concludes that TBC's witness has used the most recent data but that this does not give the full picture owing to omission of other recent publications including a report prepared by AEA which had been published alongside CD 80¹¹⁶.
223. That report was concerned with a life cycle assessment and did not provide an inventory or any data on arisings. The only information it provided was taken from the earlier WRAP 2009 report; it provides no further information and takes the matter no further. Furthermore, and importantly, it was plainly taken into account by DEFRA and informed its views as expressed in CD 80. Reference to the earlier AEA report therefore takes the matter no further and does not call into question the figures expressed by DEFRA.
224. The main point that the Appellant appears to wish to make is that there is uncertainty about the data. However, CD 80 acknowledges the uncertainty in introducing the figure of 0.6 M tonnes, but having acknowledged this uncertainty states that the '*most recent analysis (see figure 3) shows approximately 0.6mt of wood waste going to landfill*'¹¹⁷. Furthermore it is accepted that this inquiry must proceed on the basis of the latest and best information available. There is no basis for suggesting that this latest data is any less certain than earlier data (which was relied upon by the Appellants without any acknowledgement of uncertainty).
225. The newspaper articles relied upon by AEA and PS were produced in PS rebuttal appendix F. However, they are no more than anecdotal reports with no assessment, analysis or data.
226. The first report simply discusses the potential impact of possible changes to government policy with respect to subsidies. This is clearly a matter for the government in considering what subsidies it provides and in undertaking this consideration the government will doubtless give proper consideration to the

113 PS XX

114 PS rebuttal App D

115 The reference to the report in Table 4 cites a figure of 0.8-1.2 M tonnes

116 See AEA report p2 para 4 fn 1 and para 37 and CD 80 para 14

117 CD 80 para 24

implications of its proposals for dealing with waste wood. Indeed one of the issues which will be considered is the impact on recycling wood of subsidies for biomass. The Appellant's witness was not able to state whether any changes in policy on subsidies might have implications for the appeal proposal.

227. The second report was published prior to CD 80 and in so far as it was relevant would have been taken into account in preparing CD 80. It is not in any event apparent what the relevance of this document is to the supply of waste wood in general or the supply in the North West in particular.
228. Significantly in the third report the EA advise that they are unaware of any difficulties and suggest that any stockpile of waste wood is no more than the normal seasonal variation. That is the end of any issue with respect to this report but there are further points to note.
229. In so far as any issue is raised in this report it is an issue for the South and East of England. There is no issue raised with respect to treatment or disposal of wood in this region. It is furthermore clear that what is being said is that any issues have arisen as a result of a mild winter and this is a temporary issue which will be resolved by a cold winter and an upturn in the economy.
230. Whilst mention is made of the closure of the Sonae plant this is again a temporary issue. The important points to note with respect to Sonae are (a) it closed because of issues which have nothing to do with supply and (b) it was recycling wood – the material going to Sonae is not material which would go to landfill and it would be a wholly inappropriate response to divert this material lower down the waste hierarchy to energy recovery.
231. These documents likewise do not assist for the following reasons:
- The Peel statement¹¹⁸ does not identify any report that is available to them or any additional material which has not been addressed by TBC's witness.
 - The Peel statement does not provide any information as to volumes or sources of waste arisings.
 - It makes no mention of diverting waste from landfill, but it does contemplate importation of waste.
 - There is nothing in the report to assist in evaluating whether the proposal would comply with the waste hierarchy.
 - The statement from Hadfield Wood Recyclers¹¹⁹ makes repeated reference to using recycled wood as a source of supply rather than lower grade wood diverted from landfill. The author of the letter is plainly aware of the distinction between recycling and recovery as can be seen from the final paragraph and in any event given the business in which he is involved he would be expected to know the difference. Far from assisting the Appellant the statement confirms that the proposal would not be using waste diverted from landfill.

118 PS rebuttal App E
119 PS rebuttal App G

232. In short there is nothing in the further material identified by AEA which casts any doubt upon CD 80 or TBC's evidence on this issue. Whilst AEA refer to other reports in Table 4 of their report these all pre-date CD 80 and it is agreed that they were taken into account by Defra in coming to the view expressed in CD 80. Comparison of the reports shows that there has been a decline in waste wood which accords with policy. It is plain that TBC's figures taken from CD 80 are the appropriate figures to use at this inquiry and no alternative figures that should be used have been provided by the Appellant¹²⁰. If the Appellant had wished to they could have undertaken an assessment of waste wood arisings and the amount going to landfill in the country or the North West but for whatever reason they have failed to do so.
233. The North West is responsible for about 12% of UK waste arisings and it is appropriate to conclude that this applies to waste wood arisings¹²¹. If CD 80 is correct with respect to the amount of waste wood going to landfill there is plainly insufficient waste wood going to landfill in the North West to provide for the proposal¹²². 12% of 0.6 M tonnes is 72,000 tonnes whereas the appeal proposal requires approximately 140,000 tonnes of waste wood¹²³.
234. One comes to the same conclusion if one looks at the figures relied upon by the Appellant. The 2009 WRAP report indicated that there were 542,900 tonnes of waste arising per annum in the region in 2007. This will have fallen since then, so one can use this figure for comparison. On average 83% of wood waste is re-used or recycled with the remainder increasingly used in biomass power-stations and for co-firing. This leaves a total at most of 92,000 tonnes for energy recovery and landfill, which is again inadequate to provide for the appeal proposal¹²⁴. It can further be observed that this is not materially different from the 72,000 tonnes calculated from CD 80. When properly analysed the figures relied upon by the Appellant are not that different from those contained in CD 80.
235. It must furthermore be remembered that the Appellant already has the benefit of a consent for another biomass plant on Ince Marshes which would require 176,000 tonnes of waste wood per annum¹²⁵ and there are a significant number of additional operating and proposed schemes¹²⁶.
236. The appeal should be determined on the basis of the latest information and data. However, even if one were to apply a degree of caution to the figures there is still no support for the appeal proposal. Given the presence of the other operating and consented schemes it is abundantly clear that even if CD 80 has underestimated the amount of waste wood going to landfill by a significant margin there would still be an inadequate supply for the appeal proposal.

120 PS XX

121 AW para 143 PS XX

122 PS XX

123 PS para 3.7 and AW paras 32 and 138

124 AW paras 132, 133, 138 and 141, and PS XX

125 AW para 138 and PS XX

126 AW 140 and PS XX

237. The proposal is promoted on the basis that it will be diverting waste wood from landfill¹²⁷ and the source of the fuel for this proposal is acknowledged to have implications for the sustainability of the proposal¹²⁸. One is left with the clear conclusion that the Appellant has not demonstrated in the light of the more recent evidence that there would be a supply of wood diverted from landfill which could provide for the needs of this proposal.
238. CS policy L6.2(b) requires all developers of new waste management facilities to demonstrate the proposal's consistency with the principles of the waste hierarchy. Similarly GMJWDPD policy 4 requires the development to accord with the waste hierarchy. In the circumstances the proposal has not been shown to be sustainable development in accordance with the Framework and national and local policy. This has important implications for the planning balance and public perception.
239. There is a further issue which gives rise to concern with respect to the sustainability of the proposal. The proposal has the potential to provide CHP. However, policy requires that in such a case CHP should be provided. For example policy 8 of the GMJWDPD provides that 'Applications for waste management facilities that have the potential to utilise biogas or energy from waste fired technologies will be required to provide combined heat and power unless it can be demonstrated that this would prevent the development of waste management facilities that have the potential to deliver important waste infrastructure'.
240. This policy was considered by the Appellant in the ES Supplementary Statement¹²⁹. It was recognised that the policy requires applications which have the potential to utilise energy from waste to provide CHP unless it can be demonstrated that this would prevent the development of waste management facilities that have the potential to deliver important waste infrastructure¹³⁰.
241. The Appellant's original view was that it was not necessary to comply with the policy on the basis that the proposal's primary function was an energy plant and therefore it did not have to demonstrate compliance with the policy¹³¹. This argument is no longer maintained. The Statement went on to consider the proposal against the policy and stated that it was the Appellant's 'aspiration' to capture the heat and it had commissioned a study but that this was not yet complete. However, it observed that initial feedback from the study concluded that supplying potential receptors would require significant investment and a return on this investment would be dependent on the delivery and support of the Renewable Heat Incentive over which there was uncertainty¹³².
242. The study has not been provided. The reason given for this failure is commercial sensitivity which is not a convincing explanation. However, it is clear from the statement that any CHP would be expensive and dependent upon subsidy – no information was provided on the availability of such

127 See PS paras 3.8 and 3.9

128 PS XX

129 CD 15A

130 CD 15A para 2.66

131 CD 15A para 2.67

132 CD 15A para 2.68

subsidy. In the circumstances the witness had to agree that the Appellant had not demonstrated that CHP would be provided. Furthermore he agreed that reliance was not placed upon demonstrating that requiring CHP would prevent delivery of important waste infrastructure.

243. TBC's witness who has significant experience in CHP explained how CHP was not in practice provided if it was not planned at the outset. The unsatisfactory position with respect to CHP is a further issue which calls into question the sustainability of this proposal.

Impact on regeneration

244. The appeal site is located to the north of the Davyhulme WWTW which is the only strategic heavy industrial use within the Urmston area and is bounded by the MSC to the north-east/south-west and the Barton High Level Bridge which forms part of the M60 to the east with the Trafford Rectangle beyond. The access extends underneath the Barton Bridge into Trafford Park¹³³.
245. The facilities at the WWTW have expanded due to an increasing population and improved technologies. Over time, residential development has been developed closer to the boundary of the site. Whilst the two uses are not ideally compatible they now exist side by side in what is effectively a suburban environment to the south of the M60. The WWTW has been a source of complaint and the odours associated with the WWTW and the memory of them has had an adverse effect upon the attractiveness of the area and the wider perception of the area. Regeneration and improvement works at the WWTW have significantly improved the environment in the vicinity of the works, including the formation of the nature reserve and measures to improve the water quality of the MSC. The works have resulted in significant reduction in odours and complaints about odours in the area. However, the stigma associated with the WWTW will take longer to ameliorate¹³⁴.
246. The appeal site is essentially located on the edge of a residential suburb in a pocket of industrial activity. The residential neighbourhoods of Davyhulme, Flixton and Urmston are located to the south-west, south and south-east of the WWTW. The closest residential properties are less than 550 metres from the appeal site and Urmston Town Centre and Woodsend Circle are approximately 1.3 miles or 2 km from the appeal site. Sites identified in the Strategic Housing Land Availability Assessment (SHLAA) prepared by the Council are located around the wider Urmston area. The AQMA covers part of the appeal site. The location of this additional activity close to residential properties increases the perception of risk for residents, impacting on their quality of life¹³⁵.
247. The Appellant contests this description of the character of the area, suggesting that the appeal site is located in an area characterised by a range of large regional scale non-residential uses¹³⁶. However, this is directly at odds with the CS which is founded on an extensive and up to date evidence base¹³⁷. The CS

133 JH paras 4.1.4-4.1.6 and 6.18.3

134 JH para 6.18.4

135 JH para 6.18.6

136 PS para 4.2

137 PS XX

- contains Spatial Profiles of the various areas within the Borough. This was not in dispute.
248. The Spatial Profile for Urmston¹³⁸ explains what area is covered by the Profile – it says *'The area is bounded by the M60, the Manchester Ship Canal and the Mersey Valley.'* It is plain from the description that the main part of the appeal site to the west of the M60 falls within this area considered as Urmston and addressed within this Spatial Profile.
249. The Appellant relied upon Figure 1 in the CS¹³⁹ to argue that the appeal site falls within an *'unprofiled'* area between Urmston and Trafford Park. There are a number of very obvious flaws with this argument. Figure 1 is a diagrammatic figure – it is not a plan which is intended to provide any precise boundaries, or even to be related to any form of accurate base such as an OS map. It cannot be used to contradict the clear description in the Spatial Profile which refers to the area being *'bounded'* by identifiable physical features.
250. It makes no sense to argue that the Spatial Profile area to the east of the motorway should extend to the very motorway boundary but not on the west. The effect of this approach would be that substantial areas are not within any spatial profile area given the spaces between the different areas identified in Figure 1.
251. The Appellant also contended that the WWTW was not within the Urmston Spatial Profile area. This was a very surprising suggestion as the description in the Spatial Profile is again very clear; it observes that Urmston, the area under consideration, is *'home to two strategic facilities, the Davyhulme Wastewater Treatment Works containing the Millenium Nature Reserve and Trafford General Hospital'*¹⁴⁰.
252. PS and the Appellant also sought to argue that it had been agreed that the appeal site did not sit within Urmston by reference to paragraph 8.23 of the SoCG which provided *'Whilst the appeal site is not explicitly located in any specific spatial profile area, it sits in between the defined areas of Trafford Park and Urmston'*. However, the statement is merely recording that the site is not expressly referred to in the Spatial Profiles and in fact straddles across two Spatial Profile areas with the eastern part in Trafford Park and the western part in Urmston
253. In any event whilst the statement clearly only means that the site straddles the two identified areas, if it did mean something else that would not in truth alter the correct interpretation of the CS. One does not need any assistance in interpreting the CS on this point as the description of what is included within Urmston in the Spatial Profile is clear. It expressly contradicts the Appellant's assessment of the area. It states that *'The Urmston area is made up of a number of distinct residential neighbourhoods including Flixton, Davyhulme, Woodsend and Urmston itself...It is predominantly a residential area...'*¹⁴¹.

138 CD 62 p15

139 CD 62 p10

140 CD 62 p15

141 CD 62 p15 my emphasis

254. The Council has been proactive in promoting regeneration in Urmston and Woodsend Circle. It purchased the shopping centre (Eden Square) in Urmston in 1999 in order to promote its regeneration and redevelopment¹⁴². The regeneration of Urmston town centre was supported by the UDP where it was identified as a Regeneration Area¹⁴³, whilst regeneration in Woodsend was also supported in the UDP¹⁴⁴.
255. The Council has taken active steps to secure regeneration but it has not been without its difficulties. There were problems with the residential development in Phase 1 of Eden Square despite the benefit of the presence of Sainsburys underpinning the scheme and there are still a substantial number of unlet retail units (7 in phase 1 and 3 in phase 2). Whilst development has been slower generally over recent years the form that has held up well has been more conventional superstore/supermarket development and the scheme had provided a conventional large Sainsburys store (together with Aldi and Iceland)¹⁴⁵.
256. Given the efforts to date in difficult conditions it is important that nothing be done to prejudice the ultimate success of this development. Victoria Parade in the town centre is plainly in need of regeneration. Whatever the reason for the condition of Victoria Parade there is clearly a need for the Council to take steps to regenerate it and there may be a need for the Council to reassess its role in the town centre. Whatever the reason for its condition it is important for the health of the town centre that Victoria Parade is addressed.
257. The Council is also actively promoting the regeneration of Woodsend Circle and it is again important for the area that it should succeed. The fact that Urmston town centre and Woodsend Circle are no longer identified as priority areas for regeneration in the development plan does not mean that regeneration is no longer a material consideration or that it is no longer important. It does not remove the importance of making the best use of the steps already taken.
258. The general issue of the impact of this type of proposal on regeneration in the wider area has been recognised as a material consideration in a number of the appeal decisions. None of this was disputed by the Appellant's witness.
259. With regard the evidence of Mr Hetherington it is important to bear in mind that he did not attend the inquiry and was not subject to any cross-examination. His report provides no details of his background, his source of knowledge or his expertise in the area about which he reports.
260. These omissions are all the more significant when one notes that Mr Hetherington is not locally based; indeed he is based in Lancaster some 50 or 60 miles away in a completely different market area. He does not say anything to suggest that he has any relevant local knowledge. It cannot therefore be assumed that he has any particular expertise in the fields about which he gives evidence.

142 See also JH para 6.10.1

143 See JH para 6.9.3 and UDP policies A1 and S9

144 See JH para 6.9.4 and UDP policies A2 and S10

145 JH para 6.10.6

261. Given these evident shortcomings, no weight should be given to this evidence in support of the Appellant's case. In any event, the report fails to establish the propositions it proposes.
262. The report suggests that it sets out to demonstrate that the proposal has not had a negative effect on regeneration of the surrounding area and that the vitality and self-confidence of the area remains stable (see again 2nd paragraph 2nd page). It is prepared on the basis that if these propositions can be established then it can be argued that the proposal "would have little impact on future regeneration".
263. However no attempt has been made to compare the position prior to the event under consideration with the position after the relevant event has occurred, so no conclusion can be reached about whether the appeal proposal has in fact had an adverse impact on regeneration. Mr Hetherington has not made any such comparative assessment. It follows that even if all of Mr Hetherington's evidence were to be accepted it would not establish that there would be little impact on future regeneration.
264. There is no evidence to establish the implicit proposition that if there is no negative impact in advance of a grant of planning permission there will be no negative impact if the development were to proceed. Mr Hetherington has made an unwarranted assumption based on nothing more than his judgment.
265. Prior to the grant of planning permission there can be no certainty that the development will be able to proceed and there can be no certainty that planning permission would be granted. Even if the development were granted planning permission there is no certainty that it will proceed.
266. The logical conclusion is that the position is materially different prior to grant of permission or even prior to commencement of development and that people's perceptions and the market effects will accordingly be different. This is borne out by the evidence of local people who have made the point that if permission were to be granted they would move away.
267. In any event analysis of Mr Hetherington's evidence reveals that he is unable to provide any useful or meaningful evidence. The Council's first refusal reason is based on impact on Davyhulme, Flixton and Urmston, but Mr Hetherington chose to look at impact over a wider area. This involved looking at areas where the Council had not suggested there would be any impact. If one looks at a wider area one will inevitably dilute the impact.
268. There is no analysis to support or explain Mr Hetherington's conclusion that the formal planning application did not negatively affect regeneration activity.
269. Mr Hetherington's evidence addresses various developments. A number of points arise from this which undermine his conclusions:

Eden Square – Phase 1 was granted planning permission as long ago as 2006¹⁴⁶. It included the Sainsbury's store which is the form of development which has bucked the trend and proceeded despite the

146 See JH para 6.10.2

recession. The development has not been easy¹⁴⁷ and ten units remain unlet. Phase 2 received consent in 2010 but again required a redesign¹⁴⁸. Pre-lets were necessary in order to enable the development to proceed¹⁴⁹, but there is no information as to when the pre-lets were achieved and whether this pre-dated the appeal proposal.

Trafford Quays – This is a proposal by the Appellant. The application was made in October 2010 but has not been determined. The delay in determining the application was due to a delay in completing a S106 obligation. It does not tell us anything about general market interest.

Barton Cross – Mr Hetherington does not tell us about his source of knowledge on this issue. If a surveyor were to provide evidence as to values he would be expected to have personal knowledge of transactions and be able to provide details. In fact he gives no details of prices actually achieved, all he refers to are asking prices advertised which tells us nothing about actual values. There is no indication as to what if any incentives were offered in order to secure sales. There is no comparison with any other site, or with the position before the appeal proposal. The residential development of this site was a longstanding proposal – it was originally granted planning permission in May 2007 and it took 4 years to get moving. It is not possible to determine the effect of the appeal proposal.

Hayes Green Cadishead – This is the only site which is compared to Barton Cross. It is in a very different locality, in Salford on the other side of the MSC some distance from the conurbation. There is no evidence to suggest that Cadishead is at all comparable as a locality with Barton Cross. The development is on the site of a former chemical works which had been heavily contaminated, and this was likely to affect people's perceptions of the development and hence sales rates and prices, and is located between an Industrial Park to the north-east and more industrial development to the south-west. There is no evidence upon which any meaningful comparison can be made between the two sites or any meaningful conclusions drawn.

Caldercourt – This is part of a much larger and wider series of proposals to deliver 198 affordable homes in Sale, Old Trafford and Davyhulme¹⁵⁰. It involves a redevelopment of a previously developed site replacing 30 existing bungalows with 33 dwellings. It is a public sector social housing scheme, in an area where there is a clear pressing need for affordable housing and does not tell us anything about the general market.

Nags Head Pub – This is sheltered housing, and there is again a clear need for this form of development. There has been no decision on the application to date and accordingly the proposal has not advanced.

147 See JH para 6.10.4

148 JH para 6.10.6

149 JH para 6.10.6

150 See PS p69

Bowfell Road Depot – The application pre-dates the appeal proposal and again involves a social housing proposal.

Arndale properties – The site is not within the area the Council has said causes concern as set out in the reason for refusal. The application was made at effectively the same time as the appeal proposal, but it has not proceeded, and it does not tell us anything about the market.

City West Eccles – Again this is not within the Council's area of concern. It involves regenerating former local authority flats, is publically funded, and was all planned prior to the appeal proposal. The flats are in need of renovation and something would plainly have to be done to them irrespective of the effects of the appeal proposal.

Eccles New Road – Again this is not within the Council's area of concern, it is public authority housing, and was started and committed long before the appeal proposal was known about, so tells us nothing about the market or the effects of the appeal proposal.

Salford Reds stadium – This was a longstanding scheme. There was a pressing need for the rugby club to relocate given that its previous stadium was wholly inadequate and that the club was in danger of being thrown out of the league if it did not provide better facilities. Both the club and the local authority were anxious that the club remain in Salford. The development involved substantial amounts of retail development which was contrary to policy but justified as enabling development. In order to justify the development the Club had demonstrated that there was nowhere else it could go.

Cadishead leisure centre – This is again a long way from the Council's area of concern, it involves publicly funded development and it tells us nothing about the market.

270. The Appellant has not produced any evidence which suggests, still less establishes, that development in the area of concern has not been affected by the appeal proposal. With respect to Barton Cross it is clear that this is a longstanding scheme and that Mr Hetherington has no real details about what has happened particularly with respect to sales. Indeed there is no examination of whether the developers have pursued a strategy of ensuring that the development is disposed of in advance of any determination of the appeal. There is no proper comparison of what has happened with Barton Cross or other development in the area with development elsewhere or development prior to notice of the appeal proposal. Most of the development that Mr Hetherington refers to has particular reasons for being where it is, most of it is public sector or publicly financed or supported development and much of it is not even in the area of concern to the Council.
271. As TBC's witness explained there has been limited work done nationally on the economic impacts of incinerators, but the most appropriate study to consider is the 2003 Newhaven Study "The Economic Impact of an EfW Incinerator in Newhaven" by the Centre for Economics and Business Research Ltd¹⁵¹. This

151 JH para 6.20.1 and App 11

study identified that an EfW incinerator could potentially impact on Newhaven's attractiveness as a place to live, to work and to do business¹⁵².

272. The Newhaven study was informed by two significant studies, the first being from the USA which evaluated in detail the impact of an EfW incinerator (the "Kiel and McClain study") and the second being published by DEFRA into the disamenity effects from landfill sites as measured by UK house prices (DEFRA 2003 "A study to estimate the disamenity costs of landfill in Great Britain")¹⁵³.
273. The Kiel and McClain study established the sensitivity of house prices to a number of different factors, including the distance from the EfW facility and investigated how house prices changed over time from before any information was publicly available through the construction period, early operations and mature operations. It undertook the type of comparative assessment which was lacking in Mr Hetherington's report. Systematic changes in the size or elaborateness of houses sold over the period were taken into account and the study included a detailed description of each property's location including the distance from the incinerator, the distance from the central business district, the distance from the main highway junction and whether the property had a lakeside location. Regional trends in property prices were taken into account by indexing house prices to average house prices changes in the Boston area¹⁵⁴. The rigour of the study again contrasts with Mr Hetherington's superficial approach.
274. The Kiel and McClain study found that *'the evidence suggests that the incinerator is a negative externality for North Andover overall'*. The ongoing effect was found to have an impact on house prices of \$6,607 per mile, against an average house prices at the time of \$242,242. The effect was evident up to a distance of 3.5 miles. The study found evidence that house prices close to the incinerator dropped relative to prices elsewhere on rumour of the new site, fell further when construction began, fell further still when operations began and recovered slightly after four years of operation but they were still significantly lower than they would otherwise have been¹⁵⁵.
275. The DEFRA 2003 study examined the impact of landfill sites on property prices at different distances from the facility for houses across Great Britain based on detailed data on house prices over time supplied by the Nationwide Building Society and included a detailed evaluation of the contribution of a comprehensive set of property and locational characteristics. The study found a significant correlation between house prices and distance from landfill sites. The study concluded that landfills had a statistically significant negative impact on house prices and that it affected houses up to 1km away. Importantly only 60% of the landfill sites considered by the study were operational which suggests that a larger impact may have been observed for those that still accepted waste¹⁵⁶.

152 JH para 6.20.2

153 JH para 6.21.2 and Apps 12 & 13

154 JH para 6.22.1

155 JH para 6.22.2

156 JH paras 6.23.1-6.23.2

276. The Newhaven study also included original research into the impact of incinerators on house prices which showed a steady increase in house prices as distance from UK EfW incinerator facilities increased¹⁵⁷ and research into the impact of EfW incinerators on the attractiveness of areas as a place to work or to do business which suggested that incinerators discouraged image conscious sectors¹⁵⁸.
277. The Newhaven study suggests that there is a negative relationship between EfW incinerators and the attractiveness of the surrounding area for investment in housing and business¹⁵⁹. There are good grounds for concluding that the appeal proposal would reduce the attractiveness of the surrounding area as a place to live and invest¹⁶⁰. There are good grounds for concern that this would have a detrimental impact on investment in the area which would lead to much needed housing not coming forward in the local area; there are a number of SHLAA sites in the area and if these sites fail to come forward that will have serious implications for housing in the locality and the important economic stimulus which such development provides will be lost¹⁶¹. It is furthermore essential that Urmston town centre continues to be an attractive retail destination; much has been invested in the town centre but its regeneration is incomplete; it is particularly important that nothing should undermine confidence in the area and that full use should be made of the opportunity presented by the investment in the town centre¹⁶².
278. The significant levels of objection to the proposals demonstrate the concerns of the community in terms of perceived risk and its impact upon the attractiveness of the area as a place to live and invest which in turn impact upon regeneration of the area. The communities have real fears about the impact of the proposal upon the area and the studies considered above demonstrate that the fears are justified¹⁶³.
279. While it was argued by the Appellant's witness that the Newhaven report was not accepted by the Inspector at the East Sussex and Brighton and Hove Waste Local Plan¹⁶⁴, and accordingly no weight should be given to it at this inquiry, examination of the inspector's report reveals that the position is more complicated than this suggests.
280. After considering the Newhaven study and all the other evidence the local plan inspector concluded that the proposal as proposed to be modified by him would not have an adverse effect on either social deprivation or regeneration prospects in the town¹⁶⁵. It is important to understand what the inspector was referring to by the proposal as modified and the reasons for the modification; this is explained in paragraph 22.40 as PS agreed¹⁶⁶. The inspector concluded

157 JH paras 6.23.3-4

158 JH paras 6.23.5 -6.23.6

159 JH paras 6.23.7 & 6.23.10

160 JH paras 6.23.8 & 6.23.11

161 JH para 6.23.9

162 JH para 6.23.11

163 JH para 6.23.12

164 PS rebuttal App A

165 PS rebuttal App A para 22.37 and PS XX

166 PS XX

that *'whether an incinerator was acceptable or not would depend on a detailed study of an actual proposal in the light of the standards and controls applying at the time. I do not consider that the option should be ruled out as a matter of principle at this stage. However because of this uncertainty, I also conclude that sites should not be allocated in the Plan specifically for incinerators'*.

Clearly the inspector was concluding that acceptability would depend upon the precise details of a proposal. He was not therefore concluding that an incinerator would definitely be either acceptable or unacceptable – rather he was concluding that options should remain open at this stage because the ultimate answer would depend upon careful consideration of detailed proposals¹⁶⁷. In the circumstance the Inspector was not finding that an incinerator would not have an impact upon social deprivation or regeneration but rather than it would depend upon detailed consideration of the actual circumstances.

281. The inspector's comments on the Newhaven study must be read with this overall conclusion in mind. In addition there are reasons to exercise care with respect to his conclusion given his reasoning with respect to the study. He distinguished the North Andover study on the grounds that it was a 1980s incinerator where there had been problems from emissions and such an incinerator would not obtain planning permission or a permit nowadays¹⁶⁸. This accepts that the North Andover study had properly concluded that the incinerator had had a negative impact upon house prices but seeks to suggest the same would not apply to a modern well run incinerator. There are two obvious flaws with this reasoning.
282. Firstly, the North Andover study established that there had been a negative impact when it became known that the incinerator was to be developed with a further negative impact when construction got underway. This all pre-dates any problems with emissions and makes it clear that the very presence of an incinerator caused these impacts rather than anything to do with problems encountered in the operation of the incinerator.
283. The fact that modern incinerators are better run has not allayed public concern. In fact whilst the operating standards of incinerators has improved the public now demands higher standards and merely operating to better standards than in the past does not satisfy public demands or allay public concerns. It is these fears and concerns which feed through into investor confidence and hence investment and regeneration in an area¹⁶⁹.
284. The higher standards demanded by the public were recognised in a recent RTPi article¹⁷⁰ which stated *'Many communities faced with EfW proposals remain unconvinced. Despite stringent environmental and land-use controls, perceptions of old style municipal incinerators pumping toxic vapours into the air linger on. The scale of modern EfW plans, the transport of waste materials and other amenity impacts trigger public alarm'*. It is important to remember that investment relies upon confidence. If public confidence is lost (irrespective

167 PS XX

168 PS rebuttal App A para 22.35 and PS XX

169 PS XX.

170 JH para 6.23.12 and App 14

- of the 'objective' evidence) this has significant implications for investment and regeneration.
285. When the East Sussex Waste Plan inspector's report is properly considered and assessed it can be seen that it does not provide grounds for disregarding or giving reduced weight to the Newhaven Study.
286. The Appellant relies upon a number of other decisions to support the proposition that there will be no harmful impact on regeneration. However each decision turns on its own facts and the evidence before the inquiry¹⁷¹. This is a point which was expressly made by the inspector at the Battlefield Enterprise Park inquiry, who concluded that 'much depends on the particular local circumstances and context in terms of relationship with neighbouring uses, and their particular effects on property prices and investment decisions'¹⁷². Any decision depends upon the local circumstances, the relationship with neighbouring uses and the evidence before the decision maker¹⁷³. This was also clearly the case in the Cornwall decision which was also heavily relied upon by the Appellant. When this decision is considered it is clear that it was heavily influenced by the context of the proposal and in particular the fact that the proposal was sited in an area which was already severely impacted by tips and clay workings¹⁷⁴.
287. None of the appeal decisions relied upon by the Appellant concluded that this form of facility cannot have an impact on regeneration and that whether it has such an impact is dependent upon the circumstances of the case.
288. At times the Appellant appeared to suggest that consideration of house prices is not relevant. This misses the point. Whilst the planning system does not operate to protect house prices as such, house prices may be a signal of the relative health of an area. It was accepted that house prices are affected by perceptions as to how attractive an area is in which to live, give an indication of how much people are prepared to invest in an area, and are monitored by businesses and inform their views as to the economic health of an area and in carrying out their investment decisions. House prices are therefore an important indicator of impacts upon the economic health and regeneration of an area.
289. It was very clear from the evidence given by local people that the proposal is affecting the perception of the attractiveness of the area. It was affecting people's willingness to stay and invest in the area. This accords with the evidence given by TBC's planning witness and the studies to which she referred.
290. The proposal would essentially be a strategic heavy industrial process with potentially hazardous emissions and processes in a predominantly residential area; the scale of operation would impact upon perception and investor confidence in this area¹⁷⁵. This type of operation would not normally be

171 PS XX

172 PS App 6 para 98

173 PS XX

174 See PS App 5 paras 2075 and 2081

175 JH paras 6.17.1 – 6.17.6

encouraged close to residential areas or other sensitive receptors; this is the wrong location for this proposal¹⁷⁶. The physical presence of the proposal and the processes associated with it would adversely affect the area, and in particular the perception of the area and confidence in the area as a place to invest¹⁷⁷.

291. The area has suffered in the past from problems arising from the WWTW. These problems have been addressed as a result of significant investment but the perception and stigma associated with this problem remain. Urmston town centre and Woodsend Circle were identified for regeneration in the former UDP. The Council has been proactive in bringing forward regeneration in the area but the position remains fragile. It is very important that this regeneration is not undermined. The proposal is adversely affecting investment confidence and if it were to be allowed the situation would be much worse. The Council was correct to conclude that the proposal would have a detrimental impact upon the vitality and attractiveness of Davyhulme, Flixton and Urmston and would prejudice the continuing regeneration and improvement of the area. This was contrary to policy WD5 of the UDP and is now contrary to policy L6 in the CS.

Impact on air quality and perception of the effect on human health

292. It is common ground that perception of risk to health is a material consideration. The issue between the parties is the weight to be given to the consideration¹⁷⁸. The Appellant refers to a number of decision letters with respect to this matter but does not adduce any additional evidence to address the issue¹⁷⁹. The Appellant has also placed heavy reliance upon the plant being a modern well regulated facility, but it is agreed that this does not of itself answer the perception issue and does not in itself allay public fears and perception¹⁸⁰. Just as with the issue of impact on regeneration the appeal decisions are agreed to turn on the particular circumstances of and evidence in the particular cases¹⁸¹.
293. The proper approach with respect to this issue is summarised in Mr Watson's proof¹⁸², and this was not challenged. Human factors can, and sometimes should, be taken into account in making planning decisions. Health concerns are material considerations and should be considered by the decision maker. Decision makers must recognise that public concern is so important that it can, albeit in rare cases, constitute a valid reason for refusing planning permission even if unfounded. Emotional responses to a proposed land use are capable of being material. Decision-makers must attach due weight to the justified concerns of any companies concerned that if the proposal goes ahead they may be forced to relocate. Perceptions of risk arising from the fear of

176 JH paras 6.18.1- 6.18.6

177 JH paras 6.19.1-6.19.5

178 PS XX

179 PS XX

180 PS XX

181 PS XX

182 AW paras 177-188

repetitions of incidents following a previous history of events can be justified even if the level of incidents has reduced¹⁸³.

294. The position is clearly set out in *Newport BC v Sec State for Wales* [1998] Env LR 174. Public fears even if they are not objectively justified or soundly based on scientific or logical fact are a relevant material consideration; they are part of the human factor to take into account and given effect as an exceptional or special circumstance¹⁸⁴. Depending upon the circumstances of the case and the evidence before them, inspectors have given significant weight to the perception of risk on occasions where justified by local circumstances¹⁸⁵.
295. In this case there is very clear and substantial evidence of public concern. There were more than 1,592 letters and 4,744 signatures on petitions objecting to the proposal prior to the opening of the inquiry¹⁸⁶. In addition to the Council the neighbouring planning authority which would also be affected, Salford City Council, has objected to the proposal¹⁸⁷. There has been widespread objection from elected members and MPs¹⁸⁸. A wide range of objections were raised by the public, the majority of which related to concerns about air pollution, health and sustainability¹⁸⁹. The public concerns have resulted in the organisation of BCAG who have submitted extensive material outlining the public's concerns¹⁹⁰. In contrast there has been very little public support for the proposal. The majority of those supporting the proposal do not appear to have any real links with the local area and will not be affected by the proposal. It is not entirely clear why all of the supporters have written, although there does appear to have been a public relations campaign eliciting support for the proposal¹⁹¹.
296. The number of representations and concerns included in them are unprecedented in the experience of the Council. In the 10 years prior to the application the two most controversial planning applications (one of which involved Lancashire CCC's stadium) attracted 708 letters of objection and 263 letters and 3 petitions comprising a total of 1,003 signatures respectively¹⁹². The refusal on grounds of public perception in this case therefore is rare and arises out of exceptional or special circumstances in accordance with the approach outlined in *Newport*¹⁹³.
297. In order to give weight to the public's concerns it is not necessary to establish that they are well founded or scientifically supported. Care must be taken not to preclude proper consideration of this issue as a material consideration. The whole point is that public concerns need to be considered even though the concerns have not been made out. In this case, however, there is substantial

183 AW para 181

184 See for example the summary in AW paras 183 and 184

185 See AW paras 201 - 204

186 AW para 210

187 AW para 210

188 AW para 213

189 AW para 221

190 AW para 222

191 See AW paras 225-235

192 AW 239

193 AW para 240

evidence to support the public's concerns and demonstrate that they are well founded and are not irrational.

298. A substantial part of the appeal site falls within an AQMA¹⁹⁴. The appeal site is immediately upwind of the largest area of AQMA designation in Greater Manchester¹⁹⁵. The AQMA is particularly sensitive to development which may have an impact on local air quality¹⁹⁶. The appeal site is accordingly partially sited within an area particularly sensitive to development which may have an impact on local air quality and the remainder of the site is immediately upwind of such an area¹⁹⁷.
299. The site is upwind of Barton which is a particularly deprived area¹⁹⁸. The residents of Barton suffer disproportionately from ill health and it has a particularly poor life expectancy compared to England, the North West and Salford¹⁹⁹. The proportion of its population who perceive their health as not good is nearly 50% higher than the national average²⁰⁰. It is clear that particularly deprived parts of Barton fall within the AQMA and the area affected by this proposal. The health status of the Trafford wards surrounding the appeal site are either poor or at average levels for Trafford²⁰¹. All of this was accepted by the Appellant's Air Quality witness and he further agreed that these areas are particularly vulnerable to deterioration in air quality and contain people who are least able to cope with any such deterioration.
300. The EU Air Quality Directive²⁰² sets an objective of 40µg/m³ annual average for NO₂, which was legally required to be met by 1st January 2010. It is agreed that there are locations within the AQMA where that is not being met and accordingly the UK is in breach of the Directive and therefore European law with respect to the AQMA²⁰³.
301. This was also the position of the EA. The EA's own advice was that there are 'no grounds for assuming background annual mean NO₂ levels are below the relevant environmental standards'²⁰⁴.
302. The Appellant originally accepted that there were a number of locations within the AQMA where levels well in excess of the standard should be considered to apply, including at Tindall Street²⁰⁵. In cross-examination the appellant's witness attempted to reduce the number of locations where this was the case. It can be noted that this occurred after he conceded that the earlier analysis of impact in these locations had relied on use of the chemistry module which had been rejected by the EA. The reason for changing position was not convincing. In particular reliance was placed upon the readings at the Salford Eccles

194 SO XX and AW para 16

195 SO XX and AW para 30

196 SO XX, CD 7 p32 para 6.21 penultimate bullet point and AW para 72

197 SO XX

198 AW paras 445-447

199 AW paras 446-450

200 AW para 448

201 JH 6.7.1

202 CD 89 EU Directive 2008/50/EC

203 SO XX and AW para 19

204 AW para 18

205 See CD 15B p5

station, but the witness had been aware of these readings when he had previously accepted that the levels were higher elsewhere. There are a number of reasons why the reading at Salford Eccles could be expected to be lower including: (i) the traffic flows on the M602 (which is the relevant motorway near Salford Eccles) are only about half the flows on the relevant section of the M60; (ii) Salford Eccles is upwind of the motorway and accordingly will be less affected by the traffic (in contrast significant affected areas of the AQMA are downwind of the motorway); (iii) the relevant part of the M602 is in cutting which will further reduce the impact upon the Salford Eccles monitoring station (in contrast the relevant section of the M60 is elevated).

303. The Appellant relies heavily upon the DEFRA submission to the EU with respect to applications for derogations from the Directive (which was subsequently withdrawn). It is said that this shows that the exceedance in 2015 will be in limited areas. However the Appellant's witness did not adduce any evidence as to what he thought the position would be; he merely drew attention to the DEFRA submission. In reality, as TBC's and BCAG's witnesses explained, any reduction in NO₂ had been very limited over the last 10 years and had consistently failed to accord with expectations and predictions. This was particularly the case with respect to NO₂ associated with vehicle emissions which is the main source of NO₂ with respect to this AQMA. They both explained that for there to be any prospect of meeting the Directive by 2015 there would have to be a step change in emission reductions and that they did not consider there was any possibility of this step change being achieved by 2015. They were firmly of the view that there was no prospect of the objective being met by 2015.
304. The Appellant did not expressly address these points but instead argued that it would be necessary to find that DEFRA were wrong in order to find in favour of TBC and BCAG's case. It is clear there is no substance in the Appellant's case. The Appellant's witness agreed that to achieve the required reduction in the background NO₂ level would require a step change and that he was unable to identify anything which might achieve this step change by 2015. He also agreed:
- that the DEFRA study to support the submission had been undertaken some time ago (he thought probably 2008/2009).
 - that the study used national rather than local data.
 - that the study did not take into account new or consented development.
 - that since the preparation of the study important data had changed including the fleet composition projections (changed 7th August 2012) and the national atmospheric emissions inventory.
 - the road traffic emissions factors have changed since the original modelling was carried out.
 - that these are important changes but no modelling has been undertaken to consider their implications.
 - The DEFRA study and modelling which supported it was not up to date.

305. It is clear on this basis that the DEFRA study and modelling is not up to date and there have been significant changes since it was undertaken. Achieving the Directive objective by 2015 would require a step change in emission reductions and there is no realistic prospect of this occurring. The correct basis upon which to proceed at the inquiry is that the objective is not likely to be met in this area before 2020²⁰⁶.
306. NO₂ is harmful to health and research has shown that it has not been possible to establish a safe level for NO₂²⁰⁷. A review of the research has suggested adopting an annual mean of only 20µg/m³ which is half of the current objective²⁰⁸. It is important to keep this in mind when considering the points made by the Appellant about compliance with standards – the setting of standards is driven by wider calculations than simply safe levels.
307. It is agreed that it is clear that people within the AQMA, including those in poor health are subject to levels of NO₂ in excess of the current EU Directive and that this proposal will add to those levels. The appellant's witness agreed that as a result of the proposal an area that already suffers disproportionately from ill health will be subjected to a deterioration in air quality, although he qualified this by saying the deterioration would be negligible²⁰⁹. This deterioration would come after a long history of the area being subjected to unacceptable levels of air pollution²¹⁰.
308. The evidence shows that there is growing public concern about air quality locally, nationally and internationally. There is a clear and sound basis for people to be concerned that air quality should be improved. The concern is enhanced by current and past failures to meet legal limits. There is a clear and sound basis for concern that the current standards should be achieved as soon as possible.
309. Although the planning system operates on the basis of an assumption that the pollution control system will operate effectively and efficiently the Appellant's witness recognised that this would not of itself remove public concerns and perceptions of risk²¹¹. He agreed that there were aspects of the EA's consideration of this matter which would increase public concerns about these issues. For example, the EA had concluded that it was inappropriate to use the chemistry module in modelling the oxidation of NO to NO₂ and that they did not consider this was sufficiently robust. However, in addressing the issue of cumulative impacts the EA then relied on calculations and modelling using the chemistry module²¹². There is no explanation given for this approach and no logical basis given the EA's stated position for taking this approach which can only be considered an error.
310. The EA failed to note that the modelling had used an inappropriate input for the Monin-Obhukov length – but when this was pointed out to them they

206 See AW paras 352-360

207 SO XX and AW 417

208 SO XX and AW 418

209 SO XX

210 SO XX and AW paras 312-316

211 SO XX

212 SO XX and see CD 67b p65

agreed that the input used in the model was wrong but concluded it would not make a material difference without any form of assessment.

311. The public's concerns with respect to efficacy and reliability of the pollution control regime is agreed to feed into public anxieties on this issue²¹³. Furthermore it is agreed that these anxieties themselves have health impacts²¹⁴. The WHO definition of health is 'a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity'²¹⁵. This holistic definition means that health effects may arise either from exposure to harmful emissions or by anxiety caused by the perception that such exposure would be harmful. This is important because even if the perception is unfounded there could still be a health impact within this WHO definition – and Newport needs to be considered in this light²¹⁶.
312. TBC's witness explained how factors associated with the processes in this case impact upon perception of risks. Defra has indicated the characteristics of a development which increase the perceived unacceptability of associated risks. These are unfamiliarity, control, proximity in time, proximity in space, scale and dread factor²¹⁷. The Department of Health produced a similar list in the 1997 Guide 'Communicating About Risks to Health: Pointers to Good Practice' which showed that risks are generally more worrying and less acceptable if perceived (i) to be involuntary, (ii) inequitably distributed, (iii) inescapable, (iv) to arise from an unfamiliar or novel source, (v) to result from man-made rather than natural sources, (vi) to cause hidden and irreversible damage, (vii) to pose some particular danger to small children or pregnant women or more generally to future generations, (viii) to threaten a form of death (or illness/injury) arousing particular dread, (ix) to be poorly understood by science, (x) to be subject to contradictory statements from responsible sources, and (xi) to damage identifiable rather than anonymous victims²¹⁸.
313. The appeal proposals and the risks associated with them plainly have the various characteristics identified above. The Appellant relies upon statements from Professor Bridges but he plainly accepts the assessments outlined above – he does not contest the advice from either DEFRA or the Department of Health, indeed he refers to similar factors²¹⁹.
314. Professor Bridges essentially makes two points – (i) that whilst it is impossible to establish that there is no impact the evidence does not identify a significant impact²²⁰ and (ii) it is imperative to focus on the objective assessment of the situation²²¹. This is of course the argument that has previously been advanced in the past in support of many pollutants which are now universally acknowledged to be unacceptable, such as the tobacco and asbestos

213 SO XX

214 SO XX

215 AW para 258

216 AW para 260

217 AW para 254

218 AW para 255

219 SO XX and SO rebuttal App 1 pp 11 and 14

220 SO App 1

221 SO rebuttal App 1

industries. The approach moreover fails to address or even understand the point in issue and is contradicted by Professor Bridges' own statement.

315. Professor Bridges states that concerns about risk and perception of risk may not correlate to actual levels of health risk. This means such concerns and perception may not correlate to objective assessments of risk based on research. In turn this must mean that such objective assessments cannot tell us what the level of public anxiety will be. As anxiety impacts on health this must also mean that such assessments will not be able to predict the impact of a proposal on health. Objective assessments will not therefore be able to predict or inform the health effects and outcomes of a proposal. As such objective assessments cannot establish levels of anxiety and therefore health outcomes; simply focussing on such assessments as Professor Bridges advocates would result in deciding an application on an incomplete basis which fails to consider the full health impacts of a proposal.
316. The internal inconsistency in Professor's Bridges report is linked to his failure to appreciate or acknowledge that anxiety arises precisely because such objective assessments are not trusted. The past record of such assurances on matters such as tobacco and asbestos and past failings with respect to control of incineration all feed into this anxiety. Given that public perception and anxiety is a material planning consideration it is no answer to argue that this consideration should be given little if any weight because of objective assessments of risk. This is really an argument to ignore this very material consideration.
317. When considering arguments raised with respect to objective assessments it is also important to keep in mind that a major problem in this area is that it is very difficult to conduct epidemiological studies because of the complexity of factors affecting human health (as demonstrated in the case of tobacco and asbestos)²²².
318. In considering this matter generally it is relevant to have regard to the views expressed by the HPA. The HPA's general position is that 'it is not possible to rule out adverse health effects from modern, well regulated municipal waste incinerators with complete certainty' but 'any potential damage to the health of those living close-by is likely to be very small, if detectable'. They consequently advise since effects are likely to be very small studies of public health around such incinerators are not recommended²²³. It can be seen that the HPA do not say that there will be no health impacts, rather they say there could be health effects but they are likely to be very small. This clearly does not assuage public anxiety, indeed in the light of this statement it cannot be said that there is no rational basis for public anxiety.
319. Furthermore, although the HPA advised that they did not recommend further studies, they have now commissioned further research on the link between emissions and health outcomes. This research has been commissioned because the HPA 'recognise that there are public concerns about this issue'²²⁴. This not only provides important evidence of public concern but also indicates that the

222 SO XX and see AW paras 275-286

223 CD 78 and SO para 2.5.1

224 CD 79 and SO para 2.5.2

HPA considers (a) that it cannot be dismissed as unfounded and (b) it is of sufficient weight and importance to merit the cost of further research.

320. Reliance is also placed upon the assurances provided in the 2007 Waste Strategy²²⁵, but this is in turn dependent upon the DEFRA 2004 report which was based upon 23 studies²²⁶. There are very clear limitations with respect to this evidence²²⁷.
321. It can be seen at the general level there is a sound basis for the public's concerns. There are furthermore factors specific to this proposal which provide strong reasons why in this case considerable weight should be given to the public concerns. I have already mentioned concerns held by the public with respect to the assessment of the proposal. There are further significant areas of concern particular to this proposal.
322. In this case the proposal involves an abnormally low stack. The Appellant's witness is unaware of any similar biomass plant operating with a stack height of less than 45 metres, or a stack that is only 2 metres higher than the building²²⁸. The stack height has been fixed by the constraints imposed by the airport²²⁹. In the absence of those constraints a higher stack would have been provided²³⁰. One could have expected something comparable to the stack at the proposed biomass facility at Ince Marshes. At Ince Marshes the stack height is 85 metres and this was fixed with respect to reducing ground level concentrations of NO₂ to address a particular concern with respect to the impact upon the SAC. This is not an impressive argument – whilst proper regard should plainly be had to the interests of the SAC there are no grounds for suggesting that the interests of birds within the SAC are of more importance than the health of vulnerable people within an AQMA where there is an extant failure to comply with EU law. This is merely another factor which feeds into public perception and anxiety.
323. The stack height and arrangement relative to the building are agreed to be a non-standard arrangement and will not have been the type of arrangement anticipated in modern facilities. It would not have been envisaged when the authorities made statements about the health effects of modern well run incinerators. This was another matter which introduced a degree of uncertainty and that it would impact upon health concerns and public anxiety.
324. The proposal relies upon achieving an emission standard of 125 µg/m³ of nitrogen. This is a further example of non-standard plant operation which will add to public perceptions of health risks²³¹.
325. No boiler manufacturer has been able to identify any plant operating at that level of emissions. No boiler manufacturer has warranted that it would provide plant which could or would operate to those emissions²³². Reliance has been

225 CD 76

226 AW 289-290 and SO XX

227 AW 291-301

228 SO XX and AW 25

229 SO XX and ES para 12.35

230 SO XX

231 SO XX

232 SO XX

placed on replies from boiler manufacturers on this issue²³³. When one turns to the details provided, Andritz provide no operational data. They merely say that they trust it would be achievable in principle which offers no certainty. It is clear from their letter that their view depends upon a very precise fuel input and that the proposal would not involve fuel that meets that specification (namely waste wood with a particular nitrogen content as a single fuel)²³⁴. The Appellant's witness agreed that the proposal did not accord with the Andritz assessment. B&W stated that they felt confident that it would not be a problem but if that were the case it begs the question why this level is not being required elsewhere if it is so easily achieved.

326. In considering this issue it is important to note that the Western Bio-energy plant at Port Talbot is not managing to operate to these levels despite burning virgin wood which is associated with lower nitrogen emissions and that the nitrogen emissions have steadily risen as waste wood was introduced to the plant²³⁵. The need to operate to these abnormally low levels adds another level of uncertainty and feeds into public perception and anxiety.
327. The assessment did not take into account traffic emissions even though there would be traffic emissions associated with the proposal which would add to the predicted levels²³⁶. This means that the assessment was not a conservative assessment as one could have expected. The Appellant now seeks to put a figure of 0.76% on the additional impact of traffic emissions, but this assessment has itself adopted optimistic assumptions and unrealistically assumed that traffic would be running at a steady speed without stopping.
328. A further area where the modelling had been unrealistically low was the use of the incorrect Monin-Obhukov length. This error is now accepted. The Monin-Obhukov length is important because of the urban heat island effect which has important implications for the ability of emissions to disperse or alternatively to be grounded in greater concentrations. This could easily have been remodelled, and it was revealed for the first time in cross-examination that it had been remodelled. The unverified result was said to add about 0.05µg at Tindall Street, which would increase the process contribution from 0.69 µg to 0.74 µg. This is a further matter which raises public anxieties and perception of a harmful health impact.
329. The proposal is sited in an area which already is a hotspot for NO² emissions and the effect of this proposal would be to release at least 104.5 tonnes of NO_x each year (this is using the lowest figure, it could be considerably higher)²³⁷. This would increase the NO_x emissions from the local grid km square by some 178%²³⁸. The relevance of these particular statistics was contested, the argument being that the Inquiry should concentrate on the impact rather than the volumes. However, the accuracy of the points was not disputed. Furthermore this approach was considered important by the

233 CD 23 App A

234 SO XX

235 AW 393, SO rebuttal 2.48 and SO XX

236 SO XX and S rebuttal 2.11

237 AW para 26

238 AW para 28

inspector and the SoS in the Blue NG appeal²³⁹. This must be seen in the context of substantial additional releases in a hotspot and within and upwind of an extensive AQMA which was not complying with the requirements of EU law with respect to NO₂ emissions. This all adds substantially to public perception and concerns.

330. The Blue NG appeal is clearly comparable with the appeal proposal. Both involved substantial additions to an area of poor air quality impacting upon people with poor existing health. The Appellant's attempts to distinguish the decision are misconceived given that this is the important area of comparison.
331. It is furthermore important to recall that the HPA in advising on this scheme did not address the impact of additional air pollution with respect to NO₂ on the AQMA, nor did they undertake a health assessment with respect to this issue. The HPA response²⁴⁰ addresses point emissions to air in section 5. The first two paragraphs of this section merely summarise what was done and said by the Appellant. The third paragraph then states 'with the exception of nitrogen dioxide emissions, which are considered separately below' which means that this paragraph did not address NO₂ emissions. These are considered separately in the fourth paragraph and this paragraph observes that 'despite emissions of nitrogen dioxide levels being extremely low they will inevitably add to the existing high levels...data indicates that background levels are particularly high, and above the AQS objective in the northern part of the AQMA...the responsibility for assessing such impacts rest with the Local Authority and so we do not intend to comment further on this specific issue.' The HPA then undertook a human health risk assessment with respect to identified issues in section 6 of the response, but these did not include an assessment with respect to NO₂. It is clear that the HPA did not assess the impacts of the additional NO₂ emissions and made it very clear in their response that they had left this matter for the local authority.
332. The response from the HPA cannot therefore provide any answer to the public perception of risk or anxiety in this case and must in any event be viewed in the context of its general position that it cannot rule out health impacts.
333. The local authority has made it clear from the outset that it does not consider this to be a good location for this form of proposal given the existing poor air quality, the presence of sensitive receptors and the constraints imposed by the site.
334. The evidence established that there are areas within the AQMA which exceed, in some cases substantially, the EU Directive objective of 40µg/m³. The proposal will result in additions of over 0.7µg/m³. That is a significant addition in the context of this locality and the public perception and anxiety is rationally formed. In the particular circumstances of this case considerable weight can be given to the public perception of risk.
335. Paragraph 124 of the Framework provides that planning policies should sustain compliance with and contribute towards EU limit values or national objectives for pollutants, taking into account the presence of AQMAs and the cumulative

239 CD 150

240 CD 34 Feb 2011

impacts on air quality from individual sites in local areas. Planning decisions should ensure that any new development in AQMAs is consistent with the local air quality action plan. The proposal fails to comply with this guidance, and is a further respect in which it fails to satisfy the Framework and fails to represent sustainable development as set out in the Framework.

336. The proposal has resulted in unprecedented public concern. There is a substantial objective basis for this concern. The proposal will add NO² to an existing area of poor air quality. There are furthermore important constraints and uncertainties associated with the proposal.
337. The proposal is constrained by the close proximity to Barton Airport which means that the stack height is half that of the comparable plant proposed at Ince. No similarly sized plant has such a low stack height. Furthermore there is no similar commercial facility anywhere in the world operating to a similar emission standard. Given the existing poor air quality in the AQMA it is a particular concern that the proposal involves non-standard plant and emission standards.
338. In the absence of a directly comparable operating plant it is particularly important that one should have confidence in the work that has been produced in support of the proposal. However, TBC has demonstrated that there are a number of uncertainties attached to this evidence.
339. Given this combination of factors and the increasing body of respectable scientific evidence and opinion addressing the health impacts of air pollution there is a sound and objective basis for the concerns of local residents. The Appellant recognises that public perception of risk is a material consideration the issue they raise is the weight to attach to this consideration. In the light of the evidence significant weight can be attached to perception in this case, sufficient to outweigh the general support provided for proposals of this nature.

Conclusion

340. The proposal would provide additional renewable energy. The Council supports the provision of renewable energy and acknowledges the need for additional renewable energy and the general support for such development in policy. It acknowledges that significant weight is to be given to the wider environmental, community and economic benefits of renewable energy proposals. However, it remains necessary to consider the impacts of the proposal and to balance any harmful impacts against the benefits of the proposal.
341. The proposal would not represent sustainable development as set out in the Framework. It would have a detrimental impact on air quality in an area of poor air quality. The area contains vulnerable people least able to cope with a deterioration in air quality. The evidence clearly establishes that in this case considerable weight should be given to the perception of the effect of the proposed development on human health. The proposal would also have a seriously detrimental impact on the continuing improvement and regeneration of the local area. These harmful impacts outweigh the benefits associated with the proposal.
342. In the circumstances the Council ask that this appeal should be dismissed.

The Case for Breathe Clean Air Group (BCAG)

Introduction

343. This is an inquiry held into the appeal by the Appellant of the decision by the Local Planning Authority ('the LPA') to refuse the application for planning permission given on 5 December 2011 [CD 48]. BCAG object to the Appellant's application for planning permission for its planned development of the 20 Megawatt biomass incinerator / renewable energy plant (BREP) at a site bordering the south side of the Manchester Ship Canal partly to the west of Barton Bridge in Davyhulme and partly to the east of the bridge in the Borough of Trafford.
344. For the most part BCAG shares the concerns of the LPA and adopts its reasons for objecting to the proposed development. In addition BCAG has also provided its own reasons for objections to the proposed development. BCAG was not party to the SoCG agreed between the LPA and the Appellant and is not bound by its contents [CD54]. Insofar as the Appellant takes any point about the LPA pursuing reasons for its objection to the development which are contrary to the contents of the SoCG, such matters do not apply to the arguments raised by BCAG. In any event, they are not material to the matter on which the Inspector will be required to advise the SoS.
345. The proposed site lies partly within and partly downwind of an AQMA. The AQMA was instituted because of the poor quality of air in the relevant area; the air quality being primarily attributable to the main traffic routes in the area (in particular the M60). The AQMA was designated in part because of the risk of non-compliance with EU Directive 2008/50/EU which provides, in particular, for safe or acceptable levels of annual concentration of Nitrogen Oxide (NO₂) for the protection of human health.
346. The site for BREP is also situated near to a residential suburban area. BCAG was formed by residents of that area. Its membership comprises predominantly residents of Urmston, Davyhulme and Flixton.
347. Since the making and publication of the decision to refuse planning permission in December 2011 there have been significant changes to both national and local planning policy. At a local level, the majority of the UDP which was in place at the time of the decision has been superseded by the CS [CD 62] and the GMJWDP [CD65] in April 2012.
348. In accordance with s.38 (5) of the 2004 Act where policies in the development plan conflict the conflict must be resolved in favour of the last document to be adopted or approved or published.
349. These submissions address four specific points which complement the case of the LPA in objecting to the grant of planning permission. The four points which BCAG wishes to emphasise to the Inquiry are:
- i. That the proposal offends the waste hierarchy and is consistent with the requirement of sustainable development. This in turn gives rise to a public perception of risk to the environment and public health.
 - ii. The proposal is inconsistent with the plan requirements for Combined Heat and Power (CHP);

- iii. The proposal will give rise to a detrimental impact on public confidence thereby prejudicing continuing regeneration.
- iv. The proposal will contribute to the impairment of local air quality and give rise to a public perception of risk to the environment and health.

The approach to be taken

350. As reflected in the agreement as to the composition of the development plan, it is not in dispute between the parties that the SoS will determine the appeal by reference to the development plan which is in place at the present date rather than by reference to the plan which was in force in December 2011.
351. It is also common ground that public perception and opinion constitutes a material consideration for the purposes of s.38(6) of the 2004 Act. The Inspector is referred to the decision of the Court of Appeal in the case of *Newport County Borough Council v The Secretary of State for Wales and others* [1997] EWCA Civ 1894. In that case it was affirmed, by Hutchinson LJ, that genuine public perception of risk to health or the environment constituted a valid material consideration irrespective of whether it was objectively well founded by reference to expert evidence.
352. In his decision in the Newport case Aldous LJ held that: 'perceived fears of the public are a planning factor which can amount (perhaps rarely) to a good reason for refusal of planning permission'. The Court rejected the submission that in order to be conclusive public perception needed to be justified by express expert evidence which confirms a likely absence of demonstrable harm to the environment or public health. All three Lord Justices agreed on this point, notwithstanding the majority decision of the Court on the issues before it.
353. The issue for the decision maker is the weight which is to be accorded to the public perception of risk to health and the environment. Each case must be addressed on its own facts and merits. Little assistance is afforded by other decisions made about other proposals for other areas. The decision as to the weight to be given to public perception of risk falls within the exercise of the discretion of the decision maker. That discretion is not circumscribed by any express set of guidelines or criteria set out in any authority. The discretion needs only to be exercised reasonably. The decision maker will consider the factors which give weight to the public perception of risk and those which dilute its significance as a material consideration.
354. It is submitted that factors which will give weight to the public perception of public risk to health and the environment are:
- i. Evidence as to how widespread the perception of risk is to the local public;
 - ii. The nature of the perception in terms of the perceived detriment to health and the environment;
 - iii. The evidence which gives rise to the perception;
 - iv. The material local factors which are specific to the area and context in which the proposed development is to be located.
355. These are issues consistent with the planning authority's exercise of its power and do not transgress into the areas of concern for the EA.

Detailed submissions

Sustainable development

356. The BREP proposal is to be a wood burning facility. The application is founded on the plant burning in the range of 180,000 to 200,000 tonnes of wood each year of its operation on an availability of 90%. This availability relies on the Appellant's evidence as to maintenance and closure time for the plant. The figures are set out at paragraph 3.33 of the ES on which the Appellant relies. [CD5a]
357. The ES states that 65%– 75% of the fuel stock will be waste wood which would otherwise 'predominantly' be sent to landfill; 30% of the total fuel stock being virgin wood. Paragraph 3.34 of the ES avers that 'In order to ensure the plant's operation remains environmentally sustainable, fuel will be sourced from a number of northwest based suppliers, minimising the distance the fuel will need to be transported'. It continues that in terms of 'the sustainability of the fuel supply, [it] is noteworthy that waste wood will account for the majority of the proposed fuel. This maximises the development's sustainability in reclaiming a resource which would otherwise be sent to landfill and extracting the energy potential from this material'. This assertion is repeated in the Planning Statement at paragraphs 4.17 and 4.18[CD6].
358. Paragraph 5.19 of the Planning Statement asserts that 'evidence has shown that 550,000 tonnes of waste arisings are available per annum in the region. Of this, 20% is considered to be clean and can be diverted to existing markets ... the remaining 80% (440,000 tonnes) is sent to landfill and the energy potential of this material is therefore wasted'. The evidence cited by the Planning Statement is the 2009 WRAP Waste Wood Market Report [CD82]. On the basis of the figures cited, the Planning Statement asserts that BREP would consume 32% of the available waste wood in the north-west region (approximately 140,000 tonnes).
359. In its Supplementary Statement [CD15a] the Appellant addressed the concerns raised by GMGU about the compliance of the proposal with the GMJWDPD and PPS10. It was the Appellant's submission that the GMJWDPD should be given "very little weight in determining the application" (paragraph 2.17). The only two reasons given for the assertion were that the primary function of BREP was not waste management and because at the time of the Supplementary Statement the GMJWDPD was not yet part of the development plan (paragraph 2.18).
360. The Supplementary Statement repeated the statistics cited above as to the source and proportions of the plant's fuel stock (paragraphs 2.22 – 2.23) in purported compliance with the waste hierarchy. The only evidence cited to support the submission as to the availability of the annual volume of waste wood was the same 2009 WRAP report cited in the ES.
361. BCAG and other members of the local community had raised concerns about the availability of fuel source for the plant. From paragraph 3.9 of the Supplementary Statement the Appellant addressed the issues raised. The Inspector is referred to paragraphs 3.40 to 3.47 of the document. At paragraph 3.42 the Appellant confirmed that whilst documents advanced by local residents illustrated the narrowing gap between supply and demand for

timber 'BREP will primarily generate energy using waste wood, i.e. that which is leftover from other uses and which has no other function. BREP will not therefore be competing with manufacturers of timber derived products but will utilise material which such business cannot use'. The Appellant asserted that BREP would 'in no way' be reliant on an increase in supply of timber either from increased levels of production or importation.

362. It is therefore evident that the Appellant has firmly based its entire case in respect of sustainability and compliance with the principles of the waste hierarchy for the proposal on a supposition that the relevant type of waste wood will be available in the region in sufficient volume to meet its stated needs. This supposition is in turn founded on the data cited in the ES, the Planning Statement and Supplementary Statement. Where this data is shown to be inaccurate or to be at significant risk of being inaccurate for the period in which the plant will be operational or the supposition as to availability of the necessary fuel stock is shown to be questionable a number of questions will arise about the compliance of the plant with the development plan and the nature of public perception of risk to the environment and health.
363. The issue of proposal's adherence to principles of the waste hierarchy are central to the determination of an application for planning permission under the national framework and the local policies which compose the development plan which is now in place.
364. In terms of the national framework PPS10 provides for unallocated sites that applicants should be able to demonstrate that a facility will not undermine the waste planning strategy through prejudicing movement up the waste hierarchy (paragraph 25). [CD57] The Inspector is further referred to paragraph 5.15 of Mrs. Harding's proof of evidence as to the relevant provisions of PPS 10.
365. The NPPF requires planning authorities to assess and determine development proposals by applying the presumption in favour of sustainable development (paragraph 197) [CD56]. The NPPF, at paragraph 7, details the function of the planning system by reference to economic, social and environmental roles which are not to be taken in isolation and are (as paragraph 9 indicates) to be pursued toward sustainable development.
366. In her evidence at paragraph 5.4 of her proof Mrs. Harding describes how the CS has replaced the UDP. She further gives evidence how the LPA took into consideration the emerging CS when reaching its decision. The Inspector is asked to accept this evidence when making his recommendation.
367. At Policy L 6 .2(b) the CS states that the Council will require: 'all developers of new waste management facilities within the Borough to demonstrate the proposal's consistency with the principles of the waste hierarchy'.
368. L 6 .3 of the CS provides that 'In determining applications for new waste management facilities within the Borough, the Council will have full regard to the environmental, social and economic impacts of such developments, including the scope for securing long-term benefits in improving the regeneration of areas in need of investment and co-location with other employment uses'.

369. Paragraph 15.6 of the CS adopts the language of PPS10 when identifying the role of the planning decision making process to provide that 'Waste management facilities have a range of environmental, social and economic impacts which need to be taken fully into account by the planning decision making process'.
370. The CS and the GMJWDPD replace, in their combination, the provision of the UDP to which the LPA made reference in its 5 December 2011 decision. The two adopted policy documents are to be construed together in order to identify the criteria against which the Secretary of State must make his determination.
371. The general statement of purpose contained in the GMJWDPD provides that it is intended to "provide a sound spatial planning framework to deliver sustainable waste management in Greater Manchester consistent with the national planning policies and the Waste Strategy for England 2007". Contrary to the submissions of the Appellant it is submitted that both documents should be afforded material weight by the Inspector.
372. Of the objectives contained in the GMJWDPD the following are critical to the issue of sustainability:
- i. Objective 2 which requires the promotion of the movement of waste up the waste hierarchy assuming minimisation at source, increasing re-use, recycling and recovery.
 - ii. Objective 6 which operates to ensure appropriate protection for the quality of life of communities.
 - iii. Objective 8 to reduce waste movements and, where waste needs to be moved, to promote the sustainable movement of waste across the sub-region.
373. Paragraphs 104 to 116 of Mr. Watson's proof of evidence illustrate the emphasis attached to compliance with the waste hierarchy in UK planning strategy and at the level of EU policy in the Waste Framework Directive 2008/98/EC[CD90]. Mr. Watson also illustrates the dependency of a number of industrial sectors on waste wood which are unlikely to change because of the absence of an alternative biomass form to alleviate that dependency (page 25 Box 10 of his proof of evidence).
374. The Inspector is referred to Mr. Watson's evidence in response to the Appellant's assertions and projections contained in the ES and following addenda, in particular at paragraphs 125 to 136. Mr. Watson demonstrates how the figures given for wood waste arisings in the WRAP 2009 report have been misunderstood or misrepresented by the Appellant with effect that the total wood waste arisings have been presented as the volume previously sent to landfill.
375. The most up to date and reliable information in respect of the annual wood waste available for the market which is before the Inquiry is contained in the August 2012 DEFRA Wood Waste Landfill Restrictions in England Call for Evidence [CD80]. Mr. Singleton in his evidence accepted that this document contained the most recent data on the availability of waste wood for the biomass market. Although he sought to diminish the significance of the evidence in cross examination he accepted both that the Inspector should not reject the data contained in the DEFRA document and that comparatively, of

the recent documents adduced to provide information on this matter, this document was to be afforded the greatest weight.

376. The DEFRA document, in particular at Figure 3, states without caveat or qualification that 'our most recent analysis ... shows approximately 0.6mt of wood waste going to landfill in England'. The Inspector is asked to attach critical weight to this evidence. It is corroborated in all material respects by the evidence contained in the report produced by Tolvik Consultancy in June 2011, the 2011 Briefing Report: The UK waste wood market [CD 81]. Even if the DEFRA 2012 data is suggested to be provisional, the possibility that it is significantly inaccurate is highly unlikely. At the worst, its accuracy is likely to allow a very minor margin for adjustment and even if its figures were to be increased by 25% it would still render the Appellant's predictions materially inoperative.
377. The evidence is significant because it suggests that there is insufficient availability of waste wood of an appropriate grade going to landfill in the region to meet the needs of BREP in accordance with the projections on which the Appellant relies in its application.
378. This evidence needs to be appreciated in the context of the other relevant factors which are material to the availability of waste wood otherwise destined for landfill. First, the change in Government subsidy arrangements is likely to lead to a reduction in incentive to supply waste for biomass incineration. Second, there will be increased competition for appropriate grade waste wood both by other biomass incinerators planned for construction in the region and other businesses which rely on such wood for commercial recycling.
379. It is submitted that the evidence adduced by the Appellant to counter the data contained in the DEFRA 2012 document is unreliable and unconvincing. The articles exhibited to Mr. Singleton's rebuttal proof at Appendix F do not supply any alternative data. Their context and provenance is unknown. There is no evidence as to the motivation of their generation, including the possibility of political lobbying to which their internal contents submit the possibility. They rely on anecdotal narratives which in any event do not undermine or even call into question the DEFRA data. One of the documents predates the DEFRA report.
380. The AEA document exhibited at Appendix D of Mr. Singleton's rebuttal proof relies, as the footnote on page 2 shows, on a report produced for DEFRA and taken into consideration by DEFRA's later publication (that at CD80). In any event, the data contained in the report does not contradict or even call into question that contained in Table 3 of the DEFRA 2012 document.
381. It is submitted that:
- i. The evidence of the most recent and reliable data strongly suggests that the projections which lie at the core of the Appellant's fuel intake for BREP are flawed.
 - ii. It is highly unlikely that there will be sufficient availability of waste wood of an appropriate grade to satisfy the Appellant's fuel needs for its plant from sources otherwise destined for landfill.
 - iii. The possible consequences of this shortfall each in their way is contrary to the relevant elements of the development plan and / or inform the

- public perception of risk to health and the environment.
- iv. A shortfall in regionally based landfill destined waste wood will be likely to lead to the Appellant being required to source waste wood from remote sources or obtain waste wood which would otherwise be used for recycling in other industries or make use of lesser grade or contaminated wood.
- v. This gives rise to a material likelihood that the waste hierarchy will be offended rendering the proposal in breach of the planning requirement for sustainability.
- vi. There is therefore, justified public perception of risk in respect of the harm to the environment by the unrealistic projections advanced by the Appellant.
- vii. Further the Appellant's projections for emissions are based on very narrowly drawn assumptions about the plant's performance and fuel intake. There is minimal margin for variation in any one of its assumptions if its emission predictions are to be achieved. Should just one of the relevant variables differ materially from the projection, there is a very real risk that the emissions predictions will differ from those put before the Inspector. One such critical variable is the Appellant's fuel source predictions by reference to regional landfill volume for waste wood. It is submitted that the most up to date data informs public perception of risk that BREP emissions will not be as projected because it will be required to rely on alternative wood grades and types from those envisaged in the ES.

Combined Heat and Power

382. There is a short but significant point in relation to the provision of CHP from BREP. The proposals, for the reasons previously indicated falls to be assessed in accordance with Policy 8 of the GMJWDPD. This requires applications for waste management facilities to have the potential to use biogas or energy from waste fired technologies to provide combined heat and power unless it can be demonstrated that this would prevent the development of waste management facilities. This is a mandatory imposition.
383. The ES strongly suggests an absence of intention on the part of the Appellant to meet the requirement of Policy 8 in any meaningful way. There is no credible evidence that the facility specifications are designed to meet the requirement of Policy 8 or that the locality affords identifiable users. Only at a late stage has the Appellant relied on a bare assertion, unsupported by any disclosed documentation as to the potential to meet the CHP requirements of Policy 8. The Inspector is invited to attach little weight to evidence that a commercially confidential document, only latterly mentioned by the Appellant, contains information which is capable of addressing the mandatory requirement in Policy 8. All the available evidence points in the other direction to suggest that the Appellant does not meet the requirement and for this reason offends the development plan.

Prejudicial impact on continuing regeneration of affected areas

384. BCAG makes common cause with TBC in respect of the first reason for the refusal of planning permission in the December 2011 decision insofar as it is submitted that the proposed development would have a detrimental impact on

the vitality, attractiveness and self-confidence of the communities of Flixton, Dayhulme and Urmston and thereby prejudice the continuing regeneration and improvement of these areas.

385. BCAG did not call expert planning evidence on this point but relies on the evidence of Mrs. Harding for TBC, the factual evidence called by BCAG and that given by certain members of the public which illustrates the validity of the LPA's decision.
386. The Inspector is referred to the history of the relevant area and the evidence given as to its recent regeneration. The development is not consistent with the spatial profile of Urmston in the CS. The emphasis given to the distance of 250 metres from the development to residential properties is, it is submitted, not a point of significance in relation to the development plan. BREP will be sufficiently close to residential suburban areas to justify the findings in the first ground for refusal of planning permission by the LPA.
387. The level of public concern is reflected in the thousands of letters of objection written against the proposal and the petitions containing thousand of names against the development. Evidence was given by numerous local Councillors and residents that the level of objection had mobilised public support to a greater extent than any other public issue in memory in the locality. The public spoke with a single voice on the proposal without any credible local support for the proposal.
388. Evidence as to the detrimental effect on local businesses and the housing economy was given not only by Mrs. Harding but also by Mr. Manship, in particular in the appendices to his statement. It is submitted that the evidence adduced in Appendix 3 of Mr. Singleton's evidence was ill considered and unpersuasive.
389. This report, produced by Mr. Colin Hetherington to demonstrate 'that the proposal has not had a negative effect on the regeneration of the surrounding areas' should be treated with considerable caution and afforded negligible weight.
390. First, Mr. Hetherington does not give information as to his knowledge and experience of the relevant area. His business is located a considerable distance from the affected area and he does not cite any familiarity with the area. Second, his report does not conduct even a rudimentary assessment of the base position prior to the application for the development of BREP against which his assessment of the post-application position can have any meaning. Third, as evidenced in cross examination of Mr. Singleton, those conclusions are fundamentally flawed in respect of each of the projects he uses as a comparator. The statement given by a member of the public Mrs. Ashley Williams about the Barton Cross development (the state of the occupants' knowledge of BREP and the incentives given to purchasers) showed that Mr. Hetherington had conducted minimal research to substantiate his assertions.
391. Of equal significance was the character of the report. It appears that it was created more for the purposes of enabling a particular case to succeed than to assist the Inquiry with the objective assessment of an informed expert. The report does not countenance a range of views; it expressly sets itself up to demonstrate a particular premise and is selective in the data it presents.

392. The Inspector is also asked to attach weight to the evidence given in relation to the history of Urmston and Davyhulme. These are areas which have undergone significant regeneration in recent years. The fact Urmston is no longer an area designated for the need of regeneration in the CS indicates that recent steps have succeeded in restoring the area's 'vitality, attractiveness and self-confidence' to some degree but that this is particularly vulnerable to developments such as BREP.

Air quality and perception of risk

393. The site is located partly within and partly adjacent to an AQMA. The AQMA extends from the main traffic routes of the area across residential sections of the area. The rationale for the AQMA is defined by the EU Directives, which have been transposed into UK law by the Air Quality Standards Regulations 2007, designed to limit values for NO₂. These have been legally binding in England since 1 January 2010.

394. The distinguishing context in which this proposal is to be determined is that of its proximity to the AQMA and the evidence that residents of parts, if not the entirety, of the AQMA are being subjected to levels of NO₂ which are in excess of the lawful limits.

395. The recent history of the Governments submission to the European Commission in respect of the failures to comply with the terms of directive 2008/50/EC in respect of NO₂ levels is given in evidence by both Dr. Holman and Mr. Watson. The relevant factor in this matter is that the area covered by the AQMA remains in breach of the relevant provisions for NO₂ levels. It is the concern of BCAG that the proposed plan will exacerbate the breach and extend the period for compliance with the Directive. Even if the contribution of BREP to the levels of NO₂ in the area is in itself of a modest nature (and there is dispute as to its extent) that contribution needs to be weighed in the context of the already unacceptable conditions within the AQMA.

396. In paragraph 2 of her proof of evidence Dr. Holman gives evidence as to the role of the planning authority under the NPPF (citing paragraphs 102 and 109) to regulating development which contributes to unacceptable levels of pollution in a particular locality.

397. The critical factors to which the Inspector is invited to give weight in this case are identified by Dr. Holman and Mr. Watson in their proofs of evidence. In particular the following matters are relevant.

- i. Dr. Holman observes that the Appellant has not undertaken any monitoring or modelling of the background ambient concentrations of NO₂ in the affected area. This absence of either monitoring or modelling is critical because without it the Appellant is unable to know with any certainty the prevailing concentrations of NO₂ in any affected area. As conceded by Mr. Othen in cross examination, the Appellant is not in a position to know with any certainty whether locations such as Tindall Street are already in excess of the statutory levels of NO₂ or whether they will be caused to exceed the statutory levels by the contribution of BREP.
- ii. Dr. Holman observes that the uncertainty caused by the absence of modelling gives rise to an objective public concern as to the harmful condition of the NO₂ concentrations in the affected area.

- iii. The Appellant elected not to undertake any background monitoring of the area quality at projected areas of likely worst concentration. There is a dispute as to which receptors are likely to be worst affected or to suffer worst background air quality but in any event there has been no background monitoring of any street within the AQMA by the Appellant.
- iv. In his evidence Mr. Othen conceded that it was a possible public perception that the reason why the Appellant had not conducted monitoring was because it perceived that results would be unfavourable. Instead the Appellant elected to rely on monitoring results from the Salford Eccles monitoring receptor and in contrast from the Liverpool Road receptor. The arguments which have ensued as to the suitability of the Salford Eccles data as representative of Tindall Street derive entirely from the absence of any attempt to acquire accurate data for that receptor.
- v. Similarly the arguments which emerged in the course of the Inquiry about the accuracy of the Liverpool Road receptor because of its location and proximity to trees are predicated on an absence of any attempt to acquire accurate background data for the relevant locations.
- vi. In cross examination Mr. Othen stated that it would have been relatively inexpensive to have conducted monitoring and modelling (from traffic emissions) of the background air condition. He gave evidence that the modelling of traffic he considered to be irrelevant because of the minimal impact of the traffic increase attributable to BREP. The Inspector is referred to the evidence of Dr. Holman on this point in which she states that this misses the critical point that it is only such modelling which is capable of giving an accurate baseline comparator by which the effect of the proposal can be determined.
- vii. In re-examination Mr. Othen was invited to state that it was not reasonable for the Appellant to have conducted either monitoring or modelling of the background air quality. The matrix which composed reasonableness was not explained. Cost could not have been a factor because Mr. Othen gave evidence that such steps were relatively inexpensive. Timing could not have been a factor because there has been a considerable period of time in which the data could have been obtained from the first conception of the proposal. It is not therefore understood how the suggestion that it was unreasonable to expect such work to have been performed is to be made out by the Appellant. The argument of unreasonableness only serves to feed the public perception that the Appellant has elected not to collect data which it suspects will be detrimental to its case because it will evidence the unacceptable air quality of affected areas. There is no other credible explanation as to why air quality has been projected by comparison to other sites and not ascertained by direct assessment.
- viii. Paragraph 5 and 7 of Dr. Holman's proof are recommended to the Inspector as giving the most reliable evidence as to the objective basis for public concern at the likely impact of the BREP proposal in the context of the uncertainty as to the pre-existing base levels of NO₂ concentration.
- ix. Further the Inspector is asked to consider Dr. Holman's evidence given at the Inquiry as to the likelihood that there are other receptors situated closer to the M60 than Tindall Street which are likely to have NO₂ concentrations similar to the Liverpool Road diffusion tubes that are likely to be representative of the worst impact of the proposal's emissions.

398. Further public concern stems from the unconvincing evidence advanced by the Appellant to establish that the plant will be capable of emission levels of 125 µg/m³ for NO_x. There is no commercially operating plant in the world which performs at this level. Mr. Watson described the technology required to achieve such an operating target as experimental because there is an absence of evidence that such emissions levels have been achieved. The Inspector is referred to the Further Clarification document [CD23] provided by the Appellant in respect of the information contained in chapter 12 of the ES in this regard. It is submitted that the statements made by the Appellant are at some very considerable distance from the contents of the correspondence and documents adduced to establish the intended operating level.
399. There is a public concern that as with the choice of comparative receptor, the figure of 125 µg/m³ for NO_x levels has been chosen without reference to reliable data or evidence. The public perception is that data and projections have been advanced with the sole intention of supporting an argument that the percentage contribution to relevant NO₂ concentration levels will be less than 1%. The Inspector is referred to the evidence of Dr. Holman on the unreliability of the Appellant's evidence on this point as objective evidence of public perception of risk.
400. As indicated in the evidence of Mr. Othen under cross examination public concern is capable of being exacerbated by the knowledge that where a 125 µg/m³ level of emission is imposed the EA will allow a working level of 156 µg/m³.
401. The Inspector is referred to the written evidence of Dr. Raabe in respect of the particulates and Chromium VI emission levels which give rise to a public perception of risk to human health.
402. Mr. Watson's evidence on behalf of TBC as to the public perception of risk to human health should be viewed in the context of the sincere concerns voiced by the public both as members of the BCAG at the Inquiry and in public sessions. The evidence of Dr. Holman and Mr. Watson gives objective and substantial evidence as to concerns about the contribution to the air condition in the area of the plant which translates into a public concern for health, given the pre-existing detrimental condition of the air quality in the locality. The report of Prof. Bridges on which the Appellant relies expressly acknowledges that psychological concern for physical health (or the effects of living with a perceived risk) can in itself give rise to clinically diagnosable symptoms likely to be damaging to personal health. This further feeds the public concern.

Conclusion

403. For these reasons, in conjunction with the submissions made by TBC, it is requested that the appeal be dismissed. Given the particular facts of this case, which are peculiar to the locality and its history of poor air quality, public perception of risk should be given considerable weight in conjunction with the other concerns about sustainability to allow the appeal to be refused.

The Cases for Interested Persons

404. **Councillor Lisa Cooke** is a mother of two young children, a resident of Flixton and a locally elected Councillor for the Borough of Trafford. The proposal lies in an area which has been designated an AQMA. With pollution from chemical and recycling plants in the area, concern is exceptionally high. Like many Councillors she has been contacted by hundreds of residents who all share a very real perceived fear for their health and that of their children and families. The proposed stack height would be much lower than is usual for this type of facility, and will not be dispersing emissions, including fine particles, as well as it should. In combination with the gas fired plant at Carrington, the appeal proposal will have an unacceptable effect on air quality. The plant will burn waste wood, which incorporates toxic metals, and refuse derived fuel which includes waste plastics and could produce dioxins. There is uncertainty over the supply of waste wood, which could lead the operator to import other materials. There are concerns about contaminants entering the food chain through locally grown food. Emissions will come to ground in areas where people live, and will affect the 8 schools and four nurseries in the locality, which take children from as young as twelve weeks. There is a high risk of smog causing a hazard to traffic on the M60. An additional 550 HGVs per week supplying the plant will be a road safety hazard. The plant will only employ 10 people, but will harm the local economy. It will have an adverse effect on jobs and prosperity. It would take emission levels to their ceiling, so no other business could emit anything without exceeding the limit. It would damage the excellent progress on regeneration, as well as the confidence of the community and businesses. The decision to refuse planning permission was supported unanimously by all Councillors across all political groups. We do not want to leave a legacy of poor health to future generations.
405. **Dr Nigel Woodcock** is Chair of a local environmental pressure group, Chair of Trafford Green Party and a lecturer at Manchester College, with a doctorate in sociology. Health statistics for Trafford are not too bad at present though asthma and respiratory diseases are on the rise. If the proposal goes ahead some people will move away, but only those that can afford to move, which would skew the socio-economic fabric of the Borough. Those that remain would have to suffer the health consequence of the harmful emissions. The EA should never have issued a permit for the plant, which will emit toxins. The stack is not high enough to disperse toxic emissions. Allowing the appeal would undermine faith in the operation of democracy, in the face of cross-party opposition.
406. **Kate Green MP** said that hundreds of her constituents have written or spoken to her about the proposal. They are clear in their view that there is already too much pollution in that part of the Borough, and express significant concerns about the environmental and health impact of the proposal. They fully support the Borough Council, which highlights the challenge of meeting air quality standards in Trafford now. Widespread fears have been expressed about the health effects, including on respiratory illness, child development and on older people. The Government's planning reforms through the Localism Act aim to move away from the exercise of power by people who are not directly affected by the decisions they were taking. There is a strong expectation that the localism agenda will mean that the views of local people

should prevail. The unanimous decision of the planning committee reflected the very strong representations that had been made to councillors over the preceding months. Local people do not believe that the impacts of this proposal can be made acceptable. This application and appeal is seen as an early indicator of the true strength and effect of the localism agenda.

407. **Simon Bacon** lives in Derbyshire and recounted his experience during the commissioning phase of a waste wood gasification plant near his home. On 10 June 2012 the plant was seen to emit a volume of smoke at ground level. The incident was reported to the EA. Their response was that the operator claimed that the plant was shut down 2 hours before the reported smoke emission, and they had found no evidence of particulate emission limit breaches. They subsequently informed Mr Bacon that the continuous emission monitoring was not set up to record emissions while the plant was shut down. It can be concluded that the EA was not carrying out its regulatory functions properly during commissioning, when greater controls should have been in place. The public are fearful of emissions, and that the authorities are unable to protect the public from such incidents. Public fear and the perception of risk must be given the weight it deserves.
408. **Councillor David Acton** has lived in the Flixton/Urmston area all his life, has children and grandchildren living nearby and has been a Trafford Councillor for over 20 years, representing Urmston Ward and Gorse Hill Ward. The site is in a highly populated area with a number of schools close by. Hundreds of people have spoken to me of their fears about the health effects of the plant, particularly those who already have asthma and breathing difficulties. The plant will add to pollution, not only from the emissions but also the convoy of lorries carrying waste wood to the plant, causing congestion on the M60 and local roads. The stack would not be high enough to disperse pollutants effectively. The plant would also harm the regeneration of Urmston Town centre, which the Council has promoted, and would be harmful to the economy and jobs. In all his years as a Councillor this is the biggest and most controversial issue he has been faced with, as evidenced by thousands of signatures on the petition and marches through the streets of Urmston and Davyhulme.
409. **Councillor Andrew Western** has been a Councillor for Priory Ward which covers Sale town centre, several miles east/south-east of the proposal, since 2011. Dozens of his constituents have contacted him and many Sale residents have signed the BCAG petition to show their concern. They express fears about the threat to public health and consider that the science is unproven. He shares their concern, noting that there have been more than 75 fires or explosions at biomass plants since 2008 and understands why the public are concerned that contaminated wood may be burned containing lethal substances such as arsenic. These fears are genuine and a justifiable reason for the refusal of planning permission. Any risk to public health is a risk too far. The site is in an area of poor air quality, in part due to the sewage works and the M60, and the number of people affected by the plant would be high. The stack height would be half that of Peel's proposed plant at Ince Marshes, and will result in a higher level of pollution. The opposition of elected representatives should be recognised and the appeal dismissed.

410. **Terry Morford** represents **IDEA** (Improving Davyhulme's Environmental Awareness), a community group dedicated to promoting awareness of conservation and environmental improvement and undertaking community projects. They at first welcomed the proposed incinerator as a contribution to renewable energy. However, they now believe there are a number of major shortcomings which mean the project is not Best Available Technology, not least the shorter stack height which others have commented on. They consider that the EA has bent the guidance rules by stating that 'given the constraints imposed by other statutory regimes we accept that the height of the stack is BAT.' They also question the EA's determination that the process contribution to NO₂ will be negligible. This conclusion can only be reached because background levels are already high. Put simply, the more polluted the area becomes, the easier it is to say that further pollution is insignificant. The EA also failed to take into account vehicle emissions. Every time a large new development is proposed, the public is told that the increase in traffic will be insignificant. The cumulative effect is never properly considered. Traffic congestion and pollution is already unacceptable. Air Quality improved greatly since the passing of the Clean Air Acts. However with the number and scale of existing and proposed developments in the area, there is a real danger of slipping backwards.
411. **Juan Fernandez-Arias** is a concerned parent of three children who live, play and go to school in the area which will be affected by the proposal to burn toxic materials. He represents a church community, and is an employer of 12 people in the area. Perceptions matter, whether or not they can be fully substantiated. The overwhelming perception is that this plant has not been properly planned to minimise risk to life, health and wellbeing in the community, particularly as regards the stack height and the known risks of dioxins. The latest evidence raises serious questions about the viability of the plant, with insufficient levels of reclaimed wood available. The process has not been open or transparent. Data has been used selectively, and the debate conducted on a narrow technical basis without properly taking into account the effect on people's lives. Residents are not against economic development, but cannot understand why their lives should be put at risk for the sake of an unsatisfactory way of dealing with waste and producing energy. Laws are there to protect the public, and should not be manipulated in pursuit of sectional interests. The burning of toxic wastes in a residential area should be avoided at all costs. Atmospheric pollution does not respect geographical boundaries. The hopes and fears of real people should be given the proper weight, and the appeal rejected.
412. **Christine McLaughlin** is a director of teaching and learning at the Better Tuition Centre in Urmston, which provides tuition to the children of over 100 families. The proposal would wreak irreparable damage to the environment, the local economy and the social make-up of the area. Customers of the centre are representative of the hard working professional people who make Trafford a borough of high educational achievement and contribute strongly to the local and national economy. Many of them have stated that they will move away from the area if the project goes ahead. They believe that the plant will emit toxic chemicals and may cause respiratory diseases. They will not take risks with the health of their children. This in turn will harm Urmston's businesses and traders, some of which are already struggling. Urmston, which

is currently a sought-after location, will suffer a 'brain-drain'. The perceived damage will inflict lasting harm on the community, its health and its wealth.

413. **Pauline Hill** is a retired complementary therapist and lives within a mile of the plant. The proposal fails the residents, businesses, visitors and environment of the area on many levels. Residents have little or no trust in the various agencies involved. They have been negligent in their duty of care to the general public. They are being bombarded by chemicals including toxins in the food chain, chemicals in the water supply and severe air pollution, leading to an increase in fatal diseases never before experienced. If there is not enough wood to burn other substances will be imported, including rubbish from landfill sites. Additional pollution will arise from HGVs bringing waste and taking away toxic ash, adding to congestion on the M60 and local roads. If it is built, the plant will be a ticking time bomb for at least the next 25 years.
414. **Brian Hill** already has breathing problems. It is accepted that the plant will lead to a worsening of air quality in the locality, which already fails to meet European air quality standards. Residents are right to be distrustful of the EA permit as they have never rescinded a permit, no matter how often operators have breached the conditions. The views of interested parties are of great importance. Opposition to the proposal was unanimous across all political parties. The Inquiry should listen to local democracy and the Secretary of State should dismiss the appeal.
415. **Steven Madden** spoke for himself and 11 other residents of the area who were unable to attend the Inquiry. He has a 19 month old son, and owns a business which employs 18 people. He fears for the health of his family, friends, and the health of his son and other children he plans to have. If democracy and localism are ignored, he will leave the area permanently with his family, as he is not prepared to risk their health. An internet search of 'biomass incineration health impacts' brings up pages and pages of links which say that incinerators can be seriously dangerous to human health. Residents are mistrustful of the EA, which does not carry out random checks of emissions but informs plant operators in advance of the four week period within which monitoring will take place. Operators can therefore assume that they will not be monitored for a large part of the year. There is already an AQMA, which means that air is more polluted than is safe to breathe. Members of his family who suffer from asthma experience improvement when on holiday, but immediate deterioration when they come home. The stack height proposed is inadequate to ensure effective dispersal of emissions. There is a clear, tangible and material public perception of risks to health which should result in the appeal being dismissed. If it does go ahead, he and others will leave the area, and the regeneration which has been achieved will be reversed. Others will be put off from moving to the area, and he knows of at least one who has decided not to move in because of the proposal.
416. **Paul Pickford** lives in Flixton and is an asthma sufferer. He thinks that the choice of location next to the Davyhulme Waste Water Treatment Works would make it very convenient for the plant to burn sewage sludge if there was a shortage of biomass fuel. Other similar installations have a stack height of 60 – 100 metres. The restricted stack height here would be inadequate. Peel's Trafford centre already attracts 35 million visitors. Peel has a number of large development proposals in the area in prospect and hopes to attract many more

visitors to the area. This will cause major pollution and traffic jams on the roads, which are already often gridlocked between 4.00 and 6.30 p.m. These development proposals have failed to consider the cumulative effect on existing residents. People resent breathing ever more polluted air. In future, incinerators should be built where the promoters live so that they experience the effects directly.

417. **Miguel Fernandez-Arias** spoke on behalf of himself, his wife, his 4 year old son, his four brothers, friends, colleagues and neighbours. For him, it is an issue of trust and democracy. He put his faith in his elected representatives and believes that their unanimous decision should be an end of the matter. Safety concerns should be paramount. No reasonable person could have come to a different conclusion over the effects of the proposals. If the appeal is allowed, he and others will feel that they have been badly let down, and their faith in democracy will have been misplaced.
418. **Councillor Dolores O'Sullivan** represents many local residents and cannot understand why the appeal is going ahead. They have genuine fears of risk to their health. The traffic generated will add to already unacceptable levels of congestion. An increase of 3% is not insignificant. The proposal will affect a heavily populated AQMA where there is already reduced life expectancy and high death rates from respiratory disease. The plant will bring no benefits to the community, but will have a devastating effect on health, house prices and visual amenity. The area around Davyhulme, Urmston and Flixton has already suffered the effects of factories, power stations, and the sewage works. As to official re-assurance, plants do fail as at Fukushima, operators do make mistakes, and the consequences could be catastrophic.
419. **Judith Sullivan** is a resident of Flixton. Flixton is an average town, not especially prosperous. Residents of the area are down-to-earth hard-working Lancastrians who call a spade a spade. Calling the project 'Barton Renewable Energy Plant' is thoroughly misleading. The site is in Davyhulme, and the proposal is for an incinerator. The Appellant's publicity has shown a degree of contempt for average residents, suggesting that they do not understand what is proposed. But residents are not fools and will look at the evidence. Her husband was shift engineer at the British Gas power plant at Partington, with experience of running a chemical plant. Such plants use materials that are carefully specified and controlled. In contrast, there will be little control over what is burnt in the BREP. The technology is not the best available, with a furnace temperature that is too low and inadequate bag filtration. The regeneration of Urmston town centre has been a slow and painful process, but it has been worth it. Granting permission for the BREP would undo all the good. The EA permit has been granted under duress and should be discounted as evidence. Many substances previously regarded as safe and within the law, have now been shown to result in serious harm to health. Where expert opinion is so divided and the plant is so unnecessary, the decision must rest with the case for safety first. I and others are faced with the prospect of leaving the area, and losing the fabric of our lives which cannot be replaced, or staying but never knowing peace of mind. Residents live with their fears of potential health consequences day and night. These fears are not irrational but based on knowledge and experience. That is what 'perception of harm' means.

420. **Councillor Michael Cordingley** represents the Gorse Hill Ward. The residents he represents are very aware of poor air quality and the existing AQMA designation, but their views seem to count for nothing. The fears they share are genuine and are backed by reputable research. They feel they have been let down by the EA, and are stunned that the agency had no intention of taking note of what they were saying. There is no good reason for the site to be chosen for the incinerator.
421. **Councillor Laurence Walsh** has been on the planning committee for 12 years and has never witnessed such united opposition to a proposal. Members are well versed in judging planning applications, and are not afraid to take unpopular decisions. However he has grave concerns for the future of the area, including the effect on the economy which cannot be disregarded. The committee reached a conclusion that the benefits of the scheme were outweighed by the disadvantages and framed reasons for refusal that are entirely proper.
422. **Canon Chris Ford** is Vicar of the Parish Church of St Mary the Virgin, Davyhulme and Borough Dean for the Diocese of Manchester in Trafford. He spoke of a growing sense of fatalism about due process in the community. A stable community, a secure and cohesive community with a high level of engagement in the democratic process is now under great stress because of the perceived threat to health from the plant. Community leaders have expressed a desire to move if permission is granted. If opinions are ignored in an area where democratic engagement is relatively healthy it would affect the health of the entire body politic.
423. **Councillor Kevin Procter** represents Urmston. He has received several hundreds of E-mails and spoken to countless numbers of local people and has been struck by the scale and unity of opposition. Local elected representatives were unanimous in their opposition to the scheme. The 15 jobs that would be created are of little significance in terms of employment opportunities for local people and making improvements in the local economy. Urmston has undergone a difficult regeneration process. The impact of the plant would derail this process. A study of an Australian biomass plant concluded that there would be a negative effect on nearby towns from reduced tourism, agriculture, new residents and the loss of investment and development opportunities. There would surely be similar consequences here. Since the decision to refuse the application the 'perception' of an unacceptable health risk has not diminished, as evidenced by the 7000 signatures to the petition collected by BCAG. There is a mass of available evidence of harm, and in particular the unknown effects of fine particulates. There is enough uncertainty about the effects of this plant to demonstrate that this serious and dangerous risk should not be taken. The UK's Environmental Audit Commission estimates that each year in the UK, 50,000 people die prematurely due to poor health from pollution. The plant would be a significant additional contributor to this proposal. Residents are also seriously concerned over the possibility of explosion or fire. The proposed plant is in the wrong place in terms of the impact it will have on air quality and future economic viability of nearby towns such as Urmston.
424. **Duncan Moules** is considering whether to put his home up for sale, having lived in Urmston all his life. His perception of the negative health impacts for

his family is so overwhelming that he feels there is no choice. This would mean leaving behind family, friends and schools so the decision is not taken lightly. People who can will move away, and the loss to the community will not be compensated for by the 15 jobs which the plant will create. The EA indicated they were minded to approve the permit before they had taken into account the evidence of potential harm provided by residents. They would give prior notice of monitoring, so there can be no confidence that the result would present a true picture of emissions. The same is true of the 'guarantees' provided by boiler makers and manufacturers of abatement equipment. It is also unacceptable that the reason for the inadequate stack height is dictated by the airport that is also owned by Peel. There is clear potential for drivers of vehicles using the M60 to be effected by emissions from the stack, as they will be at a similar level. No machine works 100% perfectly, 100% of the time, and there will times when the abatement equipment will fail. The recent leak from the chemical plant at Trafford Park, when residents were told to keep their doors and windows closed shows that accidents happen despite permits and assurances. The Appellant's plans for a massive retail and leisure development next to the Trafford Centre will add further to congestion and poor air quality. The EA did not take this into account when considering the permit. With so many unknown factors the 'precautionary principle' should apply. Allowing the development would seriously undermine the Government's stated commitment to ensuring local decisions should be taken locally.

425. **Councillor Dr Karen Barclay** is the Executive Member for Community Health and Wellbeing on Trafford Borough Council. She finds it hard to feel reassured by the regulatory authorities' views on the potential effects of noxious chemicals. It can take many years for dangers to be proven, as was the case with cigarette smoke, asbestos and lead in paint. These are now recognised as extremely harmful. In the absence of conclusive evidence that there would be no harm from emissions, living with uncertainty produces anxiety and stress in the community.
426. **Councillor Michael Hyman** is the Council's Executive Member for Economic Growth and Prosperity. The Council is committed to promoting the economic prosperity of the Borough. Growth comes from businesses taking on more and more staff, augmented by local supply chain effects. If the plant is built then it is likely that the air quality ceiling will be reached. This would mean that other business opportunities that might produce marginal emissions of pollutants, would not be able to locate in the vicinity. For each job created by the proposal there could be some 5 – 20 potential jobs in businesses that would be precluded from moving to the area.
427. **Mason Corbishley** is an A-level student at Urmston Grammar Academy and lives approximately 560m from the proposed plant with his family. He has taken a proactive role in BCAG's campaign, but spoke on behalf of himself, family and friends, and the wider community. The plant is not a renewable energy plant, it is an incinerator for burning waste materials. The inclusion of 'Barton' in the name is misleading. The site is in Davyhulme, and this may have led to some residents thinking it will not affect them. Fuel for the plant will include a proportion of plastics, which release toxic gases when burnt. The recent leak of hydrochloric acid gas from a plant in Trafford Park required the erection of a cordon for four hours while the gas dispersed, and shows that whatever the process, there is potential for something to go wrong and cause

problems for the local community. There is an inherent risk of fires at biomass plants and where wood is stored for recycling and several recent incidents at Port Tyne, Tilbury and Orsett exemplify the dangers experienced by local residents. There is a risk of explosion if a fire was to affect the methane storage tanks next to the proposed site. Proximity to the airport also puts the plant at risk of planes crashing into it. There is evidence that the few letters of support for the proposal were canvassed by the appellant, and most of the senders live away from the area and would not be affected by it. Any support is overwhelmingly outweighed by the opposition evident at this Inquiry, as well as 7000 petition signatories and 1461 letters of objection. The redevelopment of Urmston Town Centre has led to continuing improvement, but this would be reversed by the appeal development. The community has grown in strength in response to the proposal and fully supports BCAG in opposing the scheme. The appeal should be decided in accordance with the democratic local decision.

428. **Keith Pilgrim** lives in Westover Road, Davyhulme and is a qualified mechanical design and development engineer, with experience as an equipment reliability engineer on major oil refineries. The Appellant has not demonstrated that the waste heat from the plant will be fully utilised. Unlike other recent development, there is no need for the incinerator to be in this location. A waste heat process user should have been identified as part of the planning process, as at the Immingham CHP project, where the plant supplies electricity and process heat to two oil refineries. Without this, the plant would be thermally inefficient. No R1 calculation has been submitted to confirm the plant meets the 0.65 criteria. The stated thermal efficiency is 28%. However the fuel calorific value of 11.41MJ/kg seems low for waste wood, and the thermal efficiency should be adjusted downwards accordingly. With regard to emissions from the plant, in the event of an upset condition, high unabated emissions could be released into the local environment. NO₂ levels are already high in the AQMA so it is undesirable to site a major industrial combustion process on this site. BCAG's evidence has shown that houses on Wilfred Street would experience a process contribution of 0.8 µg/m³ which is 2% of the EQS. This seriously undermines the Appellant's Air Quality assessment. The Appellant should have carried out further air quality monitoring locally for the assessment. There are a number of young families with children living on Tindall Street, where ambient NO₂ levels could exceed the EQS as a result of the plant's emissions. The plant will also have a harmful visual impact on the area. It will be higher than the motorway bridge and the chimney will be about the same height as Chill Factor so the public does not have a clear understanding of the size of the development. The drawings do not adequately represent the scale of the proposal. Images which have been circulated do not give a sense of the scale. The need for red aircraft warning lights will create further nuisance at night for local residents.
429. **Emma Brown** has lived locally all her life and now has a 9 month old daughter. She has never felt BCAG were scaremongering, as alleged by the Appellant. They simply want to protect the area from this dirty and old technology. She feels that the proposal seeks to exploit loopholes in the planning system to impose an unwanted development on the community. The EA has granted a permit, when there is no similar plant in the UK against which proper comparisons could have been made. They have not met their stated aims of protecting and improving the environment and promoting

sustainable development in this case. The area is already an AQMA. Use of weather data from Glazebrook is misleading, as it is over 8 miles from the site. Local data should have been used. High levels of pollution are known to affect health and the environment. The elderly and the very young, especially those with pre-existing medical conditions such as heart disease, bronchitis, asthma and other diseases of the lung are most at risk of suffering adverse effects from poor air quality. Very high concentrations of some pollutants are associated with the development of cancers. Friends and family who suffer from asthma experience improvements in their condition when they are away from the area. It is pure stupidity to site an incinerator where there are already very high levels of pollution. The HPA warn against eating home grown vegetables or eggs produced in the vicinity of an incinerator. The interests of the residents in breathing clean air should be put above profit.

430. **Geraldine Brown** has lived in the area since the early 70s and her daughter and granddaughter were born here. The plant will use diesel, a proven carcinogen. It will be a huge plant, and will cast a shadow over this residential area. The burn temperature will be too low to destroy toxins. No-one has proved that this type of incinerator is safe, there is not another one like it in the UK to allow comparisons to be made. The EA has not acted to protect people's health. The plant will be close to homes, schools, nurseries, a medical centre, parks, a leisure centre and other facilities in constant use. There is a risk of explosion from proximity to the methane plant. Lorries will add to congestion and pollution. Residents are deeply fearful of the effects of emissions on themselves and their families, especially young children. The stack height is too low, and the location is wrong. Air Quality is already poor, and we should be improving it rather than adding to the problem. The plant will harm wildlife, including great crested newt, buzzard and water vole, as well as the Special Areas of Conservation at Manchester Mosses and Rixton Clay Pit. Anything that creates pollution in the course of producing electricity should not be considered green or renewable.
431. **Tom Jobling** runs a stationery shop. Residents are disillusioned with the process and looking to him to speak on their behalf. Flixton has a fair share of pollution from nearby chemical plants and poor air quality. Peel has built the Trafford Centre, Event City and has other major development plans for the area, including the appeal proposal. What starts as one thing turns into something else. Other Peel developments may have implications for what is incinerated at the plant, which could involve other wastes. His shop serves the community and has already had a tough time. Only recently have some shops started to come back into the area following regeneration. He relies on the local community totally. The proposed development will pull the rug from underneath the business, and he will have to consider his position as a retailer and a resident. The Government speaks of the Big Society where local people take responsibility. Local people have rejected this proposal, and that decision should not be undermined by legal loopholes.
432. **Adrian Farr** lives in Davyhulme with his partner and 10 year old daughter. He has approached the project with an open mind as he believes that we need to be looking for alternative sources of energy. However, he is opposed to this development for two reasons. The area already suffers poor air quality as is shown by the AQMA designation. Local residents should not be subjected to increased levels of harmful pollution. We should be looking to reduce pollution

and not increase it. The second reason is the inadequate height of the chimney stack which will not disperse emissions effectively, and concentrate them in the local area. A decision to allow the development will cause people to lose faith in politics and democracy.

433. **Lyn Davies** has lived in Urmston for the last 15 years. The site is right next to one of the busiest stretches of motorway in the country, close to the Trafford Centre which, with 40 million visitors a year, causes horrendous traffic congestion on an almost daily basis. It is also next to the sewage plant which causes terrible odours when the wind is blowing in an unfavourable direction. The proposal to burn mainly waste wood, from demolition and construction sites is worrying for residents. The plant will produce toxic emissions including Arsenic, Titanium Dioxide, and Chromium. Elevated levels and or/long term exposure can lead to serious symptoms affecting human health. We are told these will be released in small quantities, but the prolonged effects, experienced daily, will be harmful. It cannot be assumed that the abatement measures proposed will remove all harmful pollutants. Government agencies should be doing all they can to improve air quality in the designated AQMA. The HPA has failed to acknowledge that there is a risk of increased morbidity and mortality as a result of emissions from the BREP. The burning of waste wood cannot be considered renewable unless there is an obligation on the developer to plant replacement trees, otherwise a carbon debt is being created. Burning wood emits an equal, if not greater amount of carbon than coal. If there is insufficient waste wood there will be pressure to import wood from overseas, contributing to deforestation, land grabbing and displacement of communities. Biomass is an inefficient way of producing energy, being only 25%-30% efficient. EU law requires the promotion of at least 70% efficiency. Substitute biofuels, such as willow, may contribute to elevated levels of ozone. Renewable energy should be supported when it is genuinely clean and renewable. Urmston residents deserve better technology and cleaner air.
434. **Anne-Marie Harris** shares the concerns of many others in respect of the stack height, the temperature of incineration which she considers insufficient to destroy toxins, and the EA monitoring regime, which gives operators the chance to ensure that matters are put in order before inspection. Davyhulme has emerged from the stigma of the WWTW. A visible municipal incinerator will simply reopen old wounds and destroy confidence in ongoing regeneration. Authorities should be addressing existing air pollution problems rather than allowing further development which will exacerbate them. The HPA has recently commissioned a new study on health issues arising from incinerators. If the HPA consider that a further study is necessary, then planning permission should be withheld while uncertainty remains. Alternative technical solutions such as plasma gasification should be considered.
435. **David Fernandez-Arias** feels that common sense dictates that it should not be made easier to worsen air quality in an existing AQMA. There should be effective deterrents and sanctions. It is perverse to argue that because background pollution is so bad, the significance of further incremental additions is diminished. There are many reasons why people should not accept the reassurances of the regulatory authorities. Regulation has not prevented disasters in the past, as evidenced by the 2010 Deepwater oil leak and emissions from Sellafield. There is evidence that burning wood from trees could emit 49% more emissions than burning coal, and that importing wood

pellets will lead to deforestation. The planning system should be based on local decision making which takes account of local realities. The burden of proof should not be placed on unfunded local communities. The national interest should go hand in hand with the local interest in a cleaner and healthier environment, and should not be seen as potentially in conflict with local interests. Otherwise faith in democracy will be undermined. To achieve compatibility of the plant with the AQMA there would need a much greater degree of mitigation, with failsafe continuous monitoring and alert systems in place, and punitive sanctions in the event of non-compliance. It is clear in this case that the operators don't have the will to provide such safeguards, and the regulators don't have the capacity or competence to enforce such a regime. In the absence of such safeguards, the precautionary principle should prevail. The narrow interests of the Appellant should not be put above those of the residents and communities.

436. **R K Davies** is a project manager. The Appellant focuses on the EA permit and states that the project satisfies air quality standards and emissions requirements, so that local people should not be worried. However there is no reason to suppose that their experts are better qualified or well informed than those employed by the Council and BCAG. 25 year old technology should not be relied on to contribute to the Government's energy strategy. Improvements in science mean there is a greater understanding of the impact of some of these 'legitimately' produced emissions, and may well establish that there is no safe level for some of them. Smoking is no longer considered harmless. If it can't be shown unequivocally that biomass technology is safe, how can the application be approved? For the Appellant it is only a matter of profit. For the community, it is a matter of life and health.
437. **Mrs Allen** said that Urmston has suffered in the past from pollution from a chimney in Partington. Local people have suffered from cancer and tumours, including herself and her daughter. In addition to health effects there will be many lorries taking ash from the site which, together with the traffic created by the Trafford Centre and other potential new developments, will cause havoc on the roads. With the sewage works, the area already contributes more than its fair share to the disposal of Manchester's waste, and it is time some other parts of Manchester took responsibility for the treatment and disposal of waste. The proposed plant could go elsewhere in Manchester and cause no pollution or congestion problems. However it should not be built in Davyhulme.
438. **Anna Scarisbrick** lives in Whalley Range. She and her partner were about to buy their first home in Davyhulme, until they heard about the incinerator proposal. While the area offers a community feel and a good chance of obtaining an allotment, the risks associated with the incinerator tipped the balance. They enjoy running and hoped to grow vegetables and fruit, but understand that crops produced locally are likely to be contaminated. They also took into account risks to unborn children, and decided not to buy. They consider that there is a high risk of reduction in house prices if others take similar decisions.
439. **Councillor Joanne Harding** supported the many eloquent speakers. She shares the concerns of residents, particularly as regards child health and potential for increased cancer rates and cardiovascular disease. Emissions

from the plant could do untold damage to young immature immune systems. The community does not want any increase in pollution. The strong voices of local opposition including the writers of 1400 objection letters should prevail. Experts are not infallible and should not be relied on to overturn the democratic decision of the council. The community will have to live with the consequences of a decision to allow the appeal for 25 years.

440. **Paul Lever** runs a business in Flixton and is a father of four children. He shared concerns over impacts on air quality in the light of the AQMA designation, and existing high levels of pollution from other sources in the area, including traffic. Diesel emissions from vehicles can be a cause of cancer, and there would be an increase in traffic to and from the plant. While one development scheme might not contribute much pollution in its own right, the cumulative effect could cause significant health problems for the community. The appeal scheme is a key factor which could cause a worsening of local air quality.
441. **Councillor Paul Lally** is a member of Trafford Council who lives in and represents Flixton. Residents who have approached him are overwhelmingly against the proposal, primarily on health grounds. Whether or not there will be actual harm, fear of how the community would be affected is doing actual psychological harm, in a similar way that fear of crime damages confidence. Air Quality limits have been reached in the AQMA. There would be no headroom to allow further business and community growth. Specific concerns are that the stack height would be inadequate. He takes strong issue with the view that the site is suitable and appropriate and that it would not be environmentally sensitive. It is close to housing. The impacts of traffic have been ignored. The reality is that traffic movements would contribute to the worsening of congestion and pollution, which is already severe. It is implausible to suggest that the Western Gateway Infrastructure Scheme (WGIS) will ease congestion. The EA's view that continuous monitoring would be difficult to administer is unacceptable. The will of the community should be upheld and the appeal dismissed.
442. **Ashley Whitehead** owns two properties in the area with her husband. She also spoke for 26 residents who were not able to attend. She said that many people were not informed of the proposal, and the Appellant's publicity has been misleading. Prior to her involvement in this case she believed that experts, government, regulatory bodies and agencies would have the best interests of the community at heart. With regard to health impacts, the majority of information on the internet about biomass incinerators focuses on the negative health impacts. She recounted her personal experiences that anxiety arising from the perception of risk can have a direct impact on an individual's well-being and quality of life. Notwithstanding what the Appellant says about screening and distance, the plant will be highly prominent in the locality. The plant, the stack and its toxic plume will be visible on a daily basis, in addition to the effects of noise, smell and light pollution. It will be highly visible from the M60 and the road network. Traffic congestion is already severe, and the plant will add to it, potentially causing diversions through residential areas. While she and her husband hoped to start a family, the decision would go on hold pending the outcome of the appeal. If the plant goes ahead, she said she will have no option but to move away. Others are likely to do the same, which will harm local businesses and clubs. People who

have recently brought homes at Barton Cross told her that they were unaware of the proposal at the time of purchase, and it is unlikely that they would have bought if they had known. They were attracted by the offer of 95% mortgages. When the Council's decision has been supported so strongly by local people, it would be hypocritical and contrary to the principles of localism to reverse the decision and allow the appeal.

443. **Janet Allison** is a resident of Flixton and a sole trader in Davyhulme. The plant will halt the regeneration of the area and drive people away from the shops. New residents would be deterred from locating in the area with a devastating effect on the environment and community. There will be an increase in traffic with an influx of large vehicles. Emissions of Arsenic, Chromium, Oxides of Nitrogen, Dioxins and other pollutants will be harmful to health. A search of the internet produces extensive information on pollution. A paper in the British Society of Ecological Medicine claims that regulators have consistently underestimated the risks of toxins, for example in respect of lead, asbestos, dioxins, CFCs, DDT and PCBs. It refers to evidence that children are being born with some level of contamination by pollutants, and that building more incinerators will mean that many more lives will be lost and there will be an increase in birth defects. There are less harmful ways of processing waste and greener ways of generating energy, for example solar, wind and water-powered technology. The locality has a strong identity and community spirit which outweigh any existing disadvantages brought about by overdevelopment. However the appeal proposal will tip the balance, and would cause her and others to consider moving out.
444. **Councillor Catherine Hynes** is a Flixton resident and mother of two. Trafford has experienced continuous pressures for development and change, but she has never known such opposition. It is wrong to site a biomass plant in such a densely populated residential area, next to an AQMA where there is already a high level of air pollution. She shares concerns about the detrimental effect on respiratory disease and asthma, and the health of children in particular. The unanimous decision of Trafford Councillors should be supported and the appeal dismissed.
445. **Councillor Linda Blackburn** has lived in Davyhulme for 24 years, is Councillor for Davyhulme East Ward and Executive Member for Children and Families. In meeting her constituents she has not spoken to one who is in favour of the proposal. Emissions from the plant will travel stealthily over vast areas to be inhaled by all from newborns to the aged. Air quality has deteriorated in the area despite technological progress. As a teacher she has witnessed the increase in numbers of asthmatic children in primary schools. The views of residents and their democratically elected representatives should be respected and upheld. She is concerned about a future where the mental and physical health of neighbours and family is harmed by the appeal proposal.
446. **Councillor Jonathon Coupe** is the Council's executive member for Safe, Strong Communities. He said that this is the wrong facility in the wrong place. The Council's strategic development plan requires that the location of specific uses in this area will need to have regard to AQMAs. Currently some of the poorest air quality in Trafford is in this location, adjacent to Barton Bridge and the Trafford Centre. The stack height would be too short to ensure adequate

dispersal. The plant will burn waste wood which includes toxic materials and refuse derived fuel which includes waste plastics. The HPA have raised concerns about contaminants entering the food chain. The successful regeneration of the area will be reversed if the plant goes ahead, and there will be no scope remaining for business growth in future. The Appellant should recognise the democratic decision of the Council and the will of residents and withdraw the appeal.

447. **Councillor Brian Shaw** is a member of the Council but spoke as a resident of Urmston, and as a father and grandfather. He spoke of the very strong public emotion, real concern and real fear in the community. It is wrong to say that the site is not in a residential area because of the distance from dwellings. The wind would carry pollutants to residential areas which will have a huge impact on the health of the community. The risk to health is unacceptable.
448. **Dr Peter Butler** has been a resident and GP in the area since 1974. The Meteorological Office recognise the pollutant concentrating effects of inversion layers during non-standard meteorological conditions. Temperature inversion is a well known phenomenon in the Manchester area, which results in pollutants being trapped under a layer of warm air. While the old factory chimneys painted by Lowry have mostly gone, newer stacks of the type under consideration here emit far more inimical emissions. People living beneath the inversion layer are exposed to dangerous levels of polluting substances, dioxins, furans, benzenes, metals and particulates. This effect has not been adequately assessed by the Appellant and the regulatory authorities in respect of the proposal.
449. **Robert Thomas-Carter** has a business in Urmston and spoke on behalf of the Town Centre Urban Partnership, a forward looking group concerned with promoting wealth and happiness. However members were almost unanimously opposed to this development. Burning rubbish in areas where people live is a bad thing which detracts from the area. The requirement for energy will decrease in future. The plant is not needed in this location.
450. **Alan Smith** stated that a quick count of potential existing incinerators reveals 94 potential incinerators and 20 which have not been permitted. With a proliferation of incinerators there are serious questions to be asked about where the fuel will come from. A report by Tolvik Consulting indicates that the demand for waste wood is likely to outstrip supply by 2015. The drive for more capacity is encouraged by the subsidy regime. Incineration is a very expensive way of processing waste, and leads to a huge waste of resources. The EA has not so far refused any Environmental Permit for an incinerator. Incinerators are not completely reliable – there have been numerous occasions when there have been emission violations. They produce toxic ash which has to be disposed of in landfill. It has not been proven that emissions will be harmless. There is often a long delay before substances are recognised by science as being harmful. The site is inappropriate because it is in a residential area, close to visitor attractions, is a compromised design (stack height) and lies in an area of poor air quality. It would be a large and intrusive structure. It would generate significant HGV movements which would contribute to congestion and pollution. There would be no benefit to the area. The Localism Bill was intended to shift power from central government back to

individuals, communities and councils. The spirit of localism should inform this decision.

451. **Louise Wynne** and her family enjoy outdoor sports such as running, cycling and football. They share widespread concerns about health effects, the burning of toxic materials, the potential for long term accumulations of dioxins in the body, and the effect of additional HGVs. Two of her sons suffer from asthma. Other proposals for development in the locality will contribute additional traffic and bring roads to a standstill. The plant will dominate the landscape and give the impression of living in an industrial estate. It will reverse the regeneration that has occurred in recent years. While the area has a very strong community spirit people will probably leave if the plant goes ahead, as the potential impacts of the development cannot be ignored. Allowing the appeal would go directly against the democratic decision of the community representatives.
452. **Keith Madden** is a longstanding resident of Urmston. He has witnessed many changes including the sewage works and the M60, all of which have contributed to pollution in the area. While the Trafford Centre has brought many benefits, it has also contributed to massive congestion. During the 70s and 80s there were major improvements to air quality as older industrial plants were closed or replaced using modern technology. He has worked in engineering design for 40 years and witnessed improvements in process and technology, but also mishaps and near misses. Regeneration of Urmston has been successful but the introduction of a waste incinerator will have a massive negative impact on the whole neighbourhood. It will dwarf the surroundings, and will emit pollutants which will be harmful to health. No increase in air pollution, however small, in an area where background air pollution is already above acceptable and legal limits, can be classified as insignificant. Traffic impacts have not been properly assessed. People will move away, and the community and businesses will suffer. While there is no objection to a bio-mass incinerator in principle, the chosen location is unacceptable. It should be built in a non-populated area and not one that already suffers from severe congestion and air pollution problems. National governments and local councils have a duty of care towards the people in the community. The democratic decision of community representatives should be respected and upheld.
453. **Dr Peter Baugh** is a retired senior lecturer in environmental and analytical chemistry. He considers that the monitoring equipment of the BREP is not fit for purpose. The instrumentation is not capable of achieving positive identification and quantification at low levels of detection. Instrumentation should have the capability to detect any potentially hazardous pollutant well below the statutory limits required so that there is confidence in the detection, positive identification and qualification of target substances. The proposal to have infrequent monitoring of some important pollutants off-site is wholly unacceptable because there will be no safety checks on a day to day basis of the quality of the emissions and no way of detecting spiking which will require the facility to be urgently shut down. A continuous emissions monitoring system (CEMS) should be required, and could be installed at reasonable cost.
454. **Jo Burgess** is a mother, grandmother, widow and founder of the BCAG who has lived in the area for 40 years. Her husband, an analytical chemist, developed aggressive cancer through contact with dangerous chemicals. The

regulations for handling these chemicals only changed when it was too late for many people. There is an overwhelming body of evidence that implies very serious health effects from the pollutants emitted by the BREP incinerator. The HPA has commissioned new research which indicates they don't currently hold all the answers. For instance the British Society for Ecological Medicine states that regulators have consistently and repeatedly underestimated the risk of pollutants and toxic chemicals. There are sound reasons why the community does not accept the assurances of the regulators. The precautionary principle should be applied in this densely populated area in which any impact would be experienced by a large number of people. She shares the concerns expressed by others in respect of the stack height, the carcinogenic effects of diesel which will be used in the process and by HGVs, the effect on school children, the burn temperature which would be inadequate to destroy dioxins, the effect on the food chain, and the cumulative effect with other developments in an area of existing poor air quality. She and her family may have no option but to move if the plant goes ahead. Better technology is now available. The best available technique should be used.

455. **Alison Parker** has lived in the area for over 24 years and has three children, two of whom have asthma. Air pollution and congestion are already severe with constant traffic problems on the M60. There is already a high incidence of cancer in the locality, and it would be wrong to allow further pollution. It is known that incinerators aren't 100% safe, and more information is coming out all the time. People living within 2 km of an incinerator are exposed to high levels of pollution. The lungs of children are particularly sensitive. The plant will also be highly visible. The prospect of it being built has already caused a huge amount of stress to people living nearby, who now also have to consider whether to move to escape the effects.
456. **Peter Skinner** has lived in Davyhulme for 40 years, and lived on Stroma Gardens for 13 years. Since moving to the area he has seen a large number of developments, which have caused a massive increase in traffic, causing chaos and a drastic reduction in air quality. There are many other developments in the pipeline which will add to these problems, in which Peel is a major player. Spectators and players at Salford Reds stadium would experience the effects of pollution on a weekly basis. Vehicles transporting toxic wastes from the site could be involved in accidents. Residents of Stroma Gardens won't put out washing to dry or open windows in summer because of the dirt particles and poor air quality. The plant is untried technology with an inadequate stack height. There is unlikely to be an adequate supply of waste wood to feed the plant, and the Appellant may seek to import fuel via the ship canal. The views of residents should be taken seriously, and not treated as insignificant.
457. **Councillor Michael Cornes** says that the site lies in Davyhulme East. It is misleading to refer to it as part of Barton, which lies on the Salford side of the M60. There will be significant pollution from emissions and ash. The proposals contain nothing to alleviate the concerns of residents. It is currently an attractive wildlife corridor. Hundreds of people have told him they are opposed to the development, and there are none in favour. The stack height would be inadequate. There would be a high risk of explosion. The recent chemical plant leak is an example of how regulation cannot be relied upon. People have no confidence in the regulators, particularly as the EA would give

notice of monitoring inspections. The unanimous democratic decision of the Council should be upheld.

458. **Peter Kilvert** is Chair of BCAG and a retired health and safety officer. It is scandalous that the EA have not recognised that burning wood produces very fine particles and nano-particles that cause ill-health, disease and death. This is widely recognised and is the subject of a number of studies in the US. For example, the American Lung Association has concluded that biomass emissions contain fine particulate matter that can scar the lungs and also contain known or suspected carcinogens. Consultants and advisers to Trafford and Salford Councils failed to advise members of the dangers of such particles. As BREP is to burn solid recovered fuel there is a high likelihood that dioxins will be produced. The US Environmental Protection Agency estimates that 96% of human exposure to dioxins occurs through the food chain. There have been numerous violations of dioxin emission limits in the US. If such breaches were to occur in the UK it would not support the HPA's view that modern, well managed incinerators are not a significant risk to public health. He shares the concerns of many other residents in respect of heavy metals, environmental and visual impact, CO₂ emissions, inefficient conversion rates and the use of outdated and inappropriate technology. In addition, he itemises recent examples of fires and explosions where wood has been stockpiled, and considers the risk unacceptable. He also drew attention to evidence of a higher infant death rate in Great Lever, where the Bolton Incinerator is situated.
459. **Michael Black** has lived in the area all his life and has witnessed many changes, some good, some not so good. His forebears also lived in Urmston and found it to be an agreeable place to live. He spoke of his right and that of others to breathe unpolluted air, and to have years of healthy life expectancy. The AQMA is evidence that air pollution levels are already high. The proposal is a cause of grave worry and has caused him and many others to plan to move away if it goes ahead. The science is at best contradictory, the public have no faith in the pollution control regime, the technology is questionable, and it is in a residential area of Davyhulme, not Barton. He shares the concerns of other residents about the stack height, the risk of fire and explosions, the proposed burn temperature, the emission of toxins including heavy metals, the use of data from outside the area in the air quality assessment and the lack of local monitoring evidence. Residents cannot be expected to trust Peel's modelling data which has not been independently validated. The issuing of a permit by the EA is not evidence, as the EA had no choice but to grant a permit. The health fears of residents are genuine and well founded. The area will not thrive if its population is caused to diminish as a result of this development. People will not move to the area. There will be no benefits to the community but residents will be put in considerably enhanced danger. Residents want the area to remain a desirable place to live in perpetuity.
460. **Anke Raabe** has lived in Flixton for 12 years. The area has seen much development and suffers from the traffic on the M60, and many other developments in which Peel has been a key player. She shares the widespread concern about toxic emissions, particularly as there will be no clear and effective controls of emissions in place. Residents are not reassured by experts. It takes a long time for toxicity to be recognised. When lives are in danger, the better safe than sorry approach should be adopted. The harmful

effects of worry and anxiety should not be underestimated. It seems that the legitimate health concerns of local people are being ignored by the Appellant, in the face of extensive evidence of severe potential health implications. The plant will deter people from wanting to live in the area with harmful consequences for the economy and well-being of the community. Faith in the democratic process will be undermined if this is pushed through against the decision of the elected Council.

461. **Kelly Barrett** is a local resident and also runs a business. The choice of site in a residential area where there is already poor air quality is wrong. Many asthma sufferers will be affected adversely. She is concerned for the health of her three daughters and for future generations. She was a teacher for 20 years and has now started a tuition centre. In her extensive contacts with children she is aware that asthma is widespread, and can cause problems in later life. The area is remarkable for the number of good schools, but the proposal will have a massive detrimental effect. It will have a big impact on her own business, as parents would have reservations about the location if the scheme goes ahead.
462. **Sue Brett** has two children and lives just half a mile from the proposed plant. She and her son suffer from asthma. She and her family do not want to live in its shadow and breathe in polluted air every day. They already suffer from bad odours from the sewage works. The ground level appears to act as a bowl to contain any emissions. She shares the concern of other residents about nano-particles, CO₂ emissions, increased traffic from the plant and other developments proposed in the area, the height of the stack and danger to traffic on the M60 from emissions. Residents are well qualified and reject any suggestion that they don't understand the implications and impacts of the proposal. There have been shown to be errors in the data provided to the EA by the Appellant, which does not inspire confidence. There is much to recommend this area – fantastic schools, leisure centres, outdoor recreation area, football pitches and sports clubs. But air quality is already poor, and should not be made worse.
463. **Kenneth Evans** is a retired senior research chemist and has lived on Benbecula Way which is adjacent to the M60 near Junction 10, for over 40 years. In that time residents have experienced the effects of many developments, including the M60, the Trafford Centre, odours from the sewage works and heavy traffic on local roads prior to construction of Carrington Spur. These have reduced the quality of life for residents through increased traffic pollution and congestion, motorway noise, loss of open space and noxious odours. Residents were largely accepting of these changes and cannot be accused of standing in the way of development for which good reasons were advanced. But there is no need to site the proposed incinerator here, close to residential properties. The M60 and local roads are regularly gridlocked already. There must be doubts over the use of the canal to transport waste to the facility. There are no plans to use the waste heat, and businesses in the area are more likely to be concerned about the adverse effect of having an incinerator close by. The Appellant has inaccurately stated that traffic generated by the plant would not pass close to dwellings, but vehicles travelling along the M60 from the south would pass directly by Stroma Gardens on the slip road. He fully shares concerns expressed by others about the health effects, and rejects the suggestion that concern has been generated

by scaremongering. He shares the concerns about the use of modelling expressed by TBC's witnesses. He also has serious concerns about the level of plant control and the analytical testing regime that will be employed, and cannot accept statements that the EA knows best. It is simply not possible to monitor every one of the wide range of pollutants generated, for example Dioxins, and in turn have an automated fail-safe plant shutdown when levels are exceeded. Reliance on maximum permitted levels of specific pollutants specified by regulators is dangerous as what is acceptable may change over time. Even using these levels witnesses have shown how the development could have a serious effect on health. Dioxins can enter the food chain. There are some 400 allotment plots in the Urmston area and many plot holders have indicated they will give up their plots rather than risk growing contaminated produce. It is the Government's responsibility to safeguard the public from potential threats to their health. If renewable energy generation is in the national interest it should be sited away from populated areas. The views of residents and Councillors should be upheld.

464. **Howard Muntun** lives in Davyhulme and is a qualified electrical engineer. There is a real threat that there would be a shortage of wood waste and it may even have to be imported. It is clear that there is an insufficient supply of such materials in the immediate locality. The plant has been described as a renewable energy plant supplying power. However the plans show that it is actually a waste incinerator with a small amount of generation. The power output is likely to be lower than stated. It needs to be seen in context with the gas power station at Carrington with a 75 metre stack which meets all emissions criteria. It will have a power output of 880 MW, contributing 6% of UK energy needs. In contrast the contribution of the Barton Plant will be very small. Each time Peel proposes a new development in the area it is argued that it will not cause any significant increase in pollution. However the cumulative effect is significant, and has reached unacceptable levels. In summary, there is no need for the development particularly in a densely populated urban area.
465. **Kathleen Orth** has lived in Davyhulme since 1967. She shares the concerns of other residents about proximity to the AQMA, levels of emissions, the cumulative effect of traffic, flawed modelling of emissions, the EA monitoring regime, stack height, the experimental nature of the technology and design, the lack of sustainable fuel sources, misleading plans, and the cumulative impacts of other proposed developments in the area. By issuing the permit the EA has failed in its duty to protect the environment for people and wildlife. During her career as a primary school teacher she has seen a huge increase in the diagnosis of asthma and the use of inhalers. When her daughter moved out of the area she no longer needed to use an inhaler. The air quality is so poor around Junction 10 that the pollution can be tasted. The 25 year life of the plant will effectively be an experiment with the health of residents. The technology is already out of date. As well as causing serious health effects, the proposal has caused massive anxiety for individuals and the community. It will be harmful to the local economy and businesses. Residents care passionately about their community and are putting their trust in democracy and localism to uphold the decision of Trafford BC.
466. **Councillor Alan Mitchell** shares public concerns and anxiety in respect of the proposed location of the biomass incinerator at Davyhulme. The location

has inherent problems because of Barton Airport restricting the chimney height for proper dispersion of pollutants, and it being immediately adjacent to an AQMA where pollution levels are having a real impact on people's health. It would require deliveries of fuel in an already congested area and interact with other developments to cause increased pollution. Health effects from incineration are very complex and not fully understood. Residents have already experienced stress from odour problems but there will be a far greater problem with stress and anxiety impacting physical and mental health if this plant is given the go ahead. It can only be detrimental to the regeneration and image of the area.

467. **John Roberts** lives in Irlam and represents the Irlam and Cadishead Labour party. The prevailing wind from the site would travel to Irlam, touching Cadishead and continue on to Chat and Rixton Mosses, which are areas of recovering moss land. Residents have had to tolerate the smell of the sewage works for years. They do not want alleged pollution from an incinerator and are strongly opposed to it.
468. **Councillor Margaret Morris** is Assistant Mayor of the City of Salford. Salford has registered an objection to the proposal. She has heard the views of many articulate speakers and agrees with the thrust of their arguments. The City Council is particularly concerned about the effect on air quality. Local residents often find dust on their cars. They were warned to keep windows closed after the recent release of chemicals from Trafford Park. They already live close to industrial areas and are affected by pollution. The Salford wards of Barton and Winton would be directly affected and have really poor health indices, including high infant mortality. Accidents happen despite regulation. The appeal should be dismissed.
469. **Anthony Greenough** is a local resident and a qualified chemical process operator, a Chartered Engineer and has a degree in Chemical Engineering. He considers that much relevant evidence has been withheld by the EA. He has questioned the EA about process design of this particular plant but has received no answers, so the Inquiry has been deprived of information which is relevant to the decision and should have been before you. The EA criticism of BCAG's evidence which shows elevated background arsenic levels is misplaced, as a result of which the EA has underestimated background levels. It is therefore wrong for the Appellants to claim that the EA has made a rigorous inspection of the evidence. It could reasonably be assumed that the EA has cherry-picked the evidence which supports approval, but side stepped evidence which points to refusal. There are many other examples and it is understandable that members of the public have expressed a lack of faith in the EA. The proposed use of Selective Non-Catalytic Reduction (SNCR) abatement techniques is a plant design issue. The use of such techniques has an impact on plant emissions which are decided at the plant design stage not the operational stage. His technical experience allows him to confirm the validity of the widespread concerns which have been expressed by residents. The stack height will be inadequate. The Appellant's interpretation of the data shown in a graph on page 6 of Fichtner's report dated 16 Sept 2011 shows a potential variation with regard to NOx emissions of 100%. The data shows considerable variation and the line which has been imposed on the data is inaccurate and is prejudiced in favour of giving the low 125 µg/NM³ figure on which the acceptability of the low stack height is dependent. There are major

questions over the ability to achieve NO_x emissions of 125 µg/m³. If this level cannot be achieved there is a very real fear of actual harm being caused to health from the emissions. It is clear that the calculations underlying the Appellant's assessment are very doubtful, and therefore the precautionary principle should apply. It is not possible to assess emissions in advance of plant design, and as there is no coherent plant design but rather a hotch-potch of comparisons of individual elements relying on untested promises from boiler makers, no reliance should be placed on the assessment that underpins the Appellant's case. There is no supporting evidence that any existing plant operates at this low level of NO_x emissions. It is also unacceptable that Trafford Borough Council Licensing section has not commented on his own evidence that has been presented, yet they are quite prepared to change their position when the Appellant submits new information. The alleged climate change benefits which have been used to justify the proposal are also highly questionable. Information from the United States is that wood biomass is 3 – 5 times worse than coal in terms of the CO₂ it produces per unit of power generated. The plant operators can't have any control over this figure as it is dependent on the chemistry of the wood and not the design of the plant. The assurances which have been given in respect of process control are not based on a thorough understanding which would be expected from someone with first hand experience. There will inevitably be variations and fluctuations in emissions. It would in any event be difficult to prepare an integrated control philosophy in the absence of a worked up plant design. The achievement of the stated emissions requires fine tuning and allows low tolerance of any fluctuations in process control. Constant output cannot be assumed. There is ample evidence that air quality in the locality is already poor. The safety case for incineration is fundamentally flawed and the statement by the HPA that it poses little or insignificant threats to health cannot be relied upon.

470. **Dr Kath Edgar** has lived in Urmston all her life and is the mother of 3 year-old twin daughters. She is not prepared to risk the health of her daughters and fears that she and her family will have to relocate if the proposed incinerator goes ahead. The area is already highly polluted due to traffic fumes from the M60, pollutants from Carrington and the air pollution from the WWTW, with parts of the area designated as an AQMA. The roads are at capacity and congestion will be made worse by HGVs serving the proposal. There can be no assurance the site will be risk free from accident, incident or tampering, as is borne out by a fire at Tilbury, an explosion in the Netherlands and the recent leak of chemicals at Trafford Park. While she supports renewable energy, other cleaner technologies should be given priority. She shares concerns about the stack-height, and testing procedures. Only continuous monitoring of all pollutants would ensure that risk to health was reduced.

Written Representations

471. 1592 letters of objection and 3 petitions containing 4605, 128 and 11 signatures respectively were received in response to the planning application. Of the 1592 letters, 1280 were from residents and workers in Davyhulme, Flixton and Urmston, 76 from Stretford, Old Trafford and Trafford Park, 74 from elsewhere in Trafford, 57 from Salford and 105 from further afield or where an address has not been identified. A number of objectors submitted further letters of objection in response to further information provided by the

- applicant. In addition, a detailed assessment and report into the proposal was submitted by BCAG.
472. A total of 177 letters of support were received by the Council at application stage and a petition containing 217 signatures. Of the 177 letters, 15 were from workers in Davyhulme, Flixton and Urmston, 7 from Stretford, Old Trafford and Trafford Park, 16 from elsewhere in Trafford, 17 from Salford and 122 from further afield or where an address has not been identified. In addition, an assessment and report on the proposal was received from a campaign group named Generating Renewable Energy at Trafford (GREAT).
473. The issues raised in support and objection at application stage are catalogued in full in the Committee Report CD 46. The key issues are reflected in submissions to the Inquiry reported above in the cases of the Appellant, TBC, BCAG and Interested Persons.
474. A number of written representations were received specifically in response to the appeal, including objections from Barbara Keeley MP, Graham Brady MP, Arlene McCarthy MEP, and Sajjad Karim MEP, who support the Council's decision to refuse planning permission. Many of the issues raised have been covered in statements made at the Inquiry by objectors, and some formed the basis of oral representations which have already been recorded: In summary, the main points raised were: Inappropriate location in a densely populated and congested area; cumulative overdevelopment; untested technology; health hazards from emissions, including increased incidence of respiratory disease, cancers and infant mortality; emissions of nano-particles; burning reusable wood waste not in accordance with waste hierarchy; contamination of waste wood with heavy metals and other toxins; existing poor air quality in the designated AQMA; traffic congestion and heavy lorries; lack of employment benefits; impact on regeneration, house prices, and community confidence; undermining of democratic local decision making; lack of public consultation; inadequate arrangements for monitoring emissions and enforcing breaches; use of incorrect background data in air quality assessment; height of the stack; inadequate techniques for effective abatement; inefficient energy recovery; risk of accidents, fire and explosions; proximity and risk to the M60; lack of provision for CHP; risk of dioxins in the food chain; lack of faith in regulatory system and reassurance offered by the regulators; proximity to homes, schools and hospitals; visual impact; if approved, the plant would cause many people to move away from the area, and the effect of this in the community and on businesses.
475. Salford City Council submitted a letter of objection dated 13 November 2012, attaching comments submitted to the EA in response to their consultation under the Environmental Permitting Regulations 2012. The ground of objection is that the installation is sited in an air quality management area for exceedences of the annual mean NO₂. The area is also significantly above the air quality objective and EU limit value for nitrogen dioxide with monitoring results indicating it experiences some of the highest concentrations in Greater Manchester. The prevailing south-westerly wind direction would result in the plume falling in the residential area of Barton and adjacent wards. This will increase the roadside and background levels of NO₂ in the immediate area. The cumulative effect of this and other developments will result in increasing levels of background concentration. (Doc TBC 3).

476. BCAG submitted a report by Dr Mary Booth, a resident of Pelham, Massachussets, USA who has a PhD in Ecology with specialisation in biogeochemistry, and a Masters in Plant Biology. She states that she has experience of reviewing air emission permits from biomass plants. Her report questions the environmental credentials of the proposal, arguing the plant will emit as much particulate matter and NO_x as a coal plant, along with heavy metals, and that wood-burning facilities emit far more CO₂ per unit of energy generated than coal or gas-fired facilities. This is because biomass facilities operate at relatively low efficiencies, and also because the energy inherent in biomass fuels per unit of carbon is lower than the energy inherent in fossil fuels. Much of the report concerns matters which are the responsibility of the EA, and which have been addressed in the permit.
477. A specific point raised at the appeal stage was the potential need for an 'Appropriate Assessment' under the Habitats Directive to be carried out in relation to Manchester Mosses and Rixton Clay Pit Special Areas of Conservation (Doc TP/4). It was suggested that information concerning the effect of ammonia concentrations indicated there would be a likely significant effect, which requires an appropriate assessment to be carried out.
478. 3 letters of support were received, two of which were from local residents and members of GREAT (Generating Renewable Energy at Trafford). They believe that alternative, sustainable renewable energy capacity is vital for UK energy security and is needed now, and refer to extensive policy support for this. They points to benefits including renewable energy for up to 37,000 homes, potential for CHP, local jobs in construction, operation and maintenance, and reuse of previously developed land. Air quality effects are matters for the EA rather than this Inquiry.

Conditions and Obligation

479. A list of suggested conditions has been the subject of discussion between TBC and the Appellant (Doc TBC/6) and was discussed at the Inquiry. The Council suggested two additional conditions which were not agreed by the Appellant (Doc TBC/5). The Appellant asked that the time limit for the commencement of development be extended to 5 years.
480. The additional conditions proposed by the Council are as follows:
- A. Following 12 months from, and no later than 18 months after, commissioning of the development hereby approved, an air quality assessment shall be commissioned by the operator to confirm the results of the air dispersion modelling set out in the planning application and accompanying documents, to a specification agreed in writing with the local planning authority. On the basis of the results of this assessment, a programme for mitigation of any adverse impact identified shall be agreed in writing with the local planning authority within one month of the submission of the air dispersion modelling report and implemented in accordance with a timetable to be approved as part of this programme.
 - B. Following completion of commissioning, the development hereby approved shall operate for no more that 7,884 hours within any calendar year of commissioning of the proposed facility (7,905 hours in a leap

year). A report confirming actual operating hours for the preceding year shall be submitted to the local planning authority by 31st January of each year.

481. TBC consider that suggested condition A. is necessary because the plant will have implications for increasing NO₂ levels in the AQMA. The modelled data may alter the boundaries of the AQMA and certainly projections of its contraction. Accordingly the developer should contribute to this additional work by supplying an air quality assessment. While the applicant will be required to adhere to the conditions of the permit, there is a need for a coordinated approach between the EA and TBC in achieving air quality standards.
482. In response, the Appellant argued that the EA has considered the dispersion model through the Environmental Permitting process and concluded that this is sufficiently robust. This is reflected in the absence of any condition within the permit requiring the results of the model to be verified once the plant is operational. If the EA considered that such a condition was necessary, it would have imposed it within the Environmental Permit as this would be the most appropriate regulatory regime to place such a condition. However given its conclusions in respect of its assessment, the EA has not imposed such a condition. In the circumstances, there is no reason to believe that the predicted level of Nitrogen Dioxide emissions will be exceeded. It can therefore be concluded that the impact of the development on local air quality has been predicted with a sufficient level of certainty to the extent that a future assessment of air quality assessment is not necessary.
483. TBC stated that suggested condition B. was proposed by Peel as part of their air quality assessment regarding emissions from the plant, and is linked to all the projections made by the Appellant and the Council's EHOs and is considered necessary to validate the permission.
484. In response, the Appellant's view is that this is a matter for the Permit rather than the consideration of planning permission. The EA as the appropriate regulator did not consider that such a restriction was necessary. The reason for this is explained on pages 93 and 94 of the decision document (CD67b): "*We did not consider it necessary to include an additional annual tonnage limit for NO_x (modelling was based on 90% plant availability instead of the more conservative 8,760 hours) because this would add no benefit. By imposing the lower NO_x limit and limiting the annual throughput of waste, the necessary control measures are already in place.*"
485. The Appellant asks the Secretary of State to exercise his discretion to grant planning permissions for longer than the default period of three years. Government guidance originally contained in "Greater Flexibility for Planning Permissions" (October 2010) advises that in current circumstances, local planning authorities may wish to consider the desirability, in individual cases, of granting a longer permission.
486. The Council considers that 3 years is the maximum time period that should be granted for the scheme to be commenced. The proposal involves the detailed assessment of matters relating to air quality with a significant part of the site being within an AQMA. These matters need to be carefully assessed for changes in air quality monitoring and factors such as traffic levels, emission

levels and new development within and around the AQMA, either through existing approvals or possible future developments. 3 years is the maximum that should be allowed for commencement so that these matters can be reassessed if the permission is not implemented in this timeframe. The Council considers that the development has to be implemented in three years as new development may be undertaken and would potentially take 'head-room' which is currently available.

487. The Appellant advances the following justification for an extended time-limit
- i. If planning permission is granted, there will be a period of potential legal challenge. The Appellant would not undertake any design activity or commence commercial negotiations on the project during this time.
 - ii. The Appellant would then commence work on finalising fuel sources, securing heat users for the development and completing heat off-take agreements with those users. This work would take no less than 12 months. Only then could detailed design and subsequent procurement commence as the above dictates the detailed and final design of the boiler and steam turbine which are critical components of the development.
 - iii. Only once this stream of work is completed would the Appellant be in a position to work towards securing financial close with funders, suppliers and off-take users. This cannot occur in parallel with the work required to finalise the detailed design work and heat contracts as funders will require certainty on these matters. The Appellant has extensive experience and expertise in securing debt funding of very large infrastructure projects, including in the current climate. In its view, this stream of work will take at least 18 months to complete.
 - iv. The anticipated time-scales identified above will take around 31 months (2.6 years) from grant of planning permission. Once the above matters are finalised, site mobilisation and a commencement of development can take place. However, site mobilisation cannot occur until the necessary pre-commencement planning conditions are formally discharged. The condition discharge process cannot take place until a contractor has been secured and final detailed design resolved. The process of awaiting discharge of planning conditions, in itself, could reasonably be expected to take more than 6 months especially giving the Council's stretched resources.
 - v. The delay caused by the need to appeal the decision by Trafford Council has also meant that accreditation of the scheme (which presently occurs at the commissioning stage of such a renewable energy scheme) could now fall within the period where the current Renewable Obligation Certification (ROC) Scheme will transfer to a Contract for Difference (CfD) under the ongoing Electricity Market Reform (EMR). As this transfer process remains the subject of ongoing legislative clarification there remains a potential period of delay until the regulatory position is certain.
488. Accordingly, the appellant considers that there are some matters which risk the success of the appellant in implementing any planning permission with a three year period. Under current legislation, the appellant would not be able to submit an application to simply extend the time-limit of any planning permission. The procedure is a more streamlined planning route originally

announced by Government in November 2009 (updated in September 2012) to enable developers to extend the life of unimplemented planning permissions. However this route only applies to unimplemented planning permissions that were granted before 1st October 2010).

489. A reluctance to grant a planning permission for five years may therefore unnecessarily result in the submission of a further fresh planning application. This is considered to be at-odds with Government guidance cited above encouraging decision makers to positively consider the desirability, in individual cases, of granting a longer permission. This stance would also be contrary to the general provisions of the NPPF which looks to secure growth and positively promotes sustainable development. It is also inconsistent with the Written Ministerial Statement: Planning for Growth (23rd March 2011) which requires the planning system to do everything it can to help secure a swift return to economic growth and should not impose unnecessary burdens on development.
490. It is the Appellant's view that there is no good reason why a five year planning permission should be resisted. The Council's reason to resist an extended time limit appears to be founded on the issue of air quality and upon the basis that a significant part of the application site is located within an AQMA. The Appellant does not agree with this contention, as the main body of the operational part of the site is located outside the AQMA. Moreover, matters of air quality are expressly covered by a separate regulatory regime: the Environmental Permit.

Section 106 Planning Obligation

491. An executed obligation was submitted before the end of the Inquiry (Doc PEEL 8); It would secure contributions towards:
- green infrastructure (the S106 Obligation was required to secure a commuted sum towards the Red Rose Forest of up to £16,740 less £310 for each tree planted on the site as part of an approved landscaping scheme) and
 - a highways and active travel contribution of £4,257 and
 - a sustainable travel contribution of £7,310 in respect of public transport
492. The section 106 Obligation is in an agreed and executed form, the contributions have been calculated in accordance with the Council's SPDs. The highways and travel contributions accord with the Council's Supplementary Planning Document 'Developer Contributions to Highway and Public Transport Schemes.

Inspector's Conclusions

(Numbers in square brackets [] refer to earlier paragraphs in the report)

493. From the evidence submitted both orally and in writing I consider that the main issues in this appeal are:
- i. The effect of the proposal on air quality and the perception of harm to health.
 - ii. The effect of the proposal on the vitality and attractiveness of, and the self confidence of communities within, the nearby established areas of Davyhulme, Urmston and Flixton.
 - iii. Whether the proposal would be sustainable development as defined in the National Planning Policy Framework ('the Framework'). [52, 53, 215]

Air Quality and Perceived Health Impacts

494. Neither TBC nor BCAG argued that there would be any actual harm to health arising from emissions from the BREP. They sought to demonstrate instead that there was an objective basis for the perception of harm to health which was evident from the widespread opposition of residents and community leaders. A large number of objectors to the proposal, including those who spoke at the Inquiry and those who submitted written representations, considered that the assessment of potential air quality and health impacts by the responsible authorities was seriously flawed, and that as a result there would indeed be significant harm to human health, not least from the anxiety generated by the presence of an incinerator near to residential areas. [105, 108, 311, 404 – 478 passim]
495. A particular focus of concern was with emissions of NO_x and the consequent effect on levels of NO₂ in the atmosphere, in view of the fact that part of the site lies within an AQMA which has been designated because of elevated levels of NO₂. However many objectors were also concerned about emissions of other pollutants and I have also considered these.
496. A fundamental consideration is that the proposal is the subject of an Environmental Permit issued by the EA (CD 67A). This was accompanied by a Permit decision document (CD 67B) which sets out the EA's reasons for its decision in considerable detail. I have considered the implications of this in the light of planning policy advice set out in the Framework and PPS 10.

Air Quality

497. The Appellant's approach to the assessment of air quality impacts is set out in Chapter 12 of the ES. Current levels of pollutants in the atmosphere were estimated using publicly available monitoring data from national and local databases. Ground level concentrations of pollutants resulting from emissions were then modelled, and the predicted concentrations compared with air quality objectives and guidelines in order to assess impacts. The guidelines contained in the EA Technical Guidance Note EPR-H1 have been applied. These state that an emission can be considered insignificant if the contribution to long term ground level concentrations is less than 1% of the air quality

objective (AQO) and the contribution to short term ground level contributions is less than 10%.

498. Air quality standards and objectives for major pollutants are set out in The Air Quality Strategy for England, Scotland, Wales and Northern Ireland 2007, known as the National Air Quality Strategy (NAQS).

Nitrogen dioxide (NO₂)

499. The EA has classified the plant as a co-incinerator as it would involve the combustion of waste wood. It is therefore subject to the provisions of the Waste Incineration Directive (WID) with regard to emissions. WID restricts permitted emissions of oxides of nitrogen (NO_x) for this type of plant to a maximum level of 200 µg/m³. The restriction on stack height and the location relative to residential areas, some of which lie within an existing AQMA, have led the Appellant to propose tighter controls over NO_x emissions in this case. For the BREP, the Appellant has requested that the level be limited to 125 µg/m³ and this has been made a condition of the Environmental Permit. In this regard TBC's and BCAG's concerns focus on the measurement of existing background levels; the ability of the regulator (EA) to ensure process emissions remain within the limits set by the permit; and the accuracy of modelled emissions having regard to identified uncertainties in the data informing the assessment. [44]
500. The plant would release nitric oxide (NO) and nitrogen dioxide (NO₂) which are together referred to as NO_x. It is assumed that the emissions of NO_x would be in the proportions 90% NO, 10% NO₂. In the atmosphere, NO will be converted to NO₂ in a reaction with ozone.
501. The EA has provided guidance for the proportion of NO₂ that will be converted from the total NO_x from combustion plants. On this basis it can be assumed for the long-term ground level concentrations that no more than 70% of all NO_x released from the plant will be present in the form of NO₂. For short term concentrations, the EA indicate that 35% of the NO_x released will be present in the form of NO₂.
502. The assessment is based on data from the Salford Eccles continuous monitoring station, located about 2.5 km north-east of the biomass plant. This is an urban industrial monitoring station which is operated as part of the National Air Quality Network. The baseline data was updated to take account of more recent data for the Inquiry with 36.75 µg/m³ given as the average background concentration of NO₂ for the period 2007 – 2011, an increase of 0.45 µg/m³ over the figure given in the ES. For impacts on areas within the Air Quality Monitoring Area (AQMA), a higher background level was assumed, using local data taken from an NO₂ diffusion tube at 673 Liverpool Road, a roadside location adjacent to junction 11 of the M60.
503. The long term AQO for NO₂ is 40 µg/m³. The highest predicted contribution of NO₂ emissions to ground level concentrations of pollutants predicted from the BREP is 1.97 µg/m³, (based on weather data from Manchester Airport for 2000) which is 4.9% of the EAL/AQO (Environment Assessment Level/Air Quality Objective). However, this would be in the immediate vicinity of the MSC to the east of Barton Bridge, and not in a residential area. Concentrations at nearby residential receptors were also predicted. At a

number of locations the predicted concentrations were more than 1% of the long term EAL/AQO, and therefore could not be screened out as insignificant. These predicted concentrations are as follows:

Residential receptor	Annual mean ($\mu\text{g}/\text{m}^3$)
Nearest dwelling on Langland Drive	0.41
Nearest dwelling on Bushcombe Avenue	0.40
Nearest dwelling on Tindall Street	0.69
Nearest dwelling on Peel Green Road	0.46
Nearest dwelling on Newhall Avenue	0.62
Nearest dwelling on Verdant Avenue	0.56
Nearest dwelling on Bent Lanes	0.64

504. The highest predicted contribution in an area where people live is thus 0.69 $\mu\text{g}/\text{m}^3$ at Tindall Street. This is 1.7% of the long term air quality objective and therefore cannot be screened out as insignificant. The Appellant then applied criteria from Environmental Protection UK's (EPUK) guidance – 'Development Control: Planning for Air Quality', which, although non-statutory, is widely used by local authorities, consultants and developers in the assessment of air quality impacts of new development. Whilst EA guidance regards a contribution of less than 1% as the screening criteria for insignificance, the EPUK guidance describes increase of <1% as 'imperceptible' and increases of 1-5% as 'small'.
505. TBC's and BCAG's witnesses both accepted that the process contribution of the BREP would be small, in the context of existing background concentrations. This is not inconsistent with the EAs conclusion in the Permit decision document (CD67A page 40): '... the process contribution is 1.7% of the AQS at the worst affected residential receptor in the AQMA. This is only slightly above the 'insignificance' level and so could not reasonably be considered significant taking likely modelling uncertainties into account.' [109, 129, 134,]
506. The appellant was criticised by objectors for placing too much reliance on the use of the ADMS chemistry module, particularly as the only year when a complete set of data for both wind direction and background concentrations were available was 2004. The results gave a lower peak concentration of 1.30 $\mu\text{g}/\text{m}^3$, with proportionally lower contributions at Tindall Street and other sensitive receptors. The chemistry module was questioned by objectors and not accepted by the EA. [128]
507. A further suggested modelling deficiency was the use of the incorrect Monin-Obhukov length, which measures the roughness of the surface of the surrounding terrain. The Appellant's witness considered that the effect of increasing the length as advised by the software manual would have increased the predicted maximum concentration at Tindall Street by 0.05 $\mu\text{g}/\text{m}^3$. The issue was taken into account by the EA on page 167 of the permit decision

document (CD67B) where it is accepted that use of a more appropriate length would have an 'inconsequential' effect on the overall conclusions. [310, 328]

508. The ES shows that air quality impacts will vary from year to year, depending in part on atmospheric conditions and wind direction. Modelling cannot predict with precision what will happen in all circumstances, but it is nevertheless widely used and accepted as an aid to the understanding of likely impacts. BCAG's witness pointed out that using 2000 weather data, a predicted process contribution of 0.6 mg/m³ of NO₂ could occur in the Liverpool Road area, whereas using data averaged over a longer period the ES predicted a contribution of 0.3 mg/m³. However, reliance on data from a single year could equally give rise to criticism that the results would be untypical, and as a general principle the use of a longer time series is likely to give a more representative picture of impacts.
509. The EA's conclusion on this is set out on page 40 of the Permit decision document: *'We have not accepted the use of the chemistry module in this case to assess the conversion rate of NO to NO₂ which means the process contribution is 1.7% of the AQS at the worst affected residential receptor in the AQMA. This is only slightly above the 'insignificance' level and so could not reasonably be considered significant taking likely modelling uncertainties into account. Based on background quoted by the applicant of 36.30 µg/m³, the PEC (predicted environmental contribution) is 92.5% of the AQS. We have evaluated the use of NO₂ background monitoring data that was used in the assessment of air quality.'* [116]
510. For the Permit the impact was assessed using the EA's guidance on NO_x to NO₂ conversion factors. These assumptions were not questioned and should be regarded as robust.
511. While, having regard to the advice in PPG 10, it is not necessary to go behind the EA's conclusions, the Appellant's assessment set out additional factors which are considered to lend additional robustness to the assessment. The first is the use of background monitoring data from Glazebrook which lies to the west of the appeal site. This is a rural monitoring station upwind of the appeal site. Ozone concentrations are likely to be higher in rural areas than would be the case in the urban area, which would tend to promote a more rapid rate of conversion. The expected rate of conversion of NO_x to NO₂ from the plant (in the presence of a lower concentration of ozone) would be slower, and the proportion of NO₂ correspondingly less than the EA assumptions would predict, particularly in areas close to the plant. The Appellant suggested some 60% as against 70%, and this does not seem unreasonable.
512. The Appellant also argued that the plant would only operate for 90% of available hours, so that NO₂ emission would be further reduced, though a suggested condition to this effect was resisted. In the circumstances it would not be appropriate to treat this as a factor on which much reliance can be placed. However there would inevitably be periods when the plant would not be operational, for example, during maintenance, so utilisation would be less than 100%.
513. Many objectors were concerned about the ability of the EA to enforce compliance with the terms of the permit, particularly in respect of NO₂ emissions. Mr Greenough stated that in his view, the EA could not properly

assess potential emissions before detailed work on process design had been carried out. It is apparent however that the EA raised issues with the Appellant about the ability to achieve NO_x emission limits of 125 mg/m³ and further information was provided. Similarly, there was widespread concern that a margin of some 20% would be allowed in assessing compliance with emission limits, and in any event notice would be given of the intention to carry out compliance monitoring. While I understand that such considerations are a source of concern to objectors, it is not the role of this Inquiry to review the standard operational and monitoring practices of the regulatory authority. I accept that it is important for public confidence and that of existing and future operators that they are applied consistently and fairly. However, PPS 10 is clear that consideration of planning applications should proceed on the assumption that the relevant pollution control regime will be properly applied and enforced. I am not aware of any formal legal challenge being made to the issuing of the Permit. [323 - 326, 400, 404 - 478 passim]

Assessment of background levels

514. The Appellant's view is that, as a result of its location in an urban/industrial area, the background concentrations of pollutants at Salford Eccles continuous monitoring station are likely to be higher than concentrations closer to the appeal site. In respect of NO₂ concentrations this was disputed by TBC's and BCAG's air quality witnesses. It is agreed that the main source of NO₂ in the area covered by the AQMA is motorway traffic. The Salford Eccles monitoring station is upwind of the M602, while the plant would affect residential areas downwind of the M60. The M60 carries significantly higher traffic volumes than the M602. Hence it was argued that background concentrations of NO₂ are likely to be higher in areas closer to the appeal site, where higher process contributions are expected to occur, than at Salford Eccles.
515. The assessment of NO₂ in the ES did not rely exclusively on Salford Eccles data for background concentrations, but used the higher figure of 62 µg/m³ from the diffusion tube at 679 Liverpool Road (within the AQMA) when considering predicted impacts at Tindall Street and at Stroma Gardens. There was agreement that NO₂ concentrations fall away with distance from the source, and this introduces a further element of robustness into the assessment. The peak concentration at a residential receptor was predicted to occur at Tindall Street some 190m from the southbound carriageway of the M60, and still further from the Liverpool Road diffusion tube. At these distances, it is reasonable to assume that background NO₂ concentrations will be lower than 62 µg/m³. The location of the diffusion tube is very close to the slip road and roundabout at junction 11 of the M60 where queuing of vehicles occurs. It is also possible that overhanging trees affect the dispersion of exhaust gases, giving a distorted reading at this location. As result its use for the wider area is likely to represent a worst case scenario. [132, 133, 302, 397]

Stack height

516. The proposed stack height was a matter of significant concern to objectors. It was considered inadequate to ensure effective dispersal of emissions. Comparisons were made with other facilities, including the gas fired power station at Carrington, and the Appellant's proposed incinerator at Ince Marshes.

517. The stack height is limited to 44.23m by the proximity of Barton Aerodrome. It is accepted by the Appellant that this is unusually low for a plant of this type. The proposed facility at Ince Marshes, which has planning permission but has not yet been built, would have a stack height of some 85 metres. The height there was determined by the need to protect the Mersey Estuary SAC from the effects of airborne pollution. It was also chosen as it represents the point at which increase in the height will not lead to significant reductions in ground level Nitrogen Dioxide concentrations.²⁴¹ BCAG and local residents are concerned that the restricted stack height would contribute to poor dispersal and unacceptable ground level concentrations of pollutants in the locality, including NO₂. [337]
518. The TBC Committee Report (CD46) considers the issue at para 45: *'This constraint is one of two reasons why the proposed site is less than ideal from the perspective of air quality. The second reason is the proximity of the proposed facility to an Air Quality Management Area. These constraints result in the need to substantially reduce emissions limits below those that would normally be applied.'*
519. The issue of stack height is addressed in the Permit decision document (CD 67B) on page 157, where the EA comment as follows: *'The height of the chimney stack is constrained by its proximity to Barton Aerodrome and in the absence of that constraint would probably be 60m to 100m. The height of the chimney at Barton (44.23m) is the maximum it can be given these constraints. We are required to assess the environmental impact of emissions from the stack, in particular on local air quality. We must determine whether the proposed stack height is acceptable. Given the constraints imposed by other statutory regimes we accept the height of the stack is BAT (Best Available Technology). We then need to assess whether the environmental impacts are acceptable. Our assessment of this is summarised in Section 5 of this document.'*
520. The key issue for air quality is not the height of the stack itself, but whether the particular configuration can be made to operate within the limits imposed by the Permit, and without bringing about a harmful deterioration of local air quality, particularly having regard to the AQMA. It can be concluded that if the relevant standards can be met, there is no reason why the lower stack height should not be found acceptable, even though a taller stack could achieve greater dispersal and lower ground level concentrations in the locality. While the concerns of residents are understandable in this context, the emissions limits set by WID are deliberately stringent. The permit sets a substantially lower limit for lower level of NO₂ emissions than would be permitted by WID to take into account existing air quality issues in the AQMA. This offers a high degree of confidence that emissions will result in no significant adverse health effects. [46, 322, 404 – 478 passim]

Effect on AQMA

521. The extent of the AQMA is shown in Appendix 4 of the SoCG. It was designated in 2001 and refined in 2005 because of high levels of NO₂ in areas close to the motorway corridors. An application by the UK government to

²⁴¹ AW/1 para 24

extend the period for compliance with the requirements of Directive 2008/50/EC in respect of NO₂ in a number of AQMAs including Manchester has been withdrawn. The deadline for compliance remains 1 January 2010. [125, 298, 344, 393, 404 – 478 passim]

522. TBC and BCAG witnesses took the view that as monitoring shows that existing concentrations of NO₂ in the AQMA are high, the additional contribution from the plant would lead to an unacceptable deterioration in an area already designated for poor air quality, where the UK is under a legal duty to improve air quality, and further delay compliance with the Directive. It would erode any headroom available to accommodate emissions from other planned development in the locality, particularly when the cumulative effects of such developments were taken into account.
523. I understand the concern that air quality impacts that are small individually may cumulatively result in a significant increase. Defra's guidance for Part A (1) Environmental Permits states 'Where a new installation would only make a minor contribution to a breach of a Community environmental quality standard, it will normally be more desirable for regulators to work together to control the other, main sources of pollution, thus ensuring the environmental standard is met.'
524. Cumulative impacts were considered by the EA at pages 63 – 65 of the permit decision document (CD 67 B). It takes into account consented schemes for gas fired power stations at Carrington I and II. The combined impact of these two stations was assessed as being 0.68% of the EQS of 40 µg/m³, which, as it would be less than 1% of the EQS could be screened out as being insignificant. The EA also recognised that the combustion plant at Davyhulme WWTW would contribute to existing background levels, predicting an increase in annual mean NO₂ concentrations of between 1% and 2% of the EQS in a residential area within the AQMA. The additional contribution from the BREP was assessed as being negligible. Considering short term NO₂ from both sources at areas where the public might be exposed, the EA found that there was unlikely to be an exceedence of the 99.79 percentile for hourly averages within a year.
525. The Port Salford and Salford Reds Stadium developments were assessed in the ES for the Port Salford development. The highest impact of these developments was predicted to be increased annual mean NO₂ concentrations at Liverpool Road to the east of the M60, although the AQO at this location was already exceeded. The EA's conclusion is that the BREP is predicted to add less than 0.3 µg/m³ at this location so that it would make a negligible contribution to the exceedence of the EQS.
526. The Trafford CS states that planning decisions should ensure that any new development in AQMAs is consistent with the local air quality action plan, which states that applications for new development should be assessed against the air quality standards.
527. The Air Quality Plan for the achievement of air quality limit values for NO₂ in Greater Manchester (2011) (Doc SO5, Appendix 4) sets out a number of measures for achieving compliance with the AQS which address the principal source of NO₂ i.e. vehicle emissions. It also proposes enforcement of the Pollution Prevention and Control Regulations 2000 and that local authorities

ensure that air quality is a consideration in determining planning applications. In this case the air quality implications have been found to be satisfactory by the regulator. Accordingly, construction of the BREP would not be incompatible with the Action Plan, which sees the principal thrust of action as the need to tackle the problem of vehicle emissions. [117, 124, 335, 345, 396]

528. The main contributor to NO₂ concentrations in the AQMA is from traffic. The opportunity for local authorities to achieve mitigation or compliance with the AQO is very limited. However, that does not mean that a prohibition on development should be enforced where there is evidence of an existing breach. To do so would be likely to conflict with the government's strong support for economic growth, particularly as AQMAs are often found in areas of intense economic activity, such as transport corridors within the major conurbations, which offer some of the best prospects for sustainable growth in future, as well being centres of past growth.
529. The diffusion tube at 679 Liverpool Road shows that NO₂ concentrations already exceed the AQS in parts of the AQMA. The Appellant was criticised for not undertaking further monitoring in the locality to give a more accurate assessment of background concentrations. However I note that they were not asked to do so by the regulatory authorities, and both the TBC Pollution and Licensing Team and the AQMAU of the EA regarded the choice of monitoring locations used in the assessment of background contributions as satisfactory. [397]
530. Criticism was made by BCAG's witness that the Appellant should have applied the judgment factors set out in EPUK guidance, which advise that in areas of existing poor air quality, account should be taken of whether more people would be exposed to levels above an AQS, and whether or not an exceedence of an AQS is predicted to arise where none existed before, or the extent of an exceedence area is substantially increased. However, though concern was expressed about residential areas close to motorway junctions, no conclusive evidence was produced to show that either circumstance would be likely to arise. [115, 130, 299, 307]
531. I accept that current monitored levels of NO₂ approach and may in some places exceed the AQO of 40 µg/m³. Higher concentrations found at roadside monitoring sites cannot be regarded as typical of areas further away from the motorways, where the majority of dwellings are found. Figures 3.3 and 3.4 of the Appendix to Mr Othen's proof show the location of a number of monitoring stations within the AQMA. Those where the AQO is exceeded at present are for the most part roadside sites, immediately adjacent to the motorways. The majority of sites, though in some cases quite close to the motorways, do not show an exceedence. The ES indicates that no new exceedences at residential properties within the AQMA would occur as a result of BREP, and there is no clear evidence to contradict this. As the EA conclude on page 150 of the Permit decision document, 'when looking at the AQMA as a whole, there will be no measurable effect.' [299 - 302]

Non standard operating conditions

532. Many objectors considered that there was potential for emission to exceed permitted levels as a result of equipment failure or during the commissioning

phase. Mr Bacon reported his experience during the commissioning phase of an incinerator in Derbyshire.

533. WID allows for the continued feeding of waste under abnormal operating conditions, recognising that emissions during transient states (e.g. start-up, shut down) are higher than during steady-state operation. The overall environmental impact with a limited exceedence of an EAL may be less than that of a partial shut-down and re-start. Abnormal operations are limited to no more than a period of 4 hours continuous operation and no more than 60 hours aggregated operation in any calendar year (<1% of total operating hours). I acknowledge that residents are unlikely to find this re-assuring. Nevertheless it forms an integral part of the regulatory system, and is allowed by WID in exceptional circumstances of short duration.
534. The EA considered the Appellant's assessment of short term impacts from abnormal operating conditions to be 'highly conservative' and concludes that there would be no predicted exceedences of air quality standards. [404 - 478 passim]

Blue-NG appeal decision at Southall

535. TBC's evidence included a recent appeal decision on a biomass CHP plant in Southall (CD150). The Inspector found that the the development would accord with policies for CO₂ and renewable energy targets and generate 20% of the Mayor's renewable energy target (IR para 11.1) but went on to recommend that the appeal should be dismissed on air quality and traffic grounds. In dismissing the appeal, the SoS concluded at DL para 20 that *'Given that the proposal would have an adverse effect on air quality, that some absolute levels would be 50% above the limit values, there is little evidence of existing levels falling, and that many people would be affected in a deprived area where there is already a shorter life expectancy than elsewhere in the Borough, I consider that the proposal would be contrary to the aims of LP Policy 4A.19 and saved UDP Policy 2.6. I conclude that it should be refused on air quality grounds.'* He also considered that fuel deliveries would give rise to unacceptable traffic congestion and harm to the free flow of traffic in a congested residential area close to schools and community.
536. TBC's witness considered that there were clear parallels between the Southall proposal and the current appeal proposal. [118, 330]
537. I deal with traffic impacts elsewhere in the report (paras 633 - 635 below), where I conclude that the access arrangements at Barton Bridge are very unlikely to give rise to congestion in residential areas.
538. A key factor in the SoS's conclusion at Southall is his finding that *'the three wards closest to the site are high on the most recent index of multiple deprivation. I consider that local residents might therefore suffer disproportionate effects due to the proposal.'*
539. There are a number of material difference in the circumstances between the two proposals. Firstly, both the Inspector and the SoS concluded in respect of the Southall proposal that that there was likely to be actual harm to health, which did not form part of the TBC's or BCAG's case at this Inquiry. Secondly, there was no Permit in place at Southall. Thirdly, the Southall scheme lay wholly within an AQMA, which is not the case here. [119, 120, 121]

540. There are also significant differences in respect of population density and levels of deprivation. TBC's evidence to the Inquiry was that overall, the wards of Davyhulme East and West, Flixton and Urmston have a reasonable economy and standard of living, and do not demonstrate high levels of deprivation against Indices of Deprivation for England. (Para 6.8.2 of Mrs Harding's PoE). At the more detailed level of Super Lower Output Areas (SLOA), SLOA 007B EO1006126 Davyhulme West, which lies in the vicinity of Woodsend Park, ranks in the bottom 20% nationally in terms of employment, education and income data. However this area is some 2 km from the appeal site, and there is no evidence of any significant visual or air quality impacts from the proposed plant, so there is no basis to conclude that the living conditions of residents would be adversely affected. [119, 171]
541. The Appellant's evidence shows that there are some 6,210 people resident within 500m of the Southall site, and none within the same radius of the appeal scheme. The population within 1000m at Southall is 27,784, the equivalent figure for the appeal scheme being 3,451. At Southall, the three nearest wards were found to be 'high on the most recent index of multiple deprivation'. For the appeal scheme, no similar levels of deprivation have been identified in the locations where air quality impacts are predicted to be greatest. Those parts of Salford exhibiting the highest levels of deprivation (para 445 of Mr Watson's PoE) lie in areas where emissions from the plant are predicted to have no significant impacts on air quality.
542. Accordingly, I do not consider that the circumstances which informed the Blue-NG decision are comparable with this case.

Other pollutants

543. For all other pollutants the assumption was made that the plant would operate at the emission limits prescribed in the waste incineration directive. Where background data was not available locally, data from appropriate national monitoring stations was used, with the highest measured concentration nationally or regionally being used.
544. On this basis, the predicted process contributions from particulate matter, carbon monoxide, ammonia, hydrogen chloride, hydrogen fluoride and a number of heavy metals including mercury were screened out as insignificant. This analysis was accepted by the EA.
545. Particular concerns were raised about potential emissions of a number of other toxins and particulates.

Arsenic

546. Waste wood may be treated with preservative compounds containing arsenic, and there are fears that significant quantities may be emitted from the BREP and found in ash. This concern was raised at an early stage by residents and by TBC's Pollution and Licensing Team. Monitoring carried out on behalf of BCAG between October 2010 and January 2011 indicated high background levels at a number of locations in Davyhulme. [404 - 478 passim]
547. The EA gave detailed consideration to these results as reported at page 38, para 5.2.5.2 of the decision document, and concluded that the result is an 18 hour mean which cannot be directly compared with the EU target value. The

BCAG results were compared with data from the three closest sites which are part of national monitoring of heavy metals, at Runcorn, Wythenshawe and Walsall. The annual mean concentrations at these monitoring sites are substantially below the EU AQ target value of 6 ng/m³, and also well below the long term EAL value of 3 ng/m³. Monthly concentrations at all three sites exhibit a high degree of variation, with concentrations being highest in the autumn. [112]

548. The Appellant has assessed the impact of metal emissions by making the conservative assumption that emissions would occur continuously at the limits set by WID. The PEC (predicted environmental concentration) for long-term arsenic emissions is 69% of the long term standard of 3 ng/m³. The EA identified a theoretical risk of the relevant EQS/EAL being exceeded.
549. The process contribution is predicted in the Appellant's Air Quality Assessment to be 1.25 ng/m³ at the point of maximum impact which is some distance from the nearest sensitive receptor, where the impact is likely to be about one third of the maximum level. The EA states that its experience of regulating incineration plant is that emissions of individual metals are substantially below the aggregate limits set in WID (CD 67 B, page 39). On this basis the EA has concluded that the theoretical risk of arsenic exceeding the EU target value is highly unlikely.
550. With regard to toxic residues in ash, bottom ash residues and boiler ash will be transported off site for appropriate disposal, so there is no risk to the health of surrounding communities arising from these sources. Bottom ash may be capable of being recycled, but a sampling protocol is specified in the Permit and would require that any ash containing hazardous residues would be disposed of appropriately. APC residues from flue gas treatment are hazardous waste and would in any case be sent to an appropriate landfill facility.

Particulates

551. A number of residents were concerned that serious health effects would result from the emission of nano-particles. Mr Cliff (BCAG) argued that unregulated particles smaller than PM2.5 constitute a serious threat to health being implicated in respiratory diseases, cardio-vascular conditions, auto-immune response failure and even dementia. Residents did not find the official reassurances of the regulatory authorities plausible, as long term effects were not yet properly understood. They gave examples of common substances where there had been long delays before toxicity was officially recognised, such as cigarette smoke and asbestos. [404 – 478 passim]
552. The plant will use multiple compartment fabric filters with burst bag detection to minimise the risk of escapes in the event of bag rupture to limit the emission of particulates to the atmosphere. These provide reliable abatement of particulate matter to below 5 mg/m³ and the EA states that they are BAT for most installations. The EA has assessed the predicted emissions of particulates against the relevant standards and concluded that the process contribution for PM10 (particles of 10 microns and smaller) would be below 1% of the long and short term EQS and those for PM2.5 (particles of 2.5 microns and smaller) would also be below 1% of the relevant standard. On this basis, the EA considers that particulate emissions from the installation will not give

rise to significant pollution and the plant configuration was accepted as BAT by the EA (CD67B para 6.2.1, page 75). The assessment was considered to be robust in that it assumes that the plant would emit particulates continuously at the WID limit of 10 mg/m³ for total particulate matter, whereas actual emissions from similar plant are normally in the range 1 to 5 mg/m³.

553. There is currently no emission limit prescribed for particles below 2.5 microns. However, the EA states that in the light of current knowledge and available data they are satisfied that the health of the public would not be put at risk by such emissions. In the absence of any relevant EU or national emissions standards for such particles, there is no basis for me to conclude otherwise.
554. It was suggested that plasma arc incineration is now recognised as a cleaner technology than biomass incineration. However, no analysis of comparative advantages and disadvantages had been carried out to enable me to reach a conclusion that it would be a practical alternative to the current proposal, which has been accepted as BAT by the EA. [140]

Chromium VI

555. The EAL for Chromium VI is 0.2 ng/m³ (from Part 2 of the Agency H1 Horizontal Guidance Note 2008). The annual mean process contribution of all chromium from the plant is predicted to be 1.25 ng/m³. The Appellant assumed in the Air Quality Assessment that 0.7% of chromium emissions would be in the form of chromium VI, so that the process contribution for chromium VI would be 0.00875 ng/m³, 4.37% of the EQS/EAL. As it would be above 1% it cannot be screened out as insignificant.
556. Chromium species are not monitored separately in the UK. The average background of all chromium species was found to be 4.99 ng/m³. The Appellant has assumed that 0.7% of the chromium would occur as chromium VI, based on the proportion of chromium VI to total chromium found in APC residues at existing Municipal Waste Incinerators (MWI). EA Interim Guidance to Applicants on metals Impact Assessment for Waste Incineration Plant makes the assumption that this proportion is similar to the particulate matter released from the emission point.
557. Dr Raabe identified errors in the EA permit regarding the assessment of chromium VI levels. He also made the point that in calculating the existing background concentration of Chromium VI the Appellant was wrong to assume that the same proportion of 0.7% of total chromium should be applied, suggesting that the existing background concentrations may already exceed the EAL by a factor of 6, and process emissions by a factor of 3. He cited a recent review by the Expert Panel on Air Quality Standards 2009 which referred to a study in Canada (Rowbotham et al, 2000) which indicated that Chromium VI constitutes between 3 and 8% of total airborne chromium in that country. A proportion as high as 12% could be inferred from data from the UK National Atmospheric Emissions Inventory, a proportion which was relied upon by Peel in the ES for their proposed incinerator at Ince Marshes. [136, 400]
558. This was accepted in part by Mr Othen (Document S06, submitted during the course of the Inquiry). He accepted that it would be reasonable to use the figure of 3 - 8 % from Rowbotham et al 2000, but argued that as Chromium VI is subject to reduction to Chromium III in the presence of other pollutants, a

figure of 12% would overestimate the proportion of Chromium VI in background concentrations. Using the figure of 3% - 8% would give a range for the existing background concentration of 0.15 ng/m³ to 0.4 ng/m³ of Chromium VI. The higher figure would give existing background concentrations of twice the EAL.

559. Since the submission of the planning and permit applications, the EA has published a final version of their guidance on metals, which has been updated in September 2012. (Guidance to applicants on impact assessment for group 3 metals stack emissions – version 3, September 2012 - Doc SO/6 appendix 1). Mr Othen carried out a revised assessment following the guidance in Step 3 – Case specific scenario. Appendix B of the EA guidance gives a mean value for chromium VI concentrations in air pollution control residues from a range of Municipal Waste Incinerators of 0.035 µg/m³. The current guidance retains the assumption that emission concentrations will be similar. This is significantly lower than the value used in the Air Quality Assessment.
560. Using these assumptions, the process contribution (PC) of Chromium VI would be calculated as 0.000787 ng/m³, the background concentration between 0.15 and 0.4 ng/m³, and the predicted environmental concentration (PEC) between 0.151 and 0.401 ng/m³. Using the mean concentration the PC would be 0.39% of the EAL, and the PEC between 75% and 200%. (SO/6 paras 2.21 and 2.22)
561. While it was accepted that existing concentrations of Chromium VI may be higher than the EAL, it appears likely from this revised analysis that the process contribution from BREP would be very small, less than 1% of the EAL.
562. Dr Raabe rightly drew attention to errors in Table 5.2.2 of the Permit decision document (CD67B pages 31/2). It is also the case that the EA assessed the proposal on the basis that the existing background concentration of Chromium VI was lower than the EAL. The new evidence indicates that that may not be the case. However data from the revised EA guidance indicates that stack emissions of Chromium VI are likely to be significantly lower than was assumed in the AQS, and less than 1% of the EAL. This is in the area of predicted maximum impact, and it can be assumed that the maximum concentration at a sensitive receptor would be lower. It can therefore be concluded that predicted emissions of Chromium VI would not give rise to any significant increased health risk for the population of the area.

Dioxins and Furans

563. A particular concern was that there would be no continuous monitoring of dioxin emissions. It was argued that if such monitoring was made a condition of the permission it would help to alleviate public concerns about the emission. It was also considered that there would be a risk from ingestion of increased levels of dioxins through consumption of locally produced food and particularly eggs. [139, 404 – 478 passim]
564. The impact of potential emissions of these substances is considered in detail by the EA in the Permit decision document. At page 49 it is stated that the results of the Appellant's assessment show that the predicted daily intake of dioxins resulting from emissions at the point of maximum impact are below the recommended tolerable daily intake (TDI) levels. The assessment calculates

the dose of dioxins and furans that would be received by people if all their food and water were sourced from the locality where the deposition of dioxins and furans is predicted to be the highest. The methodology is based on worst case assumptions, with the plant operating continuously at the maximum emission limits allowed under WID, which is unlikely to be the case in practice. At page 90 the EA states that *'we have assessed the control techniques proposed for dioxins by the Applicant and have concluded that they are appropriate for dioxin control. We are confident that these controls will also minimise the release of HCB (Hexachlorobenzene), PCB (Polychlorobiphenyls) and PeCB (Pentchlorobenzene).'*

565. The EP includes conditions which require the monitoring of dioxin emissions. Continuous monitoring is not a requirement of WID at present, and the EA say (CD67B para 6.7.3) that available continuous monitoring equipment would not meet the requirements of the relevant British Standard (BS EN 1948). At present the EA considers that in view of the predicted low levels of mercury and dioxin emissions it is not justified to require the operator to install continuous monitoring or sampling devices for these substances.
566. It was also argued that a flue gas temperature of 850°C held for two seconds was insufficient to ensure that these substances would be destroyed. However that temperature is WID compliant, and a condition of the permit specifies that this requirement should be complied with.
567. In summary the issue is fully addressed in the EA permit and decision document. In accordance with the advice in PPG10, the decision maker should assume that the regulator will enforce the requirements of the relevant pollution control regime.

Validation

568. The Appellant's air quality assessment was reviewed in detail by the regulatory authorities. TBC employed an experienced independent adviser (Dr Mark Broomfield of AEA) to assist the EHO. The assessment was also reviewed in the context of the Environmental Permit application, by the Air Quality Modelling and Assessment Unit (AQMAU) of the EA. [51]
569. While TBC's EHOs considered the site to be less than ideal for the purpose in view of the limitation on the stack height and proximity to the AQMA, the report to Committee (CD 46) concludes that the impact on air quality would be acceptable. It refers to additional information provided by the Appellant on a range of issues, including boiler design, effects on the AQMA, forecast arsenic levels and concludes at paragraph 66:

'The September Addendum [to the ES] also includes new information on other aspects of the study which provides a "margin of safety" on the assessments undertaken. The Pollution and Licensing team believes that this increases the confidence that the Council can have in the overall assessment of air quality impacts. The applicant has provided additional information and proposed controls that address the inherent problems at the proposed location. In doing so it is believed that they have demonstrated that the proposal would have an insignificant effect on air quality, subject to the strict requirements being included in the planning conditions and the Environment Agency operating permit. As such, it is considered that a refusal of planning permission based

upon the impact on air quality from the proposal could not be sustained.' [107, 333]

570. Miller Goodall, a consultancy firm advising Salford City Council, carried out a 'robust assessment of the air quality information' (CD45 page 67). They considered that although it is 'recognised that the air quality here is poor the impact of the proposed development would be negligible', and that planning policy did not seek to preclude development with such a negligible impact. On the basis of their advice the officers' report concluded that the impact would be minimal and as such it would be inappropriate to object to the development on grounds of its location. Notwithstanding this advice, Salford City Council objected to the proposal and has subsequently submitted representations to the Inquiry. [50, 107]
571. For this appeal, the most significant validation was by the EA which resulted in the issuing of the Permit, after a long period of consultation during which further representations were considered and addressed in detail as set out in CD 67 B. While the EA did not accept all of the Appellant's methodology, they nevertheless reached an overall conclusion that the air quality and health impacts would be acceptable, subject to the strict requirements and conditions set out in the Permit. [43]

Health impacts

572. Many objectors referred to scientific evidence of harm attributed to emissions from incinerators, and the dangers to human health from exposure to toxic substances. There is much evidence that substances which were previously considered safe have now been found to be very harmful. Clearly the degree of exposure and the concentration in the environment is a crucial factor for many identified toxins, though in many instances harm occurs at a very low level. [404 - 478 passim]
573. However the air quality impacts of the Plant have been assessed on the basis of stringent Air Quality Standards and Environmentally Acceptable Limits set out in European and National legislation. The plant would have to comply with the requirements of WID (CD 87), paragraph 7 of which states: '*... a high level of environmental protection and human health protection requires the setting and maintaining of stringent operational conditions, technical requirements and emission limit values for plants incinerating or co-incinerating waste within the Community. The limit values set should prevent or limit as far as practicable negative effects on the environment and the resulting risks to human health.*' For all pollutants except NO₂ (for which a lower limit has been set) the assessment has been made on the basis that the plant will operate continuously at the limits set by WID, which the EA accepts is unlikely to happen in practice.
574. PPS 10 advises that '*modern, appropriately located, well-run and regulated, waste management facilities operated in line with current pollution control techniques should pose little risk to human health.*' The 2010 HPA advice (CD 86) is framed in similar terms: '*While it is not possible to rule out adverse health effects from modern, well regulated municipal waste incinerators with complete certainty, any potential damage to the health of those living close-by is likely to be very small, if detectable. This view is based on detailed assessments of the effects of air pollutants on health and on the fact that*

modern and well managed municipal waste incinerators make only a very small contribution to local concentrations of air pollutants.' [164, 318]

575. I note that the HPA has commissioned further research on possible links in recognition of public concerns about this issue. The research conclusions have not yet been published, and the HPA has not altered its current advice in the meantime. [319]
576. Many published studies were referred to in the evidence of TBC's and BCAG's witnesses and by third parties. A number relate to installations which pre-date WID, and would not meet its stringent requirements. I acknowledge that those installations may have been considered to be modern and well-regulated at the time, but regulatory requirements are reviewed periodically and WID standards are accepted to offer a very high level of protection. In any event PPS 10 advises that authorities should avoid carrying out their own detailed assessment of epidemiological and other health studies. Rather they should ensure, through drawing from Government advice and research and consultation with the relevant health authorities and agencies, that they have advice on the implications for health, if any, and when determining planning applications consider the locational implications of such advice. [147, 283, 317]

Overall conclusion on Air Quality and Health Impacts

577. PPS 10 remains current guidance for this type of development. The current version was issued in 2011 and was not superseded by the framework. Its advice is central to the determination of this appeal. In particular, the respective roles of the planning system and the environmental permitting regime are clearly set out in paragraph 27:

'The planning system controls the development and use of land in the public interest and should focus on whether development is an acceptable use of the land, and the impact of those uses on the development and use of land. Waste planning authorities should work on the assumption that the relevant pollution control regime will be properly applied and enforced.'

578. Paragraphs 30 and 31 give advice on how health concerns should be addressed in determining planning applications:

'Modern, appropriately located, well-run and well-regulated, waste management facilities operated in line with current pollution control techniques and standards should pose little risk to human health. The detailed consideration of waste management process and the implications, if any, for human health is the responsibility of the pollution control authorities. However, planning operates in the public interest to ensure that the location of proposed development is acceptable and health can be material to such decisions.'

'Where concerns about health are raised, waste planning authorities should avoid carrying out their own detailed assessment of epidemiological and other health studies. Rather, they should ensure, through drawing from Government advice on the implications for health authorities and agencies, that they have advice on the implications for health, if any, and when determining planning applications consider the locational implications of such advice. In turn, the relevant authorities and agencies will require sufficient

understanding of the proposed waste management process to provide considered advice. A concurrent process and a transparent relationship between planning and pollution control regimes will help facilitate this. [145 – 147]

579. This advice has informed and underpinned many recent decisions by the Secretary of State, and is highly material to the current appeal. [144, 148 – 157, 160, 197, 198, 292]
580. The Environmental Permit was issued shortly before the Inquiry commenced. However, the permit application was made on 14 January 2011, some 6 weeks after the date of the planning application, so that the advice on concurrent processing in PPG 10 is satisfied. A draft permit was published together with a draft explanatory decision document, with a full programme of consultation in accordance with the Environmental Permitting Regulations which ran from 30 May 2012 to 15 August 2012. It appears to me that the EA's decision making process which is detailed on pages 7 – 9 of the decision document fully satisfies the requirement for openness. There is extensive evidence of further information being sought from the Appellant in response to issues raised, and two reports from the Agency's specialist AQMAU. Community representations, many of which have been raised at this Inquiry, were responded to at length in the decision document (CD67B). [111, 161]
581. I acknowledge that there are particular features of this project which give rise to understandable concerns on the part of the public which include the unusually short stack height, the proximity to an existing AQMA and the lack of any such plant currently operating to the proposed emission standard for NO₂ of 125 µg/m³. Nevertheless these matters have been considered in detail and on a site specific basis by the EA in the permitting process, and have not caused it to change its view that the plant can be operated to comply with the stringent controls on emissions set out in the permit, nor that there would be no significant adverse effect on human health. [126, 195, 309, 339]
582. While they disagreed with some aspect of the methodology and background data employed, both TBC's and BCAG's technical witnesses accepted that the actual impact of emissions from the plant would be small. Their cases were presented on the basis that the widely held objective perception that the development poses an unacceptable risk to the health and safety of those communities can be substantiated by independent scientific evidence. In this case, it is clear that the local community has little or no confidence that the relevant pollution control regime has been properly applied and is capable of being enforced. While I understand the level of fear and anxiety is genuine, and is a material consideration to which I attach some weight, it is not supported by substantive evidence of actual harm to health arising from the proposal. [143, 166, 167, 194, 196, 199, 292, 404 – 478 passim]

EFFECT ON REGENERATION AND COMMUNITY CONFIDENCE

583. The Council's second refusal reason incorporates a number of issues relating to the effect on the communities of Davyhulme, Flixton and Urmston. It contends that development of a facility which involves the incineration of biomass fuels would, by reason of its scale of operation, presence and location, have a detrimental impact upon the vitality and attractiveness of, and the self-confidence of these communities and would thereby prejudice the continuing regeneration and improvement of these areas which have been identified by

the Council as being in need of investment. This view was strongly supported by a large number of residents and Councillors, including those that spoke at the Inquiry. [169, 384, 404 – 478 passim]

584. A considerable amount of Inquiry time was expended in considering the relationship of the site to the spatial profiles defined in the CS. The spatial profile for Urmston (CD62, page 15) confirms that it is made up of a number of distinct residential neighbourhoods including Flixton, Davyhulme, Woodsend and Urmston itself. The area is bounded by the M60, the MSC, and the Mersey Valley. It is described as 'a predominantly residential area with Urmston Town centre at its heart. It is located between the two main employment areas of Trafford Park and Carrington.' [81, 248]
585. The areas of distinctive character within the Borough are illustrated diagrammatically in Figure 1 of the CS, and do not always extend to the physical boundaries described in the spatial profiles. There is no doubt that the operational part of the appeal site lies within the area defined by the Urmston spatial profile. Only the access extends into the adjacent Trafford Park spatial profile. While the Urmston area is fairly defined as 'predominantly residential' it is not exclusively so, and the existing WWTW which lies between the appeal site and residential areas is a significant exception to this general characterisation, extending to some 80 ha, with a number of large engineering structures. While the M60 and the MSC are identifiable physical features which serve to delineate boundaries, they are not impermeable in a visual sense. I do not therefore consider that the proposal would be automatically rendered inappropriate because it lies in an area which is described as predominantly residential. [83, 246, 249, 253, 346, 386]

Scale and visual impact

586. The proposed development would involve a building of a substantial scale, the Turbine Hall/Boiler House being some 42 metres in height, with the stack rising to some 44 metres. It would occupy much of the site area which is immediately adjacent to the Barton High-level Bridge over the MSC. People travelling through the area on the motorway would be very much aware of its presence. It would also be visible from many residential areas, particularly from upper floor windows.
587. There remains some dispute about the precise distance from the site to the nearest dwelling in the vicinity of Ripley Crescent (Viewpoint 7), but it is close to 500m, as confirmed in an update to the SoCG (Doc PEEL/6). From ground level in this area I could see the deck and traffic on Barton Bridge, and the upper parts of the development would be visible. However the intervening distance means that it would not appear unduly prominent. There is also a substantial amount of tree growth and other vegetation, around the Millennium Nature Reserve and the WWTW between the proposed plant and the closest residential areas, together with the buildings and structures of the WWTW itself. Even in winter the vegetation would provide significant mitigation of the visual impact on residents. At street level away from those areas closest to the site there would be very limited awareness of its presence. I accept that the plume would attract attention, though the evidence is that it would only be visible for a small percentage of the year, and rarely during daylight hours.

588. The SoCG (para 9.11) records agreement between the Council and the Appellant that the architectural styling of the building offers the opportunity to create a building which will be a positive contribution to the MSC and add to the modern transformation of this area currently underway. I accept that this opinion is not universally held. However, the application drawings show a building that is well designed for what it is, and though scale and presence were clearly matters of concern to the Council, design and appearance were not matters that were pursued by the Council at the Inquiry.
589. I accept that the nature and scale of the proposed structures and the locally controversial nature of the proposal mean that many people, particularly those that have submitted objections, would have a heightened degree of consciousness of its presence. However there are a number of other large structures in the vicinity, notably the Salford Reds Stadium on the opposite bank of the canal, the motorway bridge itself, Chill Factor on the Trafford Park side of the motorway, and Trafford Park Shopping Centre. There is also a planning permission for Salford Container Port which would introduce further prominent structures and development to the west of the Stadium. I accept that such large scale change is considered unwelcome by many sections of the Community. However, in view of the intervening distance, the presence of established planting, and the context of existing large structures, I do not consider that the visual impact would cause material harm to the diverse character and appearance of the surrounding area. [404 – 478 passim]

Prejudice to regeneration and improvement

590. Many speakers at the Inquiry said that they would move away from the area if the proposal goes ahead. They were not prepared to take risks with their health, and that of their families, particularly children and grandchildren. There was a widely held view that this would depress house prices and bring about a decline in the attractiveness of the communities as places to live, work and pursue social and leisure activities. It would feed through to businesses and traders in the community, some of whom have struggled to stay afloat through the recession. People would not wish to send their children to local schools because of fears that their health might be at risk. [404 – 478 passim]
591. Health risk is dealt with elsewhere in this report, but it is evident that there is a widely held and sincere perception that the proposal would have a harmful effect on the cohesiveness, vitality and confidence of the communities of Davyhulme, Urmston and Flixton. Objectors believe it would reverse the progress that had been made in recent years on the regeneration of the communities, most apparent in the redevelopment of Urmston Town Centre. It is considered that the advances made are fragile, and vulnerable to the effect of unwanted development. Individuals and families would make informed choices about their future which would cause a prolonged decline. [255, 256]
592. A wide range of evidence was examined which sought to establish a link between controversial developments and community confidence and prosperity.

Research

593. Particular reliance was placed by TBC's witness on the 2003 Newhaven Study: 'The Economic Impact of an EfW Incinerator in Newhaven', Centre for Economics and Business Research (CEBR) (Appendix 11 to Mrs. Harding's PoE). The overall conclusion at paras 7.1 and 7.2 is that '*Studies point towards a negative impact of EfW incinerators on residential property prices. In other words, these facilities have a negative impact on attractiveness as a place to live... If the studies are correct, and reflect an underlying causal relationship, the impact of an EfW incinerator at Newhaven would be detrimental to the development plans and attempts to regenerate Newhaven.*' [271, 277]
594. The Newhaven study relied on two other studies. Kiel and McClain 1995 (App 13 to Mrs Harding's proof) assessed the impact of an EfW incinerator on house prices in North Andover, Massachusetts. It found evidence that house prices close to the incinerator dropped relative to prices elsewhere on rumour of the new site, fell further when construction began, fell further when operations began and recovered slightly after four years of operation, although they were still significantly lower than they would otherwise have been. In 2003 Defra published a study to estimate the disamenity costs of landfill in Great Britain (App 12 to Mrs Harding's proof). This study showed a significant negative correlation between house prices and distance from landfill sites of between 0% and 6% for houses up to 1 km away. [272, 274, 275, 276,]
595. CEBR (Centre for Economics and Business Research) undertook their own study of the impact of incinerators on house prices. CEBR conclude that all of the studies suggest that there is a negative relationship between the distance from the facility and local house prices. The strength of the relationship declines with distance. The magnitude of the effect close to the facility is greatest in CEBR's own work, and smallest in the Defra landfill study. They acknowledge a potential weakness in their own work and the Defra study, which is that without time series data it is extremely difficult to prove that the presence of a facility would cause house prices to be lower than they otherwise would be.
596. The CEBR study was produced for Lewes District Council in support of an objection to a proposed allocation of a site in Newhaven for an EfW incinerator in the East Sussex and Brighton and Hove Waste Local Plan (ESBHWLP). The study was considered by an Inspector at Inquiry. In his report (App A of Mr Singleton's Rebuttal proof) he noted that the Kiel and McClain study was published in the 1990s, and related to an incinerator where there had been problems from emissions. He believed that such an incinerator would get neither planning permission nor an IPPC permit in Newhaven. He did not accept that the research carried out in the UK demonstrated that incinerators caused house prices to be lower.
597. The Appellant's witness also drew attention to a study by DTZ Peda which was also before the WLP Inquiry Inspector, which concluded that there was no evidence that an EfW facility at North Quay would have an adverse effect on the Newhaven economy.
598. All the studies referred to by CEBR are now relatively old. The LP Inspector identified reasons why the conclusions of Keil and McClain were not applicable

in the current planning and pollution control regimes. He did not accept the conclusions of CEBR's own research in respect of its application to the Newhaven site. The Defra study was concerned with landfill sites which are often associated with odour, dust and heavy traffic, and it would be inadvisable to draw any conclusions from it in respect of the current proposal. In any event the effect on house prices it identified was relatively small. [175, 178, 179, 191, 271]

Local factors

599. Urmston town centre was identified as a focus for regeneration in the Trafford UDP, now replaced by the recently adopted Trafford CS. The CS identifies areas of the Borough which are in need of regeneration, but Urmston is not one of those areas. There is no reference to deprivation or high levels of unemployment in the Urmston spatial profile. Trafford Borough played an active role in the regeneration, which by common consent has been very successful. However it is argued that significant vulnerabilities remain, and the good work could easily be reversed if the proposal results in the area being seen as less attractive as a place to live and work. [82, 172, 254, 291]
600. The redevelopment of Eden Square, which is anchored by a large national convenience retailer, has brought about a positive transformation of the Town Centre. However TBC's witness expressed the Council's fears that 10% of retail units remain unoccupied, and that other local centres, such as Woodsend Circle, were vulnerable to a downturn. It was suggested that further vacancies could arise as a consequence of any harm arising to the quality of the environment, including air quality, and the perception that customers have about the area. [255]
601. There are many factors which could influence individual decisions as to whether to visit and use a particular centre. Environmental quality is important, but also the range and quality of shops and other services, ease of parking, accessibility by public transport, and convenience to residents. In all these respects my impression is that the revitalised town centre would score highly for residents of the surrounding communities. The town centre is some distance from the appeal site, so most users would be unconscious of its presence when they were using it. There is no evidence of any significant actual deterioration in air quality in the town centre as a consequence of the appeal proposal, which would be downwind of Urmston in most weather conditions. In the circumstances, it is inherently unlikely that the appeal proposal would have an adverse effect on the vitality and potential of Urmston town centre.
602. TBC also emphasised the importance of delivering sites identified in the Strategic Housing Land Availability Assessment (SHLAA) (CD128). Sites for 548 dwellings are identified in the wider Urmston area, of which 58 have planning permission, and many others are expected to contribute to the five year supply of housing. It is suggested that the proposal could cause an evaporation of demand, leaving Trafford unable to achieve its targets.
603. TBC provided some evidence of problems in the delivery and marketing of housing. For example, in Phase 1 of the Eden Square redevelopment scheme, a number of residential pre-sales did not convert to actual sales and had to be re-marketed. 10 of the units were included in the 'HomeBuy Direct' scheme,

and the affordable housing units had to be changed from shared ownership to social rented. [255]

604. The fact that retail and residential occupiers are looking for additional incentives from developers is entirely consistent with the state of the property market nationally. Demand is widely constrained by the lack of access to finance. It does not seem to me that there are any unusual problems of confidence affecting these communities. There is no substantial evidence to show that these problems have arisen as a result of the threat of unwanted development impacting adversely on people's willingness to invest in the locality, as opposed to issues which affect the wider economy.
605. The same considerations apply to other developments in the area. 95% mortgages and other incentives have been offered at Barton Cross, Davyhulme but this is not unusual or unexpected in the current economic climate. I went to see a housing development at Hayes Green, Cadishead which was considered to be a difficult site and has been slow to get off the ground. However it is now at an advanced stage of construction, which does not indicate a lack of confidence arising from local factors that cannot be explained by wider economic issues. I acknowledge that this site is not in Trafford Borough, but it is relatively nearby and I do not consider that it is unreasonable to draw comparisons. At Woodsend Circle eight developers expressed interest in a long running retail and residential disposal scheme, and four were selected to submit proposals for evaluation. I understand that the scheme has yet to be finalised, and the financial appraisal is finely balanced. However, there is evidence of a substantial degree of developer interest which, at this stage of the economic cycle, is if anything an indication of confidence in the future of the area. [180, 257, 259 - 268, 269, 388 - 390]
606. Notwithstanding the difficulties identified, Phase 2 of the Eden Square scheme is now progressing. The vacancy rate identified is below the national average. The success of the development, and the resulting increase in market potential, has resulted in a 508 place move from 2,042nd to 1,534th in the national ranking of shopping destinations. It is predicted to rise 64 places to 168th in the ranking of retail shopping destinations in the North West. While I accept that there remain problem areas in Urmston town centre, such as Victoria Parade, the overall picture is not one of decline or lack of confidence. [173, 256, 269]
607. There was no conclusive evidence before the Inquiry of a decline in local house prices that could be attributed to the proposal. Objectors argued that that was because the development hadn't been built yet, so there hadn't been time for the implications to be reflected in the market. The Appellant pointed out that the scheme had attracted widespread publicity, much of it of an adverse nature, over a considerable period of time, so that any effects should already be apparent. [174, 192, 277, 288]
608. One person gave evidence that she and her husband had been on the point of completing the purchase of a property in the area, but had withdrawn their offer because they were expecting a baby, and were not prepared to take any risk with their child's health. A number of others said that they would sell and move away if the proposal goes ahead, and that other family members would follow them. The strength of feeling on the issue was apparent, and there is

no reason to doubt that some residents would feel that they had no alternative. [289]

609. On the other hand, my impression of the area was that the communities of Davyhulme, Urmston and Flixton offer many attractions as places to live, and that was certainly confirmed by many who spoke at the Inquiry or submitted written representations. This in part derives from the innate attractiveness of the residential environment, which is for the most part of good quality and well-maintained, access to open space and leisure facilities, a good range of local shops and services, public transport connections, a choice of schools, easy access to a range of cultural and sporting facilities of regional, national and even international quality, and proximity to major retail centres and employment opportunities.
610. That is not to deny that there are problems associated with urban living, the most obvious of which is traffic congestion, which in turn can give rise to impaired air quality. This is reflected in the designation areas adjacent to the motorway network area as an AQMA for existing levels of NO₂, though this only affects a relatively limited number of dwellings in the locality. The M60 is, and is likely to continue to be, by far the greatest contributor to poor air quality, but has not had the effect of causing widespread distortion or failure in the housing market. This may be because the M60 has been there for a long time, and many existing residents have grown up with it. However it also indicates that people balance advantages and disadvantages when making choices about where to live.
611. In contrast with the effects of the M60, the effect of the appeal proposal on air quality would be very minor. I accept that, in an area where there are already air quality concerns, any additional contribution is likely to be perceived as unwelcome by existing residents. However, that is very far from accepting that the proposal would result in longer term harm to the confidence, vitality and prosperity of local communities. The positive aspects of living in these communities would be likely to continue to draw people to live in the area, and this would outweigh any perception of harm to health from the appeal proposal. TBC and BCAG both presented their cases on the basis that there would be no actual significant harm to health, but that the perception of harm was a material factor to which weight should be given. While that is an entirely reasonable proposition, I do not accept that it has been demonstrated that the fears expressed, in terms of arresting the process of regeneration and damage to community confidence, will materialise in practice. [177, 181, 188, 278, 290, 292, 392, 402]

WHETHER THE PROPOSAL WOULD BE SUSTAINABLE DEVELOPMENT?

612. In recommending approval TBC officers considered that the proposed development would provide a significant contribution to the supply of renewable energy and derived support from recent and emerging national planning guidance and the extant development plan. They took the view that it would contribute towards achieving the Government's climate change agenda and would facilitate the delivery of renewable energy infrastructure. It would be in accordance with the development plan. They concluded that the impact on air quality did not offer sufficient grounds for refusal. They considered that it was a matter for the Committee to determine the weight to

be given to public perception and fear of adverse impacts on health and well-being, but advised that this is not a matter which would normally be given any significant weight (CD 46).

613. The Council's refusal reasons clearly focus on effects on vitality and self confidence of communities, and perception of health risk. They do not question the potential of the development to contribute to sustainable energy needs or compliance with policy in this respect, nor with the broad conformity with the waste hierarchy as set out in PPG 10. Nor is this mentioned in TBC's statement of case. Nevertheless a substantial element of TBC's evidence to the Inquiry concerned the availability and sustainability of waste wood, and an alleged failure of the scheme to comply with policy provisions for combined heat and power (CHP). [61, 95, 185, 213, 217, 218]
614. The plant would have the capacity to burn approximately 200,000 tonnes of waste wood per year, of which it is intended that 70% would be waste wood which would otherwise be sent to landfill, the balance being virgin waste wood and up to 5% SRF. The Appellant's Supplementary Planning Statement referred to 'overwhelming evidence to demonstrate that the north-west generates a sufficient supply of waste wood to meet BREP's demands.' (CD5 page 26 – 7) This statement was not in question at the time the application was determined by TBC.
615. Questions were raised in TBC's evidence and by objectors over the sustainability and security of waste wood supplies which were envisaged in the Planning Statement to contribute 70% of the fuel supplies for the BREP. It was argued that the latest available statistics published by Defra: *Wood waste landfill restrictions in England – Call for evidence* (CD80) indicate a finite and diminishing supply of suitable waste wood available in the region to support such a facility and other similar proposed facilities, including the Appellant's permitted scheme at Ince Marshes. [235, 357 – 360]
616. It is further suggested by TBC and BCAG that without a guaranteed and demonstrable supply of waste wood, the proposal's sustainability claims are undermined and that the scheme would fail to comply with the principles of the waste hierarchy, thus breaching the requirements of CS Policy L.6, RSS Policy EM11 and the waste management principles underlying the GMJWDPD. The absence of any definite scheme to provide for CHP is also alleged to result in a conflict with Policy 8 of the GMJWDPD. It may also lead to a greater reliance on contaminated waste wood, resulting in a potential increase in harmful emissions, and imports of virgin waste wood which could contribute to deforestation. [361 – 363, 371, 372,]
617. TBC contended that the Appellant's interpretation of waste wood data taken from the UK Biomass Strategy 2007 (CD73) and a 2009 WRAP Report 'Waste Wood Market in the UK' is flawed, particularly the statement that '4.6m tonnes of waste wood arisings are sent to landfill, 80% of which could be used to produce clean, renewable energy' (CD5 table 3, page 42). TBC's witness considered that the 4.6 million tonnes figure refers to total waste wood arisings for 2007. Of these, some 1.4 million tonnes was assessed as clean solid wood, for which the report stated that very little is available for energy generation. The figure given in the report for waste wood arisings in the north-west region was 542,900 tonnes per annum (AW/1 para 132). If

demand from the Appellant's proposed facility at Ince Marshes is taken into account, the two facilities would require 316,500 tonnes of waste wood, or 60% of wood waste arisings in the north-west. [374]

618. A briefing report by Tolvik Consulting: 'The UK waste wood market' (CD81) estimates a potential supply of waste wood for 2010 of 4.3 mt, taking into account the effects of recession and improved supply chain resource efficiency. Tolvik suggests an overall recovery rate of 74%, or 3.2 mt, including 0.55 mt going to biomass energy. On this basis, waste wood not currently recovered, and possibly finding its way to landfill, would be a maximum of 1.1 mt. Tolvik concludes that there is little scope for enhancing the recovery of wood waste, as landfill tax already operates as a strong incentive to divert wood waste from landfill. They concluded that the maximum potential additional supply of waste wood, based on 2010 arisings data, is about 0.5 mt.
619. A more recent WRAP report covering the period 2007 – 2010, reports that wood waste arisings have fallen to 4.1 million tonnes.
620. Defra has published the 'Government review of waste policy in England 2011' (CD77). It indicates that substantial tonnages of wood waste still end up in landfill and stated that it would undertake consultation on introducing a restriction on the landfilling of wood waste. A review of research suggested that approximately 0.6 million tonnes of wood waste goes to landfill. [220]
621. This review of developments in the supply and composition of waste wood for biomass-fuelled generation indicates that the supply situation is unlikely to be as clear cut as indicated in the Planning Statements supporting the application. It would not be in accordance with the waste hierarchy if incineration were to divert substantial quantities of clean waste wood which would otherwise be capable of being re-used. National and local policy as well as market and sustainability considerations, also require that waste management should as far as possible be undertaken locally, avoiding the need for waste wood to be brought in from other regions. There are uncertainties over the future availability of virgin wood waste suitable for incineration. [219, 375, 376]
622. Set against this, it is recognised that the market for lower grade wood waste is poorly developed, and there is some evidence that a proportion of construction waste is buried or burnt on site, thus avoiding landfill charges but creating local contamination. The Defra Call for Evidence states that one possible effect of introducing a restriction for waste wood is that it could 'help stimulate the development of alternative waste management infrastructure and generate market certainty around availability of materials. New measures to restrict the landfilling of wood waste may help to generate a reliable source of sufficient material to drive the market forward for recycling or energy recovery options.' (CD 80 para 12). [237]
623. Para 11 also draws attention to the Defra waste hierarchy guidance that 'with wood there can be a valid reason to deviate from the waste hierarchy. With low grade wood .. energy recovery options appear more suitable than recycling.'
624. A degree of uncertainty is inevitable in a period of rapid transition for electricity generation to achieve the objectives of decarbonisation and security of supply. While there may come a time when installed capacity for dedicated

energy recovery from waste wood and biomass exceeds sustainable sources of fuel supply, the evidence currently available is not sufficient to conclude that such capacity already exceeds supply, or that waste which might be processed higher up the hierarchy is likely to be diverted to energy recovery.

625. Availability of subsidy for renewable energy generation may also be relevant to the economic viability of the proposal. Where subsidy is required to support viability, operators must be able to demonstrate that fuel sources are sustainable. Investors will only invest if there is a prospect of sustainable supplies of fuel over the projected lifetime of the plant, and reasonable certainty of obtaining a price for the electricity generated which gives a reasonable return, with or without subsidy through the Renewable Obligation system or its successors. The government is reviewing the subsidy regime, and it is possible that limits will be placed on the capacity of new biomass dedicated plant which is eligible for subsidy. A decision to construct the plant would have to take account of these factors, the availability of sustainable fuel supplies and the market for renewable energy at the time. [226, 378]
626. I acknowledge that assessment of waste wood availability in the region appears to have declined significantly since the planning application and supporting evidence was submitted. It is now less clear cut that there would be a ready supply of suitable waste wood that would otherwise go to landfill to fuel the plant. This may in part be attributable to the prolonged economic recession and associated decline in construction and demolition activity. It may also reflect that a more favourable climate for recycling and reuse of waste wood is emerging in response to increases in landfill tax. While the new evidence of waste wood arisings is a material consideration when considering the sustainability of the appeal proposal, it is published in the context of a call for evidence on the appropriateness of a ban on the landfilling of waste wood. It cannot be regarded as providing definitive evidence as to the future availability or otherwise of suitable waste wood for energy recovery either nationally or in the north-west region. A call for evidence is in part an indication that the existing evidence base is deficient. This is acknowledged in terms on the executive summary (CD 80, page 1): *'The data on wood waste, particularly on the amount going to landfill or informal markets, is not clear.'* [218, 219, 221, 224, 232, 376]
627. Whilst this is clearly a matter that affects the public perception of the scheme, the evidence is insufficient to show that existing generating capacity exceeds the likely supply of suitable sustainable waste wood. There may well be substantial capacity in the pipeline which, if built and commissioned, would alter the balance of the argument. However that is a matter of speculation rather than evidence. There is no certainty that planned capacity will materialise. In the circumstances, I attach greater weight to the strong support expressed in national and local policy for a development which has the potential to contribute to renewable energy capacity, and the related benefits of security and diversity of supply. [237, 381]
628. TBC's witnesses and others also identified a possible compliance issue in respect of the Greater Manchester Joint Waste Development Plan Document (GMJWDPD), adopted in April 2012. Policy 8 expects EfW facilities to have the potential to provide combined heat and power (CHP), unless it is proved to be

unfeasible. While the Appellant has had discussions with potential users of waste heat, no feasibility report was before the Inquiry.

629. It is true that the climate change benefits of the scheme would be greater if CHP had been designed as an integral part of the scheme. Ideally a demand for process heat would ensure that there was a constant demand throughout the year, as opposed to seasonal space heating. The EP does require that facilities for taking low pressure steam from the plant would be provided, but there are no specific proposals. However the proposed plant would be well-located near to substantial areas of existing and proposed development in the Trafford Park area. While I do not accept that commercial confidentiality is a serious obstacle to the ability to provide a feasibility report, I acknowledge the difficulty of securing commitments from potential users at this stage. As the location offers the prospect for use of heat from the generation of electricity, I do not consider that lack of specific proposals for CHP should stand in the way of granting planning permission. The location accords well with the requirement in paragraph 97 of the Framework, to identify opportunities for co-locating potential heat customers and suppliers. [187, 202, 239, 241, 242, 382, 383]
630. Meanwhile the Government's planning policies offer strong support for an increase in generating capacity from renewable sources. I acknowledge that the questions raised in respect of wood waste supplies are relevant to the determination of the appeal. However, given the inevitable uncertainties in relation to the evidence base, I do not consider that they outweigh development plan support for the scheme. The Greater Manchester Geological Unit (GMGU), which provides advice to local authorities in the Greater Manchester area, and is responsible for the preparation of the waste DPD and commenting on planning applications, expressed no concerns in this regard during determination of the application, or subsequently. [49, 93, 186]
631. I therefore conclude that the proposal constitutes a sustainable form of development.

Other matters

Appropriate assessment

632. It was suggested by an objector that it would be necessary for the decision maker to undertake an Appropriate Assessment under the Habitats Regulations in view of the existence of Special Areas of Conservation (SAC) at Manchester Mosses and Rixton Clay Pits. Additional information was provided by the Appellant at the request of the EA assessing the critical loads for acid and nitrogen deposition at the SACs and non-statutory sites. The Appellant's assessment of the sites was reviewed by the EA's technical specialists for modelling, air quality, conservation and ecology technical services, who agreed with the assessment's conclusions, that there would be no likely significant effect on the interest features of the protected sites (CD 67 B page 55). The EA sent a screening assessment to Natural England for consultation, who agreed that the installation was not likely to have a significant effect on the interest features of the SACs. In view of this assessment, which has not been challenged, I conclude that there is no evidence of significant impact on SACs, and consequently that it is not necessary to carry out an Appropriate Assessment. In the event of the SoS being minded to allow the appeal and

grant planning permission for the development, it will be necessary for him to confirm that he agrees with this analysis. [477]

Transport impacts

633. Many objectors argued that the impact of HGVs carrying waste wood to the site, and ash from the site to ultimate disposal, would add unacceptably to existing high levels of congestion on the M60 and the surrounding road network. Other development proposals in the area, including those proposed by Peel, had been individually assessed as having only a marginal impact, yet the cumulative effect was a large increase in traffic, harmful to the amenity of residents and contributing to a further worsening of air quality. There is no question that there is significant congestion at peak times, and at particular periods of the year. However the nearby 'Trafford Rectangle' is identified as a strategic location for development in the CS. It is clearly not the intention of the local authority that there should be no additional development until existing congestion is eased, and that is not the basis on which national planning policy operates. A key consideration in identifying growth locations is existing accessibility. Notwithstanding high levels of congestion, the appeal site lies in an area with very good access by road, not withstanding problems of congestion which are experienced by local residents and other road users on a daily basis. There are other strategic proposals in the pipeline, such as the Western Gateway Infrastructure Scheme (WGIS), which are designed to improve the situation. There is scope in future for increased use of the MSC as a means of transport.
634. In this context the additional traffic generated would be small in absolute terms and proportionally. The ES estimates that when operational the BREP would generate an average of 66 2-way trips per day, of which 44 would be HGVs and 22 cars/light vehicles. This would be less than 1% of flows on the existing highway network. It is unlikely to be all concentrated in peak periods, when existing problems are at their worst. For the most part traffic would not affect dwellings in the immediate locality or result in increased congestion on residential roads, though it is acknowledged that there is likely to be some increase in HGVs using the slip road adjacent to Stroma Gardens. However as a proportion of existing traffic, it is unlikely that the increase attributable to the BREP would be noticeable.
635. TBC's officers concluded at paragraph 106 of the committee report (CD 46) that 'the environmental impact of the proposal from a traffic, transport and highway perspective is considered to be negligible when measured against the IEMA 'Guidelines for the Environmental assessment of Road Traffic', and I have seen no evidence that would lead me to disagree with that conclusion. [404-478 passim]

Risk

636. Many objectors raised the issue of risk of fire and explosions where large quantities of biomass are stored on site, and the possibility of visible emissions from the stack causing problems for drivers on the Motorway Bridge. CD 46 sets out the position of Greater Manchester Police Design for Security. They had no objection to the development subject to the imposition of conditions requiring an assessment of the risk, and any necessary mitigating measures, to contain the effects of fire in the fuel stores, perimeter safety and an on-

going security management plan. There was no objection from the Highways Agency, and no record of any other objection by emergency services. I agree that these matters can be effectively dealt with by condition, and recommend the attachment of such a condition in the event of permission being granted.

[293, 404 – 478 passim]

Localism

637. TBC and BCAG both argue that the weight of public opinion against the proposal is so strong that it should be decisive, even though it is accepted that there is no evidence of actual harm to health. In response to the application there were some 1592 letters of objection and 3 petitions containing 4605, 128 and 11 signatures respectively. Most of the letters were from residents of Davyhulme, Flixton and Urmston. A detailed report was submitted by BCAG. In addition there have been many written representations directly in response to the appeal, and many residents and elected representatives who spoke at the Inquiry. The nature and coverage of objections is reported in detail in the Committee Report (CD46). [295-297, 387, 404 – 478 passim]
638. There was also some third party support for the proposals (177 letters), though this was heavily outweighed by the volume of objections. Some of the support came from people who do not live in the area and who would not be directly affected by any environmental impacts.
639. The principle of localism has generated a high level of expectation that decisions on controversial developments should be taken locally, and that the appeal process should not be used to overturn the decision of democratically elected representatives. Proposals of this type are usually very controversial and generate widespread opposition at a local level, as has been the case here. However the planning system recognises the need for sustainable forms of development which contribute economic growth which is much needed nationally, and which in the case of renewable energy proposals makes a significant contribution to security and diversity of electricity generation. This need for rapid replacement and diversification of the UK's aging electricity generation infrastructure is clearly set out in National Policy Statements EN-1 and EN-3, and although this scheme is not categorised as a 'nationally significant infrastructure project' (NSIP), the advice is highly relevant to the determination of this appeal. [96, 100]
640. To help increase the use and supply of renewable and low carbon energy, paragraph 96 of the National Planning Policy Framework encourages local planning authorities to recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources. Paragraph 97 provides that developers should not be required to demonstrate the overall need for renewable or low carbon energy and authorities should approve the development if its impacts are (or can be made) acceptable. [100,
641. There is clearly a pressing national need for the development of renewable energy capacity. In this case, particular concerns have arisen over the burning of waste wood, the potential for emissions to be harmful to the health and well-being of local residents, the ability of the operator to comply with the terms of the Environmental Permit, and the EA as regulatory authority to enforce compliance. While these concerns are understandable to some degree in the circumstances, they are not supported by any substantial evidence of

any actual harm to health. In addition to generating renewable energy, the proposed plant will involve waste management through energy recovery, and will reduce the need for waste wood to be landfilled, in accordance with the waste hierarchy. PPS 10 is clear that in considering planning applications for waste management facilities, waste planning authorities should concern themselves with implementing the strategy of the development plan and not with the control of processes which are a matter for the pollution control authorities. Both TBC's and BCAG's technical witnesses accepted at the Inquiry that 'professionals in this room' will follow that advice. [93]

642. Development proposals that accord with the Development Plan should be approved without delay. I have concluded above that the development accords with the Development Plan. I do not underestimate the strength of local feeling against the proposal and have given it some weight in my assessment of the planning balance. While many residents feel that the Plant could never be made acceptable, it remains a fact that an Environmental Permit has been issued, and the decision maker must proceed on the assumption that the relevant pollution control regime will be properly applied and enforced. I conclude that the perception of harm on the part of a large section of the local population does not outweigh the presumption in favour of granting permission for development which accords with the Development Plan. [96, 351 - 354, 403]

Conditions and Obligation

643. In the event of the SOS deciding to allow the appeal and approve the application, the conditions set out in the Annex to this report should be attached.
644. I have considered whether the additional conditions suggested by the local authority would meet the relevant tests in Circular 11/95: *The use of conditions in planning permissions*. However a limitation on annual operating hours would duplicate matters which have been addressed in the Permit. Limitations have been placed on tonnage which can be processed in any one year and on NO₂ emissions, so that the condition would essentially duplicate the controls of the environmental permitting system. The permit requires that these limits are adhered to, so there would be no purpose in requiring a review of air quality after commissioning. At the levels permitted the contribution of the emissions from the plant to air quality levels in the wider AQMA are assessed as being insignificant. [480 - 484]
645. I have also considered whether there are reasonable grounds to extend the time limit for commencement as requested by the Appellant. While I acknowledge that implementation of the proposal raises complex issues, and there are uncertainties which need to be resolved in respect of funding and subsidy, this is likely to be true of many complex renewable energy projects of this scale. Energy policy emphasises the urgency of delivery of renewable energy schemes, and the Framework aims to ensure that the planning system does not result in unnecessary delay to urgently needed sustainable development. There is a tension between these objectives and the suggested extension to the time limit. I do not consider that there is any compelling reason in this instance to extend the time limit for commencement of the development beyond the normal period of three years. [485 - 490]

646. Conditions 2 and 7 are necessary to ensure that the development is carried out and the access provided in accordance with the approved plans. Conditions 3 – 5 are necessary to ensure a satisfactory appearance to the development. Condition 6 will ensure that any site contamination is remediated as part of the development to avoid any effects on health and the environment. Condition 8 is necessary to ensure that site drainage is provided in such a way that wider environmental impacts are avoided. Condition 9 will ensure that potential archaeological interest is taken into account and recorded. Conditions 10 and 16 are needed to ensure that impacts during construction are managed so as to avoid harm to amenity and the environment. Conditions 11 and 20 are needed to address potential noise impacts during operation of the development. Condition 12 is needed to minimise any transport related impacts of the development. Condition 13 is necessary to minimise the risk of accidents occurring on site, and the prevention of crime. Condition 14 is needed to minimise the impact of lighting on the surrounding area. Condition 15 will ensure that the plant is dismantled and the site restored in a planned and coordinated manner. Condition 17 is needed to ensure that the access is provided in accordance with the approved details before the development is brought into use. Condition 18 is necessary to ensure that flood risk is minimised. Condition 19 is necessary to ensure that the ecological mitigation measures set out in the environmental statement are implemented as part of the development.
647. The executed obligation (para 491) meets the tests set out in Circular 5/2005 and the requirements of the CIL regulations. [491, 492]

OVERALL CONCLUSION

648. The foreword to the NPPF (the Framework) makes it clear that development that is sustainable should go ahead, without delay. The Introduction to the Framework goes on to say that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. National policy statements form part of the overall framework of national planning policy, and are a material consideration in decisions on planning applications.
649. Paragraphs 97 and 98 are concerned with renewable energy, and advise that to help increase the use and supply of renewable and low carbon energy, local planning authorities should recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources. Authorities should identify opportunities for co-locating potential heat customers and suppliers, not require applicants to demonstrate the overall need for renewable or low carbon energy, and should approve the application (unless material considerations indicate otherwise) if its impacts can be made acceptable. [183]
650. Relevant statements of government policy are also set out in the Overarching National Policy Statement for Energy, July 2011 (EN-1) and the National Policy Statement for Renewable Energy Infrastructure (EN-3). Although these apply specifically to proposals for National Significant Infrastructure Development (NSID), the underlying principles are applicable to schemes which do not meet the thresholds. Moving towards a low carbon economy and achieving energy security are key objectives of Government policy. A significant increase in the

UK's renewable energy capacity is a fundamental part of this response, with a need to provide resilience by ensuring diversity in the range of supply, as older plant comes to the end of its life. The advice confirms that biomass is a significant source of renewable and low carbon energy, as is energy produced from the bio-mass fraction of waste. Only waste that cannot be re-used or recycled and which would otherwise go to landfill should be used for energy recovery. Biomass-fuelled plant can help to deliver predictable, controllable electricity to complement more intermittent sources, such as wind power. EN-3 reaffirms the commitment to renewable energy infrastructure and the role of biomass energy, particularly schemes which combine heat and energy production. [93, 94, 98, 183]

651. At the time of the Inquiry the Regional Spatial Strategy for the North-West (RSS) remained part of the development plan and is to be accorded its full weight. Policy EM10 promotes the provision of sustainable new waste management infrastructure. Policy EM11 reflects the need to drive the management of waste up the waste hierarchy in accordance with PPG 10, and for waste to be dealt with locally in appropriate installations. Policy EM15 aims to ensure that energy use should be as efficient as possible and promotes the development of renewable sources. Policy EM10 sets a target for 20% of generation to be from renewable sources by 2020, and includes targets for biomass fuelled CHP/electricity schemes within the region. New renewable capacity should be developed with the aim of meeting or exceeding these targets. Support for renewable energy is also found in Policy EM17, which requires local authorities to give significant weight to the wider environmental, community and economic benefits of renewable energy proposals. [74 - 78]
652. The only Policy referred to in the reasons for refusal is Policy WD5 of the Trafford UDP. It was a criteria based policy which sought to ensure that proposals for waste incinerators would be located within industrial areas well away from main residential areas, would not be unduly prominent, would not prejudice the regeneration of an area identified by the Council as being in need of investment, and would not prejudice existing industries, particularly food manufacturing and high technology activities. This has now been replaced by Policies in the GMJWDDP and it is accepted in the SoCG that it is no longer relevant to the determination of the appeal. [63, 79, 189, 190, 208, 209]
653. The UDP has been superseded by the Trafford CS, which was formally adopted in January 2012. CS Policy L5.12 recognises the role that renewable and decentralised energy generation and decentralised energy generation and distribution facilities can play in reducing CO₂ emissions and providing viable energy supply options.
654. CS Policy L 6 recognises the need for Trafford to make an appropriate contribution to meeting Manchester's waste management needs. L.6.2 (b) requires developers to demonstrate the proposal's consistency with the waste hierarchy. I acknowledge TBC's and BCAG's concerns about the availability of waste wood in the region. Nevertheless the available data is not conclusive, and the proposal would provide capacity for the generation of renewable energy which sits squarely within national energy policy. Market conditions for waste wood may affect viability, but that is not certain, and not a sufficient reason to refuse planning permission for development which is otherwise acceptable. L.6.3 states that the Council will have full regard to the

environmental, social and economic impacts, including the regeneration of areas in need of investment. I have found that the air quality and health impacts would be acceptable, and there is no substantial evidence that the development would harm any area in need of regeneration. The proposal would not conflict with this policy. [80, 123, 347, 368]

655. With regard to the GMJWDDP, Policy 10 sets out criteria for the consideration of unallocated sites. The proposal accords broadly with the spatial strategy and would contribute to the aims and objectives of the plan, including diversion of waste from landfill. It meets the same criteria as allocated sites. The distance of some 500 metres from the nearest dwellings would not rule it out for consideration, the figure used for assessment purposes being some 250 metres. The GMGU, the organisation with responsibility for waste policy and advising on the policy implications of planning applications in the conurbation, did not identify any conflict with the policies of the GMJWDDP. With regard to Policy 8, I have concluded that the absence of firm proposals for CHP does not undermine overall compliance with the development plan. The Framework requirement for co-location with potential users is met by the location.
656. It is agreed in Para 8.38 of SoCG that the appeal proposals would contribute to the supply of renewable energy and contribute towards the Borough's carbon reduction targets. It would also accord with the waste hierarchy by diverting waste wood from landfill. These are matters to which I attach substantial weight. [68, 340]
657. In other respects the policies of the CS are supportive of the scheme, and no conflict with any other CS policy was identified. The same applies to the RSS. Notwithstanding the concerns which have been raised by TBC and BCAG, I consider that the proposal accords broadly with the development plan in respect of energy and waste management. [65, 66, 68, 71, 73, 78, 84 - 92]
658. Planning law requires that applications should be determined in accordance with the development plan, unless material considerations indicate otherwise. My conclusions on health impacts are set out in paragraphs 577 - 582 above. I do not underestimate the genuine concerns and fears in connection with the impacts on air quality and health which have given rise to a perception of harm, and the effects on the community in terms of regeneration and confidence. However, I attach greater weight to the presumption in favour of sustainable development, and the need to approve development which accords with the development plan without delay. [70, 210, 341, 348, 350 - 354]

Recommendation

659. I therefore recommend that planning permission for the development should be granted, subject to the conditions set out in Annex A attached to this report.

David Richards

INSPECTOR

APPEARANCES

FOR THE TRAFFORD BOROUGH COUNCIL:

Vincent Fraser QC	Instructed by Trafford Borough Council
He called	
Alan Watson BSc	Public Interest Consultants
(Hons), C Eng	
Jayne Harding BA, BTP, MRTPI	Associate Director, Aspect 360 Ltd

FOR THE APPELLANT:

Martin Kingston QC	Instructed by DLA Piper
Peter Goatley of Counsel	
He called	
Stephen Othen M Eng, MI Chem Eng	Technical Director, Fichtner Consulting Engineers Ltd
Paul Singleton BSc, MA, MRTPI	Director, Turley Associates

BREATHE CLEAN AIR GROUP:

David Cunnington of Counsel
He called
Dennis Wrigley
Dr Claire Holman
Dr H-C Raabe
Graham Cliff
James Manship
Kiki Watts

INTERESTED PERSONS:

Councillor Lisa Cooke	Member of TBC
Dr Nigel Woodcock	Chair of Trafford Green Party
Kate Green MP	
Simon Bacon	Resident of Derbyshire
Councillor David Acton	Member of TBC
Councillor Andrew Western	Member of TBC
Terry Morford	IDEA
Juan Fernandez-Arias	Resident and businessman
Christine McLaughlin	Better Tuition Centre, Urmston
Pauline Hill	Resident
Brian Hill	Resident
Steven Madden	Resident
Paul Pickford	Resident
Miguel Fernandez-Arias	Resident
Councillor Dolores O'Sullivan	Member of TBC
Judith Sullivan	Resident

Councillor Michael Cordingley	Member of TBC
Councillor Laurence Walsh	Member of TBC
Canon Chris Ford	Vicar of Davyhulme and Borough Dean
Councillor Kevin Procter	Member of TBC
Duncan Moules	Resident
Councillor Dr Karen Barclay	Member of TBC
Councillor Michael Hyman	Member of TBC
Mason Corbishley	Resident
Keith Pilgrim	Resident
Emma Brown	Resident
Geraldine Brown	Resident
Tom Jobling	Local resident and businessman
Adrian Farr	Resident
Lyn Davies	Resident
Anne-Marie Harris	Resident
David Fernandez-Arias	Resident
R K Davies	Project manager
Mrs Allen	Resident
Anna Scarisbrick	Resident of Whalley range
Councillor Joanne Harding	TBC Member
Paul Lever	Local businessman
Councillor Paul Lally	Member of TBC
Ashley Whitehead	Resident
Janet Allison	Resident and sole trader
Councillor Catherine Hynes	TBC Member
Councillor Linda Blackburn	TBC Member
Councillor Jonathon Coupe	TBC Member
Councillor Brian Shaw	TBC Member
Dr Peter Butler	Resident and GP
Robert Thomas-Carter	Local businessman
Alan Smith	Resident
Louise Wynne	Resident
Keith Madden	Resident
Dr Peter Baugh	Retired senior lecturer in environmental and analytical chemistry
Jo Burgess	Resident
Alison Parker	Resident
Peter Skinner	Resident
Councillor Michael Cornes	TBC Member
Peter Kilvert	Resident and Chair of BCAG
Michael Black	Resident
Anke Raabe	Resident
Kelly Barrett	Resident and businesswoman
Sue Brett	Resident
Kenneth Evans	Resident
Howard Munton	Resident
Kathleen Orth	Resident
Councillor Alan Mitchell	Member of TBC
John Roberts	Resident of Irlam
Councillor Margaret Morris	Assistant Mayor, City of Salford
Anthony Greenough	Resident and qualified process control operator
Dr Kath Edgar	Resident

CORE DOCUMENTS

CD No.	Document
Pre-Application Matters	
1.	Applicant screening request dated 9 th June 2010
2.	LPA Screening Opinion dated 9 th July 2010
Original Application Documents (December 2010)	
3.	Original Planning Application Forms & Certificates
4.	Submitted Plans
5.	Environmental Statement (December 2010): <ul style="list-style-type: none"> - Volume 1 (CD 5a) - Volume 2 (CD 5b) - Non-Technical Summary (CD 5c)
6.	Design and Access Statement
7.	Planning Statement
8.	Greenhouse Gas Assessment
9.	CGIs
10.	Record of Stakeholder Involvement
11.	Tree Survey Report
Post Application Submission Material	
12.	Submission to LPA of BREP DVD Movie (Biomass – The Truth behind the Technology) submitted 22 December 2010
13.	Applicant response to Greater Manchester Police, submitted 3 February 2011
14.	Applicant response to Highways Agency and LPA in respect of additional plan (M10023-A-32) and clarifications submitted 14 th March 2011
15.	Applicant's response to consultation responses, submitted 25 th February 2011 comprising: <ul style="list-style-type: none"> - Supplementary Report (CD 15a) - Addendum to ES (covering air quality matters) (dated 24th February 2011) (CD15b) - Desk-based archaeological assessment (dated 3rd February 2011 (CD15c)
16.	Applicant Submission of Supplementary Stakeholder Involvement, 25 th February 2011
17.	Applicant submission of letter to LPA in respect of Advertising

	Standards Agency ruling and letters of support from NWDA and Envirolink NW (dated 15 March 2011)
18.	Applicant submission of letter to LPA enclosing report from Prof. Jim Bridges entitled ' <i>A consideration of issues of air pollution and health and their relevance to the proposed Barton renewable energy plant</i> ' together with a copy of the report (dated 10 March 2011)
19.	Applicant submission in response to Salford City Council, ' <i>Response to Comments by Salford City Council on Air Quality Matters</i> ' 7 th April 2011
20.	Further applicant response to Salford City Council (submitted 10 th May and 24 th May 2011) (dated 6 th and 23 rd May)
21.	Applicant submission of Vehicle Tracking Plan to LPA (dated 12 th May 2011) (Ref: M10023-A-33)
22.	Applicant letter to Trafford Council dated 13 th September 2011 setting out applicant's response to the implication of Draft NPPF and NPS for Energy
23.	Further clarification with respect to Air Quality chapter of the Environmental Statement (ES Addendum) – 16 th September 2011
24.	Letter to Trafford Council dated 25 th October 2011 responding to biofuel objection
25.	Applicant response to the Breath Clean Air Group Report, " <i>Monitoring of Ambient Nitrogen Dioxide, Davyhulme</i> " 31 st October 2011
26.	Applicant letter to Trafford Council dated 8 November 2011 responding to planning officers committee report
Consultation responses	
27.	Initial EHO comments on noise and air quality matters (19 th January 2011)
28.	Initial consultation advice from Trafford EHO (dated 24 th May 2011)
29.	Regulation 22 request for ES additional information on air quality matters (15 th September 2011)
30.	Internal highway officer advice dated 15 th March 2011
31.	Highways Agency response dated 11 January 2011, 14 January 2011, 21 January 2011, 21 February 2011 and 18 th March 2011
32.	Greater Manchester Police (Design for Security) dated 10 th January 2011 and 22 February 2011
33.	Response from GMAU dated 11 th January 2011 and 1 st March 2011
34.	HPA response dated 25 th February 2011 and 10 th May 2011
35.	Application response from Trafford Council Strategic Planning dated 10 th August 2011
36.	Environment Agency response dated 31 st December and 21 March 2011

37.	Salford City Council response dated 9 th March 2011 and 6 th June 2011
38.	Response from Envirolink dated 10 th March 2011
39.	Internal response from Trafford Council's Pollution and Licensing Team dated 20 th December 2010
40.	Response from GMGU dated 10 th January 2011 and 11 th March 2011
41.	Response from United Utilities dated 31 January 2011
42.	Response from NHS Trafford dated 25 th February 2011
43.	Greater Manchester Ecology Unit response dated 11 th January 2011
Salford City Council	
44.	Miller Goodall's report to Salford City Council's Planning Officer dated 16 th May 2011
Officer Committee Reports and Decision Notice	
45.	Report to Salford City Council's Planning and Transportation Regulatory Panel dated 2nd June 2011
45.	Trafford Council's Planning Officer Committee Report (10th November 2011)
46.	Trafford Council's Planning Officer's Additional Information Report to planning committee (Dated 10 th November 2011)
47.	Decision Notice (dated 5 th December 2011)
Post Appeal Documentation	
48.	LPA Questionnaire
49.	Statement of Case submitted by Appellant, dated 25 th July 2012
50.	Statement of Case submitted by Trafford MBC, dated 25 th July 2012
51.	Statement of Case submitted by Breathe Clean Air Group
52.	Third Party Representations submitted in respect of the Appeal
53.	Statement of Common Ground (dated 19 th September 2012)
54.	Draft Unilateral Undertaking prepared by the Appellant
National Planning Policy and Guidance	
55.	The National Planning Policy Framework (NPPF) (March 2012)
56.	Planning Policy Statement 10: Planning for Sustainable Waste Management (March 2011)
57.	National Planning Policy Statement for Energy (EN-1) (July 2011)
58.	National Planning Policy Statement for Energy for Renewable Energy Infrastructure (EN-3) (July 2011)
59.	Ministerial Statement by Rt Hon Greg Clark MP – Planning for Growth, 23 March 2012
60.	The Planning System – General Principles, January 2005

The Development Plan	
61.	The Trafford Core Strategy (adopted January 2012)
62.	The North West of England Regional Spatial Strategy (September 2008)
63.	Extracts of relevant saved policies contained in the Revised Trafford Unitary Development Plan (UDP) (adopted June 2006)
64.	Greater Manchester Joint Waste Development Plan Document (adopted 1 st April 2012)
Other Planning Documents	
65.	Supplementary Planning Document 1 (SPD 1) – Planning Obligations (February 2012)
Environmental Permit	
66.	Draft Environmental Permit and decision document (EA Ref: EPR/SP3234HY), issued 14 March 2012
67 a	Final Environmental Permit (EA Ref: EPR/SP3234HY) issued 17 October 2012
67 b	Final Environmental Permit decision document (EA Ref: EPR/SP3234HY) issued 17 October 2012
Other Documents	
68.	Trafford Council's Planning Officer's Committee Report relating to planning application (Ref: H/70123) relating advanced sludge treatment proposals at Davyhulme Wastewater Treatment Works, 13 th November 2008.
69.	Decision Notice for H/70123
70.	The UK Renewable Energy Strategy, DECC, 2009
71.	The Energy White Paper: A White Paper on energy, DTI, May 2007
72.	EU Directive 2009/28/EC Article 2, Page L140/27
73.	UK Biomass Strategy, DEFRA, 2007
74.	UK Bio-energy Strategy, DEFRA, DoT, DECC, April 2012,
75.	Biomass Strategy for the North West, Summary Report, Envirolink, 2010
76.	Waste Strategy, DEFRA, 2007
77.	Government Review of Waste Policy in England, DEFRA, 2011
78.	The Impact on Health of Emissions to Air from Municipal Waste Incinerators RCE13, Health Protection Agency, February 2010
79.	Health Protection Agency press release, 24 January 2012 " <i>Health Protection Agency confirms new incinerator study</i> "
80.	Waste Wood: Landfill Restrictions in England Call for Evidence, DEFRA, July 2012
81.	2011 Briefing Report: The UK waste wood market, Tolvik

	Consultancy, June 2011
82.	Waste Wood Market in the UK, WRAP, 2009
83.	Market Situation Report: Realising the value of recovered wood, WRAP, 2011
Other Documents - LPA	
84.	Department for Communities and Local Government (2006). Planning for Sustainable Waste Management: Companion Guide to Planning Policy Statement 10
85.	DEFRA (2004). Review of environmental and health effects of waste management : municipal solid waste and similar wastes. London, Enviro Consulting Ltd., University of Birmingham, et al. for Department for Environment, Food and Rural Affairs.
86.	Health Protection Agency (2010, February). <i>The impact on health of emissions to air from municipal waste incinerators advice from the Health Protection Agency.</i> Health Protection Agency.
87.	European Commission (2000). "DIRECTIVE 2000/76/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 4 December 2000 on the incineration of waste." Official Journal of the European Communities L 332 .
88.	European Commission (2006). Integrated Pollution Prevention and Control Reference Document on the Best Available Techniques for Waste Incineration August 2006.
89.	European Parliament and Council (2008). Directive 2008/50/EC of the European Parliament and of the Council on ambient air quality and cleaner air for Europe. OJ No 152, 11.6.2008,
90.	European Union (2008). DIRECTIVE 2008/98/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 November 2008 on waste and repealing certain Directives. Official Journal of the European Union,: L 312 - 330.
91.	Directive 2004/107/EC of the European Parliament and of the Council relating to arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons in ambient air OJ No 23, 26.1.2005, p. 3, last amended by Regulation (EC) No 219/2009 (OJ No L 87, 31.3.2009, p 109)
92.	DECC (2010, December). <i>Government response to the statutory consultation on the renewables obligation order 2011.</i> Department of Energy and Climate Change
93.	DEFRA (2011, June 14). <i>Government review of waste policy in England 2011.</i> Department for Environment Food and Rural Affairs
94.	DEFRA (2012). <i>Wood waste landfill restrictions in England updated call for evidence - August 2012.</i> DEFRA
95.	WRAP (2010, March). <i>Landfill bans: Feasibility research. The environmental, economic and practical impacts of landfill bans or restrictions: Research to determine feasibility.</i> Eunomia for WRAP and DEFRA
96.	DECC (2012, September 7). <i>Biomass electricity & combined heat & power plants – ensuring sustainability and affordability consultation on proposals to enhance the sustainability criteria and to ensure affordability for the use of biomass feedstocks under the renewables obligation (RO) part A: Sustainability - closing 30th november Part B: Value for money & affordability - closing 19th October URN: 12D/015.</i> Department of Energy & Climate Change
97.	<i>The Air Quality Standards Regulations 2010 - SI 2012 No 1001 - Came Into Force 11th June 2010.</i> (2010, March 30). The Stationery Office.

98.	DECC (2011). <i>Implementing the Climate Change Act 2008: The Government's proposal for setting the fourth carbon budget: Policy statement</i> . Department of Energy and Climate Change.
99.	DECC (2010). <i>National renewable energy action plan for the United Kingdom article 4 of the Renewable Energy Directive 2009/28/EC</i> . Department of Energy & Climate Change.
100.	DECC (2012, April 26). <i>Bioenergy strategy analytical annex URN: 12D/078</i> . Department of Energy and Climate Change
101.	DECC (2012, September 7). <i>Impact assessment biomass electricity and combined heat & power plants – ensuring sustainability and managing costs</i> . Department of Energy & Climate Change
102.	DECC (2010, December). <i>Government response to the statutory consultation on the Renewables Obligation Order 2011</i> . Department of Energy and Climate Change.
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104.	World Health Organisation (2005). <i>Effects of air pollution on children's health and development - a review of the evidence</i> . Bonn: Special Programme on Health and Environment, European Centre For Environment and Health.
105.	WHO (2005). <i>Air quality guidelines global update 2005 particulate matter, ozone, nitrogen dioxide and sulfur dioxide WHO regional publications, European Series, no. 91</i> . World Health Organisation
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107.	Environmental Audit Committee (2012). <i>Air quality: A follow-up report: Government response to the committee's ninth report of session 2010–12 HC 1820</i> . House of Commons
108.	DECC (2011). <i>UK and global bioenergy resource – final report ED 56029 issue 2 - final</i> . AEA for DECC
109.	DECC (2012). <i>Government response to the consultation on proposals for the levels of banded support under the renewables obligation for the period 2013-17 and the renewables obligation order 2012</i> . Department of Energy and Climate Change
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111.	BSI (2012). <i>PAS 111:2012 specification for the requirements and test methods for processing waste wood</i> . WRAP/BSI
112.	DEFRA (2011). <i>Trends in NOx and NO2 emissions and ambient measurements in the UK draft</i> . King's College London, University of Leeds, & AEA for DEFRA
113.	EC (2010, February 25). Report on sustainability requirements for the use of solid and gaseous biomass sources in electricity, heating and cooling SEC(2010) 65 final COM(2010)11 final. <i>Report on sustainability requirements for the use of solid and gaseous biomass sources in electricity, heating and cooling SEC(2010) 65 final COM(2010)11 final</i> . Brussels: European Commission.
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115.	Department for Energy and Climate Change (DECC) (2009). <i>The UK low carbon transition plan - presented to parliament pursuant to sections 12 and 14 of the Climate Change Act 2008 National Strategy</i>

	<i>for Climate and Energy</i>
116.	Department for Energy and Climate Change (DECC) (2009). <i>Analytical annex - the UK low carbon transition plan</i>
117.	European Commission (2007). <i>European commission service contract no.070501/2006/446211/MAR/C4 assessment of the application and possible development of community legislation for the control of waste incineration and co-incineration final report and annex November 2007</i> . Sander, K., Tebert, C., Schilling, S., & Jepsen, D. for the European Commission.
118.	Environmental Audit Committee (2011, November 14). <i>9th report - air quality: A follow-up - volume I: Report, together with formal minutes, oral and written evidence HC 1024</i> . London: House of Commons
119.	Environmental Audit Committee (2011, November 14). <i>9th report - air quality: A follow-up - volume II additional written evidence HC 1024</i> . London: House of Commons
120.	Office of Deputy Prime Minister (2004) PPS23 Planning and Pollution Control
121.	The Waste (England & Wales) Regulations 2011 (SI No. 988)
122.	EU Landfill Directive 99/31/EC
123.	DEFRA Waste Strategy for England 2007
124.	City of Salford, 2012, Publication Core Strategy, February 2012
125.	City of Salford, 2011, Publication Core Strategy Health Impact Assessment, 19 th December 2011
126.	City of Salford, 2009, Unitary Development Plan 2004-2016 - Policies saved beyond 21 June 2009
127.	City of Salford SPD : Supplementary Planning Document Planning Obligations - Adopted 21st March 2007
128.	Trafford Strategic Housing Land Availability Assessment – 2012 Review
129.	Trafford Vision 2021: a blueprint (Trafford Community Strategy – March 2010)
130.	Trafford Housing Strategy 2009-12 – May 2009
Other Documents - BCAG	
131.	BCAG response to planning application
132.	The Health Effects of Waste Incinerators, 4th Report of the British Society for Ecological Medicine, Second Edition, Moderators: Dr Jeremy Thompson and Dr Honor Anthony (June 2008)
133.	BSEM Reply to Health Protection Agency, Drs J Thompson and H Anthony
134.	A review of the toxicity of arsenic in air, Science Report – SC020104/SR4, Environment Agency (May 2008)
135.	Schwartz, J., Air pollution and children's health. <i>Pediatrics</i> , 2004. 113(4 Suppl): p. 1037-43.
136.	World Health Organization, Air Pollution and Health, Sept 2011
137.	World Health Organization, Dioxins and their effect on Human Health,

	May 2010
138.	World Health Organization, Population and Waste Management: Scientific Data and Policy Options, March 2007
139.	Environment Agency H1 Annex F – Air Emissions
140.	DEFRA Local Air Quality Management Technical Guidance LAQM.TG(09)
141.	DEFRA Local Air Quality Management Policy Guidance (PG09)
142.	Environmental Protection: The Air Quality Standards Regulations 2010
143.	Greater Manchester Air Quality Action Plan
144.	Letter from ASA to BCAG dated 29th February 2012
145.	Letter from ASA to BCAG dated 13th August 2012
Additional documents - LPA	
146.	Trafford Council – Air Quality Progress Report 2011
147.	Planning Policy Statement 1 – General Policies and Principles
148.	Planning and Climate Change – Supplement to PPS1
149.	Planning Policy Statement 22 – Renewable Energy
150.	Inspector's report in respect of appeal by Blue-NG (appeal ref: APP/A5270/A/09/2114021) dated 21 April 2010
Proofs of Evidence - Appellant	
PNS/1	Proof of Evidence of Paul Nicholas Singleton
PNS/2	Appendices to the Proof of Evidence of Paul Nicholas Singleton
PNS/3	Summary Proof of Evidence of Paul Nicholas Singleton
PNS/4	Rebuttal Proof of Paul Nicholas Singleton
PNS/5	Rebuttal Appendices of Paul Nicholas Singleton
SO/1	Proof of Evidence of Stephen Othen
SO/2	Appendices to the Proof of Evidence of Stephen Othen
SO/3	Summary Proof of Evidence of Stephen Othen
SO/4	Rebuttal Proof of Stephen Othen
SO/5	Rebuttal Appendices of Stephen Othen
Proofs of Evidence - LPA	
AW/1	Proof of Evidence of Alan Watson
AW/2	Appendices to the Proof of Alan Watson
AW/3	Summary Proof of Alan Watson
AW/4	Rebuttal Proof of Alan Watson
JH/1	Proof of Evidence of Jayne Harding
JH/2	Appendices to the Proof of Jayne Harding
JH/3	Summary of Proof of Jayne Harding
Proofs of Evidence - Breathe Clean Air Group	
DW/1	Proof of Evidence of Dennis Wrigley
DW/2	Appendices to Proof of Evidence of Dennis Wrigley
CH/1	Proof of Evidence of Dr. Claire Holman

CH/2	Appendices to Proof of Evidence of Dr. Claire Holman
CH/3	Summary of Proof of Evidence of Dr. Claire Holman
HC/1	Proof of Evidence of Dr. H C Raabe
HC/2	Appendices of Proof of Evidence of Dr. H C Raabe
HC/3	Summary of Proof of Evidence of Dr. H C Raabe
GC/1	Proof of Evidence of Graham Cliff
GC/2	Appendices to Proof of Evidence of Graham Cliff
JM/1	Proof of Evidence of James Manship
JM/2	Appendices to Proof of Evidence of James Manship
JM/3	Summary of Proof of Evidence of James Manship
KW/1	Proof of Evidence of Kiki Watts
KW/2	Appendices to Proof of Evidence of Kiki Watts
KW/3	Summary of Proof of Evidence of Kiki Watts
LB/1	Proof of Evidence of Louise Baylis
LB/2	Appendices to Proof of Evidence of Louise Baylis
LB/3	Summary of Proof of Evidence of Louise Baylis

Documents submitted at the Inquiry

Peel Energy Documents

PEEL/1	List of Appearances
PEEL/2	Appellant's opening statement
PEEL/3	Photo of diffusion tube 673 Liverpool Road (superseded)
PEEL/4	S106 Obligation (draft 19/11/12)
PEEL/5	Appellant submission regarding conditions
PEEL/6	Revision to SoCG – measurements to nearest housing
PEEL/7	Reprint of 'Fears grow of waste wood mountain'. (PNS Rebuttal Appendix F)
PEEL/8	Executed S106 Obligation
PEEL/9	Closing submissions of Mr Kingston
PEEL/10	Site Visit Plan
SO/6	Mr Other's response to issues raised at Inquiry
SO/7	Further satellite/photo of Liverpool Road
SO/8	Response to issues raised during cross-examination

TBC Documents

TBC/1	Opening statement for TBC
TBC/2	EA Letter of 13 th September 2012 together with transmission sheet
TBC/3	Letter from Salford CC with response to EA on permit
TBC/4	Fichtner BREP EP application supporting information (Footnote 13 AW/1 proof refers)
TBC/5	TBC submissions regarding conditions
TBC/6	List of agreed Planning Conditions (final 26/11/12)
TBC/7	Closing submissions of Mr Fraser

BCAG Documents

- BCAG/1 Further information produced by Dr Raabe
- BCAG/2 Dr H-C Raabe: Some comments on Chromium/ Chromium (VI) – corrected version 17.11.12
- BCAG/3 Closing submissions of Mr Cunnington
- BCAG/4 Further response form Dr H-C Raabe to Document SO/8

Representations received during Inquiry and third party statements read at Inquiry

- TP/1 Letter from Breanna Bradshaw to TMBC
Letter from Breanna Bradshaw to HM The Queen
Letter from Buckingham Palace to Miss Breanna Bradshaw
Letter from GONW to Breanna Bradshaw
- TP/2 Statement of Terry Morford
- TP/3 Statement of Councillor David Acton
- TP/4 Written representation by Simon Hughes
- TP/5 Statement of Cllr Lisa Cooke
- TP/6 Statement of Dr Nigel Woodcock
- TP/7 Statement of Simon Bacon together with EA letter dated 24.9.12
- TP/8 Statement of Kate Green MP
- TP/9 Statement of Cllr Andrew Western
- TP/10 Statement of Juan Fernandez-Arias
- TP/11 Statement of Christine McLaughlin
- TP/12 Statement of Steven Madden
- TP/13 E-mail from Joanne Burlando and Eduardo Abis
- TP/14 E-mail from Anne Sullivan-Smith
- TP/15 E-mail from Claire Staines
- TP/16 Letter from J Snowden
- TP/17 Letter from Brenda Smith
- TP/18 Statement of Judith Sullivan
- TP/19 Letter from Mrs Margaret Moules
- TP/20 E-mail from Jayne Dillon
- TP/21 E-mail from 'Fred Upwithit' (forwarded by TBMC)
- TP/22 E-mail from David Keating
- TP/23 Letter from Sajjad H Karim MEP
- TP/24 Statement of Canon Chris Ford
- TP/25 Statement of Mrs Pauline Hill
- TP/26 Statement of Mr Brian Hill
- TP/27 Plan submitted by Mr Pickford
- TP/28 Statement of Anne-Marie Harris
- TP/29 Statement of Jo Burgess
- TP/30 Statement of Cllr Kevin Procter
- TP/31 Statement of Duncan Moules
- TP/32 Statement of Cllr Michael Hyman
- TP/33 Statement of Mason Corbishley
- TP/34 Statement of Keith Pilgrim
- TP/35 Statement of Emma Brown
- TP/36 Statement of Geraldine Brown
- TP/37 Statement of Adrian Farr
- TP/38 Statement of Lyn Davies
- TP/39 Statement of David Fernandez-Arias
- TP/40 Statement of R K Davies
- TP/41 Statement of Mrs B D Allen
- TP/42 Statement of Anna Scarisbrick
- TP/43 Statement of Cllr Paul Lally

TP/44	Statement of Ashley Whitehead
TP/45	Statement of Mrs Janet Allison
TP/46	Statement of Cllr Linda Blackburn
TP/47	Statement of Cllr Jonathan Coupe
TP/48	Statement of Dr Peter Butler
TP/49	Statement of Alan Smith
TP/50	Statement of Louise Wynne
TP/51	Statement of Keith J Madden
TP/52	Statement of Dr Peter Baugh
TP/53	Statement of Alison Parker
TP/54	Statement of Peter Skinner
TP/55	Statement of Peter Kilvert
TP/56	Statement of Michael Black
TP/57	Statement of Anke Raabe
TP/58	Statement of Sue Brett
TP/59	Statement of Steven Pennington
TP/60	Statement of Kenneth Evans
TP/61	Statement of Howard Munton
TP/62	Statement of Kathleen Orth
TP/63	Statement of Cllr Alan Mitchell
TP/64	Statement of John Roberts
TP/65	Statement of A A Greenough
TP/66	Statement of Dr Kath Edgar
TP/67	Closing Argument of A A Greenough and 2 E-mails with copies of correspondence with the Environment Agency
TP/68	Letter from H Knowles and P Knowles
TP/69	Letter from V E Claverley
TP/70	E-mail from Jayne Dillon on behalf of Mrs Pauline Preston
TP/71	Letter from Mr Groves, Trading Places
TP/72	Note from Mr G Cliff regarding fuel feedstock availability
TP/73	Note from Mr G Cliff regarding HPA database summary review
TP/74	Abstract submitted by Mr Kilvert re Cancer Mortality
TP/75	Letter from Wendy Kite and 'Dinosaurs' by Michael Foreman

ANNEX A - CONDITIONS IN THE EVENT OF APPROVAL

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) Unless otherwise controlled by conditions attached to this permission or as agreed in writing by the Local Planning Authority, the development hereby approved shall be carried out in accordance with the following plans:

Site Location Plan	L(00)10 Rev C
Existing Site Plan	L(90)01
Proposed Site Plan	L(90)02 Rev A
Ground Floor Plan	L(00)11
Level 1 Plan	L(00)12
Level 2 Plan	L(00)13
Staff Accommodation Ground and First Floor Layouts	L(00)16
Elevations	L(00)15
Sections	L(00)14
Use of Davyhulme WWTa Construction Track	M10023-A-026 Fig 5.6
Part WGIS and Biomass Access/Egress Constructed	M10023-A-026 Fig 5.7
Part WGIS/WGIS and Biomass Access/Egress	M10023-A-026 Fig 5.8
Integration into part WGIS during construction	M10023-A-026 Fig 5.9
Proposed Security and Access Measures	M10023-A-32
Vehicle Tracking Plan	M10023-A-33

Details required prior to the commencement of development

- 3) Prior to the commencement of development, samples of all materials to be used on the exterior of the buildings shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.
- 4) Prior to the commencement of development, a soft landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of vegetation to be retained and its means of protection during construction, earthwork materials, proposed finished levels or

- contours, proposed plant species, plant mixes and location, planting density and sizes, timescales for implementation and provision for long term maintenance and management. The soft landscaping scheme shall thereafter be implemented in accordance with the approved scheme. If within a period of five years from the date of any tree planted that tree, or any tree planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, another tree of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.
- 5) Prior to development commencing, full details of hard landscaping works shall be submitted to and approved by the Local Planning Authority and the works shall be carried out in accordance with the approved plans. The details shall include proposed finished levels or contours; means of enclosure (i.e. perimeter and security fencing); security and operational lighting; hard surfacing materials and a programme for implementation and maintenance.
 - 6) Prior to the commencement of development, a scheme to deal with contamination of the site shall be submitted to and approved in writing by the local planning authority. The scheme shall include an investigation and assessment to identify the extent of contamination and the measures to be taken to avoid risk to the environment when the site is developed. Development shall not commence until the measures approved in the scheme have been implemented.
 - 7) Prior to commencement of development, full design and construction details of the required highway works shown in outline on TTHC drawing no. M10023-A-32 shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
 - 8) Prior to the commencement of development, full details of site foul and surface water drainage shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall thereafter be implemented in full.
 - 9) No development shall take place, other than the carrying out of site clearance and preparatory works, until the applicant or their agents or their successors in title has secured the implementation of a programme of archaeological works in accordance with a Written Scheme of Investigation (WSI) submitted to and approved in writing by the local planning authority. The WSI shall cover the following:
 - i) A phased programme and methodology of site investigation and recording to include:
 - geoarchaeological evaluation, which shall then inform the need for;
 - palaeoenvironmental assessment and analysis;
 - a comprehensive archaeological watching brief, which shall then inform the need for;
 - targeted evaluation trenching and/ or open area excavation.
 - ii) A programme for post investigation assessment to include:
 - analysis of the site investigation records and finds

- production of a final report on the significance of the archaeological interest represented.
- iii) Provision for publication and dissemination of the analysis and report on the site investigation.
- iv) Provision for archive deposition of the report, finds and records of the site investigation.
- v) Nomination of a competent person or persons/organization to undertake the works set out within the approved WSI.

The development shall be carried out in full accordance with the agreed provisions of the WSI.

- 10) No development shall commence until a Construction Environmental Management Plan (CEMP), detailing control measures in relation to noise, dust and waste during the construction phase has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall also include measures to protect the water environment and include measures to control and manage silt-laden runoff and mud deposition on local roads. The CEMP as approved shall be operated during the construction phase.

Details required prior to first operation

- 11) Prior to first occupation of the development, a Noise Management Scheme setting out all mitigation measures to be implemented during the operational phase of the development to meet the noise criteria set out in the Noise and Vibration Section (Chapter 7) of the Environmental Statement (Volume 1) shall be submitted and approved in writing by the Local Planning Authority. The development shall be carried out and thereafter operated in accordance with the approved Noise Management Scheme
- 12) Prior to first operation of the development, a Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall be implemented within 6 months of occupation of any part of the development hereby approved.
- 13) Prior to first operation of the development, a Crime and Risk Prevention Plan (CRPP) shall be submitted and approved in writing by the Local Planning Authority. The plan should include:
- an assessment of the risk, and any necessary mitigating measures, to contain the effects of a
 - fire in the fuel stores;
 - perimeter security, security to individual buildings (including details of a security lodge) and
 - plant; and
 - an ongoing-security management plan for the site (to include site access controls, lighting,
 - CCTV and manned security provision).

The approved CRPP shall be implemented in full and subsequently retained.

- 14) Prior to first operation of the development, details of external lighting (including security lighting) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Details required prior to decommissioning

- 15) Prior to decommissioning, a Decommissioning Method Statement (DMS) shall be submitted and approved in writing by the Local Planning Authority. The scheme shall include details concerning the required decommissioning works including the dismantling and removal of the biomass plant and associated structures and restoration of the site upon cessation of operations. It shall also provide consideration of impacts identified within the Environmental Statement and guidance on how the above will address any identified impacts. The applicant shall decommission and restore the site in accordance with the approved DMS in accordance with a programme to be agreed with the Local Planning Authority.

Other Conditions

- 16) No construction (and demolition) works shall be permitted outside the following hours:

Monday to Friday 08.00 to 18.00

Saturdays 08.00 to 13.00

Access and egress for delivery vehicles during the construction phase shall be restricted to the working hours indicated above. Construction work or delivery vehicles shall not be permitted on Sundays or Bank or Public Holidays.

- 17) No part of the development shall be brought into its intended use unless and until the highway improvements as shown in outline on TTHC drawing no. M10023-A-32, and agreed in detail in accordance with the condition no. 7 above, have been implemented in accordance with the agreed plans.
- 18) Development shall be carried out in accordance with the mitigation measures proposed by the Flood Risk Assessment (Ref. JL30072fin_rep_FRA) dated 12 Oct 2010.
- 19) The ecological mitigation measures, including the Ecological Enhancement Plan, shall be implemented in full as set out within Chapter 10 and Figure 10.2 of the Environmental Statement. Details, setting out the long term ecological maintenance and management of the site including the retained vegetation strip along the Manchester Ship Canal, shall be submitted to and be approved in writing by the Local Planning Authority prior to the carrying out of the mitigation measures set out in the Environmental Statement.
- 20) The rating level (LAeq, T) when assessed in accordance with BS 4142:1997 "Rating industrial noise affecting mixed residential and industrial areas", from all fixed plant and machinery associated with the development, when operating simultaneously, shall not exceed the background noise level (LA90, T) by more than -5 dB during the night time period (any 5 minute period between 23.00hrs to 07.00hrs) and by +5dB during the daytime (any 1 hour period between 07.00hrs to 23.00hrs) when measured at the nearest noise sensitive premises.

ANNEX B – ABBREVIATIONS USED IN THE REPORT

ADMS	Air Dispersion Modelling System
AQMA	Air Quality Management Area
AQO	Air Quality Objective
AQS	Air Quality Standard
AW	Alan Watson (TBC witness)
BAT	Best Available Technique
BCAG	Breathe Clean Air Group
BREP	Barton Renewable Energy Plant
CEMS	Continuous Emission Monitoring System
CCA	Chromated Copper Arsenate (timber preservative)
CHP	Combined Heat and Power
CH	Claire Holman (BCAG witness)
CS	Core Strategy
DC	David Cunnington of counsel (BCAG)
DEFRA	Department of the Environment, Food and Rural Affairs
EA	Environment Agency
EAL	Environment Assessment Level
EfW	Energy from Waste
EIA	Environmental Impact Analysis
EN-1	Overarching National Policy Statement for Energy
EN-3	National Policy Statement on Renewable Energy Infrastructure
EP	Environmental Permit
ES	Environmental Statement
GMJWDPD	Greater Manchester Joint Waste Development Plan Document
GMEU	Greater Manchester Ecology Unit
GMGU	Greater Manchester Geological Unit
JH	Jayne Harding (TBC witness)
HPA	Health Protection Agency
HGV	Heavy Goods Vehicle
MK	Martin Kingston QC (Peel)
MW	Megawatt
NO	Nitric Oxide
NO ₂	Nitrogen Dioxide
NO _x	Oxides of Nitrogen
NPPF	National Planning Policy Framework
PAH	Polycyclic Aromatic Hydrocarbons
PC	Process Contribution
PEC	Predicted Environmental Concentration
PM10/ PM2.5	Particulate Matter (figure after letters represents particle size)
PNS	Paul Singleton (Peel witness)
POPs	Persistent Organic Pollutants
RDF	Refuse Derived Fuel
RSS	North West England Plan (Regional Spatial Strategy) 2008
SNCR	Selective Non-Catalytic Reduction
SO	Stephen Othen (Peel witness)
SoCG	Statement of Common Ground
TBC	Trafford Borough Council

UDP	Trafford Unitary Development Plan
VF	Vincent Fraser QC (TBC)
VOC	Volatile Organic Compound (benzene, 1,3-butadiene)
WGIS	Western Gateway Infrastructure Scheme
WID	Waste Incineration Directive



Department for Communities and Local Government

RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS;

The decision may be challenged by making an application to the High Court under Section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act

Decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged under this section. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application under this section must be made within six weeks from the date of the decision.

SECTION 2: AWARDS OF COSTS

There is no statutory provision for challenging the decision on an application for an award of costs. The procedure is to make an application for Judicial Review.

SECTION 3: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the report of the Inspector's report of the inquiry or hearing within 6 weeks of the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.