Report to the Secretary of State for Communities and Local Government

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Date: 21 April 2010

TOWN AND COUNTRY PLANNING ACT 1990

APPEAL BY

BLUE-NG

THE COUNCIL OF THE LONDON BOROUGH OF EALING

SOUTHALL GAS PRESSURE REDUCTION STATION AND ADJACENT LAND, THE STRAIGHT, SOUTHALL, LONDON UB1 1QX

Inquiry held between 9 and 17 March 2010

File Ref: APP/A5270/A/09/2114021

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File Ref: APP/A5270/A/09/2114021
Southall Gas Pressure Reduction Station and adjacent land, The Straight, Southall, London UB11QX

- The appeal is made under Section 78 of the *Town and Country Planning Act 1990* against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by BLUE-NG against the Council of the London Borough of Ealing.
- The application Ref P/2009/0780 is dated 17 March 2009.
- The development proposed is the construction of a combined heat and intelligent power plant (CHiP) adjacent to the existing gas holder to generate renewable energy comprising: i) CHiP building including visitors area (82m long x 43m wide x 39m high at its highest point with a 65m exhaust stack: ii) turbo expander building (21m long x 21m wide x 8m high); and iii) associated infrastructure including fuel storage area and perimeter security fence.

Summary of Recommendation: The appeal be dismissed

1.0 Introduction and Preliminary Matters

1.1. At the Inquiry an application for costs was made by Blue-NG against the Council of the London Borough of Ealing. This application is the subject of a separate Report.

1.2. The application was amended on 13 July 2009 to include various design improvements previously reviewed with the Council's officers. The drawings and documents considered by the Council, and on which this report is based, comprise:
TE001/BE/03/01/0960/025D Sheet 2 Elevations
TE001/BE/03/01/0960/025E Sheet 1 Plans and Sections
TE001/BE/03/01/0960/025D Sheet 3 Photomontage
08/1695/DRG/CIVIL/20013 P1 Proposed Layout
08/1695/DRG/CIVIL/30001 P1 CHiP Building Elevations
08/1695/DRG/CIVIL/30002 P1 CHiP Building Elevations
08/1695/DRG/CIVIL/30003 P1 CHiP Building Elevations
08/1695/DRG/CIVIL/30004 P1 CHiP Building Elevations
08/1695/DRG/CIVIL/30005 P1 Turbo Expander Building
08/1695/DRG/CIVIL/30006 P1 Turbo Expander Building
08/1695/DRG/CIVIL/30007 P1 Service Building and Pump House
08/1695/DRG/CIVIL/30008 P1 Customer Sub-station
08/1695/DRG/CIVIL/30009 P1 CHiP Building Plan and Isometric View
08/1695/DRG/CIVIL/30010 P1 CHiP Building Plan and Isometric View
08/1695/DRG/CIVIL/30011 P1 Regeneration View
Design and Access Statement by Feilden Clegg Bradley Studios (July 2009), Additional Environmental Information Report by Environmental Perspectives (July 2009), Design and Access Statement by Mouchel Ltd (March 2009), Environmental Statement by Environmental Perspectives LLP (March 2009), Planning Statement by Planning Perspectives (March 2009), PADHI Report by Mouchel Ltd (March 2009), Statement of Community Involvement by 3G Communications (December 2008).[1]

[1] CD7 Para 3.4-3.5, LBE/5E Cond 2

1.3. The revised description of the proposed development is the construction of a combined heat and intelligent power plant (CHiP) adjacent to the existing gas holder to generate renewable energy comprising: i) CHiP building including visitors area (82m long x 43m wide x 25m high at its highest point with a 65m exhaust stack: ii) turbo expander building (21m long x 21m wide x 8m high); and iii) associated infrastructure including fuel storage area and perimeter security fence.[2]

1.4. The Council resolved to refuse the application on 2 September 2009 and referred it to the Greater London Authority (GLA) on 10 September 2009. Although 5 draft reasons for refusal were issued on 11 September 2009, the Council confirmed on 12 November 2009 that, following consideration of the grounds of appeal, only the reasons for refusal relating to air quality and access issues would be pursued.[3]

1.5. Before the application could be considered by the Mayor, an appeal against non-determination was made. The appeal was recovered by the Secretary of State by a Direction dated 13 October 2009 as it relates to proposals of major significance for the delivery of the Government's climate change programme and energy policies.[4]

1.6. A Statement of Matters (SoM) on which the Secretary of State wishes to be informed was issued on 19 October 2009. These are:

a) the extent to which the proposed development would be in accordance with the development plan for the area;

b) the extent to which the proposed development is consistent with Government policies in *Planning Policy Statement 1: Delivering Sustainable Development* (PPS1), and accompanying guidance *The Planning System: General Principles* with particular regard to whether the design principles in relation to the site and its wider context, including the layout, scale, open space, visual appearance and landscaping, are appropriate in their context and take the opportunities available for improving the character and quality of the area and the way it functions, having regard to the advice in paragraphs 33 to 39 of PPS1;

c) the extent to which the proposed development would support national and regional policy and targets for renewable energy as set out in *Planning Policy Statement 22: Renewable Energy* (PPS22) and *Planning Policy Statement: Planning and Climate Change Supplement to Planning Policy Statement 1*;

d) whether any permission granted for the proposed development should be subject to any conditions and, if so, the form these should take;

e) whether any planning permission granted should be accompanied by any planning obligations under Section 106 of the 1990 Act and, if so, whether the proposed terms of such obligations are acceptable: and

[2] LBE/1 Para 4.2, BNG/1 Para 1.3
[3] CD7 Paras 3.7, 3.9, 3.10, Apps 5, 6 & 7, CD13.2
[4] CD1

f) any other matters that the Inspector considers relevant.[5]

1.7. A Pre-Inquiry Meeting (PIM) was held on 25 January 2010 to set out the administrative arrangements for the Inquiry, which opened on 9 March and sat for 5 days closing on 17 March 2010. An accompanied visit was made to the site and surrounding area on 16 March 2010.[6]

1.8. At the PIM, Blue-NG submitted a written request for a ruling on whether the wider issues of global sustainability arising from the use of liquid biomass and the asserted impact on food production were issues for an individual planning inquiry. A response by Biofuelwatch and Ealing Friends of the Earth (BIO/EFE), amongst others, and final comments from Blue-NG were submitted in accordance with an agreed timetable. A ruling that evidence relating to the sourcing and wider global sustainability of the biomass fuel that might be used should not be heard at the Inquiry was issued on 2 February 2010. The main statements leading to the ruling are contained in Paragraph 43 of the Technical Annex – Biomass of *Planning for Renewable Energy – A Companion Guide to PPS22* which states "The remit for planners is around the power plant and associated impacts and not the production of the fuel source. However, the impacts of growing and collecting the fuel are key to ensuring the successful development of a facility. Many of the environmental issues associated with the fuel supply (eg impact on landscape, ecology, archaeology, land use etc) may be covered by an Environmental Impact Assessment undertaken by other bodies in connection with the scheme – for instance the Forestry Commission for all applications submitted in England under the Energy Crops Scheme" and paragraph 2.5.10 of the draft *National Policy Statement on Renewable Energy Infrastructure* which states that "Given that operators will need to provide information on the sustainability of the biomass used to Ofgem and will also need to comply with any other requirements or restrictions that may arise, the IPC does not need to consider the source or sustainability of the proposed biomass fuel to be used within the proposed plant".[7]

1.9. A number of people at the Inquiry raised concerns that they had not been consulted on the appeal. However, the Council provided a copy of the letter of notification of the Inquiry and a list of those notified. Indeed, representations were received at appeal stage from some of those who said they had not been consulted. In addition, the Appellant provided a note on how the statutory requirements relating to the Environmental Impact Assessment had been met and a Statement of Community Involvement was produced in December 2008. I consider that the Inquiry was properly publicised, there was considerable public interest and involvement and 17 individuals, including four Councillors spoke. I do not consider that anyone has been disadvantaged.[8]

1.10. I have taken the Environmental Statement (ES), submitted in accordance with the 1999 Regulations, into account along with comments made by consultees that were addressed in additional information, including the Air Quality Impact Assessment (Single Engine Option). I have also considered

[5] ID/6
[6] ID/1, ID/3
[7] ID/4
[8] ID/5 & 5A, BNG/3E

the Additional Environmental Information Report incorporating an updated noise report, an updated ground conditions report and an updated flood risk assessment.[9]

1.11. This report includes a description of the site and its surroundings, a summary of the planning policy background and the planning history of the site, the gist of representations made at the Inquiry and in writing, and my conclusions and recommendation. Lists of appearances and documents, a schedule of conditions to be attached should the Secretary of State be minded to grant planning permission, and a glossary of abbreviations are attached as appendices.

2.0 The Site and Its Surroundings[10]

2.1. The appeal site, which has an area of approximately 2.32 hectares, comprises the Southall Gas Pressure Reduction Station (PRS) and additional land to the east forming part of the operationally surplus land of the former Southall Gas Works. It lies within an area designated in the *Ealing Unitary Development Plan 2004* (UDP) as a Special Opportunity Area. The site excludes the operational gas holder to the east of the PRS that is some 93 metres high. This would be retained as part of the wider West Southall Regeneration Scheme (WSRS). The mixed use WSRS, predominantly for retail, employment and housing uses but including an energy centre on the former Gas Works site, is the subject of a separate application (LBE Ref P/2008/3981-S). It has been referred to the GLA following the Council's resolution to refuse planning permission on traffic grounds. One of two energy strategy options for the WSRS is similar to the CHiP plant proposed in this appeal.

2.2. Most of the operationally surplus land that adjoins the appeal site to the west, north and east is currently used on a temporary basis by Purple Parking as secure parking for Heathrow Airport customers with access from Brent Road to the south and Beaconsfield Road to the north. Residential development lies beyond the parking to the north. Vehicular access to the site is from a restricted access road known as The Straight to the south which connects to the A3005 South Road to the east via The Crescent, Randolph Road and Beaconsfield Road. The main Paddington – West of England railway line runs directly to the south of The Straight, beyond which is a predominantly residential area. Near the junction of The Straight and The Crescent is a locally listed building known as the Water Tower that contains flats.

3.0 Planning Policy

3.1. The development plan for the locality includes the *London Plan – Spatial Development Strategy for Greater London* consolidated with alterations since 2004 February 2008 (LP) and the part saved UDP.[11]

3.2. Whilst numerous policies have been referred to in evidence and the Statement of Common Ground, I consider the following to be those most

[9] BNG/3E, CD9.7, CD9.10, CD10.3
[10] CD7 Sect 2
[11] CD7 Para 5.1

relevant to this appeal. In relation to highway safety and the free flow of traffic, paragraph 46 of *Planning Policy Guidance Note 13: Transport* (PPG13) is reflected in the Mayor's draft *Transport Strategy* and seeks a balance between the movement of goods, free flow of traffic and the interests of residents. Saved UDP Policy 9.1 requires adequate means of vehicular and pedestrian access to the site and indicates that planning permission will normally only be granted for development which ensures traffic safety. UDP Policy 9.9 states that the Council will regulate development in the interests of road safety and to make the best of available road space for all users.[12]

3.3. Turning to air quality, the *Environment Act 1995* refers to air quality objectives for specified pollutants that local authorities are required to work towards. Ealing has declared the whole Borough an Air Quality Management Area (AQMA) as it is considered that the objectives for two pollutants, nitrogen dioxide (NO_2) and fine particulate matter (PM_{10}), are unlikely to be achieved. The European Union has also introduced legally binding Limit Values for some pollutants which the UK is required to achieve by 1 January 2010. The Limit Value for NO_2, at 40µg/m³, is numerically the same as the air quality objective for NO_2.[13]

3.4. Appendix 1G of *Planning Policy Statement 23: Planning and Pollution Control* (PPS23) indicates that not all planning applications for development inside, or adjacent to, AQMAs should be refused if they would result in a deterioration of local air quality as this could sterilise development, particularly where entire local authority areas are designated as AQMAs. LP Policy 4A.19 seeks to achieve reductions in pollutant emissions and public exposure to pollution by, amongst other matters, ensuring that air quality is taken into account along with other material considerations and that formal air quality assessments are undertaken where appropriate, particularly in designated AQMAs.[14]

3.5. Saved UDP Policy 2.6 indicates that reductions in the level of air pollutants and the achievement of statutory limits will be sought. The policy also states that "Permission will be refused where development hinders the achievement of local air quality objectives. Development will not be permitted in areas where air quality objectives are not currently being achieved unless the effects on people can be demonstrated as acceptable in relation to air quality objectives". Action 46 in Ealing's *Air Quality Action Plan* states that the Council will "refuse planning permission where a development hinders the achievement of air quality objectives or results in significantly increased air pollution". LP Policy 3A.23 requires local planning authorities to have regard to the health impact of developments.[15]

3.6. Paragraph 3 of PPS1 identifies sustainable development as the core principle underpinning planning. Sustainability Criteria are set out in LP Policy 2A.1 which includes adapting to, and mitigating the effect of climate change, optimising the use of previously developed land, and having regard to the impact development will have on the health of local people. The need for an

[12] CD14.6, LBE/4A Paras 4.1-4.9, BNG/3A 6.102-6.103, BNG/6A Paras 5.6-5.15
[13] LBE/4A Paras 3.2-3.4, BNG/5A Paras 2.1-2.3
[14] CD14.5, LBE/3A Para 3.1, BNG/3A Paras 6.35-6.36, BNG/5A Paras 2.4-2.6, 2.11-2.13
[15] LBE/3A Paras 3.5-3.8, BNG/3A Para 6.14

Environmental Statement (ES) where development would have significant environmental impacts is set out in UDP Policy 2.1 whilst UDP Policy 2.5 requires a flood risk assessment and the provision of a sustainable water drainage system.[16]

3.7. PPS22 states, at paragraph 1(iv), that the wider environmental and economic benefits of all proposals for renewable energy projects, whatever their scale, are material considerations that should be given significant weight in determining whether proposals should be granted planning permission. Whilst it recognises that generation plants should be sited as close as possible to sources of fuel, it also notes that there may be other considerations that may influence the most suitable locations for such projects. The *Companion Guide to PPS22* gives specific advice on a range of renewable energy technologies, including biomass CHP, that qualify for assistance under the Renewables Obligation Order.[17]

3.8. *Planning and Climate Change – Supplement to PPS1* identifies the importance of reducing carbon dioxide (CO_2) emissions and expects planning authorities to provide a framework that promotes and encourages renewable and low-carbon energy generation. The Mayor's *Energy Strategy* underpins a raft of policies in the LP aimed at tackling climate change. LP Policy 4A.2 seeks to achieve minimum reduction targets for CO_2, which paragraph 4.15 indicates will mean a greater reliance on renewable sources. Renewable energy technologies are encouraged, including biomass fuelled CHP, which is identified as providing the largest single contribution to the UK's CO_2 emissions reduction targets. The consideration of the need for sustainable design and construction is noted in LP Policy 4A.3 whilst LP Policy 4A.6 seeks the consideration of decentralised energy generation. UDP Policy 2.9 generally encourages renewable energy schemes subject to certain safeguards.[18]

3.9. LP Policy 4A.33 encourages the remediation and recycling of contaminated brownfield sites. UDP Policy 2.2 seeks the regeneration of Special Opportunity Sites whilst UDP Policy 2.7 requires an assessment of ground conditions, and remedial measures to prevent risk to public health and safety.[19]

3.10. Good design is identified in paragraph 33 of PPS1 as a key element in achieving sustainable development. Good design is sought by LP Policies 4A.1, 4B.1 and 4B.2 and integration with the local context and communities is required by LP Policy 4B.8. These aims are reflected in UDP Policies 4.1, 4.3, 4.4 and 4.5 that deal with design and visual impact, access for all, community safety, and landscaping.[20]

4.0 Planning History[21]

4.1. Much of the planning history of the site relates to the former Gas Works use. More recently, planning applications include the temporary use of the land

[16] BNG/3A Paras 6.9-6.10, 6.82, 7.10-7.14
[17] BNG/3A Paras 7.32-7.42, 7.47-7.53
[18] BNG/3A Paras 6.18-6.31, 6.82, 7.17-7.27
[19] BNG/3A Paras 6.47 & 6.82
[20] BNG/3A Paras 6.49-6.54, 6.91-6.
[21] CD15.2 Section 2

for the storage, preparation and parking of motor vehicles and for car parking associated with Heathrow Airport, for proposed new links to the Hayes By-Pass to the west and the mixed use WSRS redevelopment of the wider Gas Works site.

5.0 The Case for the London Borough of Ealing

5.1. Introduction

5.1.1. Whilst the Council was originally minded to refuse the application for five reasons, the differences between the parties have narrowed considerably. The Council now considers that there are two principal reasons why the proposal should be refused. These are the adverse effects it would have on traffic, and on air pollution in an area that already exceeds the objective and Limit Value for NO_2.

5.2. Transportation

5.2.1. Access to the site from Junction 3 of the M4 would be via the A312 Hayes By-Pass, the A4020 Uxbridge Road and the A3005 South Road which is the only route over the railway in this part of the Borough. A signalised junction on South Road, which has three times the average number of personal injury accidents than similar junctions in the Borough, gives access to Beaconsfield Road. This has a carriageway width of 7.5-8.0 metres and serves a number of residential roads, local schools, a college and community facilities.[22]

5.2.2. When travelling west along Beaconsfield Road, The Crescent is no entry and access would therefore be via Randolph Road, a traffic calmed, two-way, residential access road. It has a carriageway width of around 7.5 metres but the full length of the road has side-on permit controlled residents parking on both sides reducing the effective width to only 3.2-3.4 metres depending on the parking. The road therefore operates on a 'shuttle' basis with traffic having to give way to vehicles coming the other way. The prohibited access to The Crescent means that drivers wishing to access the local shops there have to do so by using Randolph Road leading to higher traffic flows than might be expected.[23]

5.2.3. A survey indicates that the parking spaces on Randolph Road are 90% occupied between 08:00 – 19:00 with the spaces close to Beaconsfield Road very rarely unoccupied. Vehicles heading north on Randolph Road frequently have to reverse to accommodate vehicles turning from Beaconsfield Road or the vehicles heading south have to reverse or wait in the bellmouth to enable the northbound vehicles to exit Randolph Road. Extensive queuing from the junction with South Road occurs on Beaconsfield Road throughout the day and regularly extends beyond Randolph Road occasionally persisting for 20 to 30 minutes. Footways on both sides of Beaconsfield Road are approximately 2 metres wide and are heavily used due to the number of amenities along the road.[24]

[22] LBE/4A 3.3-3.4
[23] LBE/4A 3.5-3.7
[24] LBE/4A 3.8-3.12

5.2.4. A Transport Assessment (TA) submitted with the application indicates that access via The Straight would be the only available access for fuel deliveries and that a rigid 12 metre long tanker with a 21,000 litre capacity would be used to "minimise danger, obstruction and inconvenience to users of the local highways". Given a fuel consumption of some 76,000 litres a day up to 4 deliveries (8 two way trips) could be expected on any given day. This could be doubled if a two day supply were provided. There would also be a requirement for urea to be delivered.[25]

5.2.5. Swept paths in the TA show a rigid tanker turning left into Randolph Road. The appellant's Technical Note 1 states that such a vehicle could turn left into Randolph Road by using both sides of Beaconsfield Road and Randolph Road and would be able to fit between the parking bays on Randolph Road, provided the vehicles were parked correctly and legally within them. The turning manoeuvre would frequently require waiting for the queue back from the junction with South Road to dissipate, or for an oncoming driver to wait and allow the turn. Technical Note 1 accepts that when leaving the site along The Straight "it is unlikely that the 12m rigid truck could pass legally to the left of the island and still turn left into Randolph Road without interfering with the vehicles parked in the bays". No alterations have been suggested that might overcome this. This access arrangement would not be acceptable due to its adverse impact on highway safety and the free flow of traffic.[26]

5.2.6. This appears to be accepted by the appellant as Technical Note 1, issued after the Council's resolution to refuse, suggests the use of a site specific 10.78 metres long articulated tanker and recommends a condition restricting the fuel delivery vehicle type to "an articulated semi-trailer with an overall length no greater than 11 metres".[27]

5.2.7. Figure 2 in the appellant's Technical Note 2 indicates that it would still be tight for this smaller vehicle to turn from Beaconsfield Road into Randolph Road, although the need to overturn could be retained within the hatched area in the centre of the road. However, the remaining carriageway width for oncoming vehicles would only be around 3 metres wide. *Designing for Deliveries* by the Freight Transport Association (FTA) indicates a preferred clearance of 1.3 metres leaving only 1.7 metres of lane width for opposing traffic.[28]

5.2.8. Effectively both sides of Beaconsfield Road would be required to complete the manoeuvre. The correct alignment would be needed to prevent the tanker wheels crossing the footway at the corner of Randolph Road and affecting pedestrians, and the full bellmouth area would be required conflicting with vehicles waiting at the 'give way' or approaching along Randolph Road. The maximum clearance between the tanker and a correctly parked car in Randolph Road would be 0.283 metre, again less than the FTA recommended clearance of 0.5 metre from the carriageway edge. This would be compounded as the DAF cab that would be used is

[25] CD 9.7 App 4.1, LBE/4A Paras 5.2, 5.5, Urea is used in the SCR NOx abatement system
[26] CD9.7 App 4, CD13.3, LBE/4A Para 5.2, Mr Melhuish I/C & XE Day 1
[27] CD13.3, LBE/4A Para 5.2
[28] CD13.3, LBE/4A Paras 5.18-5.19

slightly wider than the standard cab used in the swept path reducing the tolerances even further.[29]

5.2.9. Whilst the FTA guidance indicates that the tolerances can be reduced, this would only be appropriate where flows were light, drivers pass slowly, and where there are no vertical obstructions within 0.5 metre of the carriageway edge. That would not be the case here. The guidance emphasises that standards must not rely on the ultimate performance of vehicle and driver as this adds to delivery times and causes driver stress.[30]

5.2.10. Both the 12 metre rigid and the smaller articulated tanker turning right out of Randolph Road onto Beaconsfield Road would be likely to significantly inhibit the free flow of traffic as they would have to stop in the bellmouth at the end of the road waiting for the east bound queue on Beaconsfield Road to dissipate or until someone left a gap long enough for a tanker, or they would have to move half way across Beaconsfield Road to 'force' their way into the queue. This would prevent other traffic entering or leaving Randolph Road and west bound traffic on Beaconsfield Road from progressing.[31]

5.2.11. Whilst the turning movements have been compared to those of a refuse vehicle, the size of refuse vehicle used in the Borough is 9.5 metres long rather than the larger vehicle modelled in the swept path analyses. Moreover, refuse vehicles would be less frequent, are accepted as there is a reason for them to be there, have flashing hazard lights, and crew in high visibility jackets that could help with manoeuvres.[32]

5.2.12. The possible use of an existing access from Beaconsfield Road to the Purple Parking site has also been raised. It is accepted that this would be preferable in highway terms to the use of Randolph Road but it would require access rights to be secured and a traffic management and access strategy to be agreed. However, this access is not part of the application, although a paragraph in the *Design and Access Statement* indicates that the access would transfer to the north when the WSRS infrastructure was in place. *The Town and Country Planning (General Development Procedure) Order 1995*, as amended provides, at 4E(1)(c)(i), that a plan which identifies the land to which the application relates be included whilst paragraph 40 of *The Validation of Planning Applications – Guidance for local planning authorities* states "The application site should be edged clearly with a red line. It should include all land necessary to carry out the proposed development – for example, land required for access to the site from a public highway….". There is no application plan that shows access taken from the north in the absence of the WSRS.[33]

5.2.13. The public would not know that access would be taken from Beaconsfield Road to the north without the WSRS. In any event, the WSRS included a number of access points with one of the main ones being directly to the A312 Hayes By-Pass rather than through a residential area. The provision

[29] LBE/4A Paras 5.20-5.22, Mr Fitter XE Day 3
[30] LBE/4C pp8 & 17
[31] LBE/4A Para 5.23
[32] Mr Melhuish I/C Day 1
[33] CD10.2, LBE/4A Para 5.25, LBE/5B, LBE/6 Paras 3.20-3.21, Mr Waters IC Day 4

of a Section 106 Undertaking seems to indicate acceptance that the application does not include access from Beaconsfield Road. However, this only promises to use 'reasonable endeavours' and would not ensure a suitable access. On the contrary, it would permit the use of the substandard access along Randolph Road for an uncertain period.[34]

5.3. **Air Quality**

5.3.1. European Directives have introduced legally binding Limit Values for several pollutants including NO_2. The target for achievement is 1 January 2010 and no extension has been applied for or granted. The *Air Quality Standards Regulations 2007* has transposed those values into domestic law. The UK Objective and the Limit Value for NO_2 as an annual mean is the same at 40μg/m^3. The 40μg/m^3 level is already breached in Ealing and the Council has declared the whole Borough an AQMA.[35]

5.3.2. Paragraph 1G1 of Annex 1 to PPS23 indicates that the impact on ambient air quality is likely to be particularly important where, amongst other matters, development is proposed inside, or adjacent to, an AQMA and where to grant planning permission would conflict with, or render unworkable, elements of a local authority's air quality action plan. Both apply in this case as the appeal site is within an AQMA and action 46 of the Borough's *Air Quality Action Plan* states "refuse planning permission where a development hinders the achievement of air quality objectives or results in significantly increased air pollution" reflecting the aims of UDP Policy 2.6.[36]

5.3.3. Two types of air quality monitoring are carried out in the Borough. Four automatic monitoring sites provide the most accurate information. One of these is close to a busy road and is not relevant to this site. None of the remaining sites show any consistent reduction in pollutant concentrations since 2000, or in the case of Blair Peach School since 2005. A cheaper, less accurate, monitoring method is diffusion tubes. There are over 90 sites in the Borough with 7 relatively close to the appeal site. These indicate that there are widespread breaches of the Objective and Limit Values around the site with exceedances being substantial near busy roads. The data available provides no evidence of any improvement. It would, therefore, be reasonable to give close attention to air quality impacts and to refuse development that would impede air quality improvement in the area.[37]

5.3.4. Air Quality modelling has been carried out using recognised models. Although there is inherent uncertainty in any modelling process this has not been quantified. Verification is usually carried out using results from several monitoring sites but in this case the data from only one site has been used. This is not in accordance with Guidance and could lead to underestimating the effect from roads. Indeed, the modelling under predicted measured pollutant levels by a factor of nearly 10.[38]

5.3.5. Absolute levels were produced during the Inquiry. At Hamborough School levels have varied between 49-61μg/m^3 in the last 5 years and the process

[34] LBE/6 Paras 3.22-3.23
[35] LBE/3A Paras 3.2-3.4, LBE/6 Paras 2.1-2.4
[36] LBE/3A Para 3.5, 3.8, LBE/6 Paras 2.5 – 2.6
[37] LBE/3A Paras 4.1-4.4
[38] LBE/3A Paras 4.5-4.16, Dr Bull XE Day 1

would add a further 0.7-0.8µg/m^3. The process would add 1.0-1.1µg/m^3 to the level at the junction of South Road and Beaconsfield Road, which is the equivalent to an increase of 7000 vehicles a day travelling at 20 kph as measured 5 metres from the centre line of the road. Levels at The Straight, close to the Water Tower, were 52 and 45.1µg/m^3 in 2007 and 2008 and are predicted to rise by 0.9µg/m^3 at a level 10 metres above the ground.[39]

5.3.6. Guidance on air quality has been produced by the former National Society for Clean Air, now Environmental Protection UK (EPUK), since 2004. The current version was published in 2006 but is under review. The latest draft takes a less prescriptive approach to assessment and places much more emphasis on professional judgement than on numerical criteria. Factors to be considered include the magnitude of changes and the descriptions of the impacts at the receptors, the number of people affected and exposed to levels above the objective or Limit Values, whether an exceedance area would be substantially increased, uncertainty, whether a Limit Value is removed or reduced, and the extent to which an objective or Limit Value is exceeded.[40]

5.3.7. In applying professional judgement, the Council's witness took account of the extent to which the Objective/Limit Value would be exceeded, uncertainty in the modelling, the fact that NO_2 levels are not improving, and the factors in the Institute of Air Quality Management's position paper on the *Description of Air Quality Impacts and the Assessment of their Significance*. In contrast, the Appellant's witness stopped at the stage of assigning an impact descriptor and did not assess significance.[41]

5.3.8. A flow chart in the EPUK Guidance indicates that air quality should be regarded as an 'overriding' consideration as the proposal would lead to a worsening of a breach of a Limit Value. As a result there should be a strong presumption for a recommendation for refusal on air quality grounds. Blue-NG's witness accepted that air quality should be a 'high priority' as the proposal would introduce new exposure into an exceedance area but the same words appear in the 'overriding' box of the flow chart. In any event, bearing in mind the absolute levels and the number of people that would be affected, it could be appropriate to refuse the application on air quality grounds.[42]

5.3.9. Blue-NG relies on early comments by the GLA. However, the GLA only concludes that the proposal does not raise strategic air quality issues. It does not consider the UDP Policy test or the impact on the local area. In any event, a letter dated 26 January 2010 is explicit that it should not be "read as a letter of support from the Mayor".[43]

5.3.10. The proposal would exacerbate NO_2 levels that already exceed Limit Values. It would not comply with national, regional and UDP policy aims and should be refused on air quality grounds.

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[39] LBE/6 Paras 2.21-2.22, BNG/5A p14, BNG/5O, Dr Bull I/C Day 1
[40] LBE/3A Paras 3.9-3.10
[41] CD16.10, LBE/6 2.23-2.25, Dr Bull I/C and XE Day 1
[42] CD16.9, LBE/3A Para 3.10, LBE/6 Paras 2.26-2.28
[43] CD15.7 Para 43, CD15.8, LBE/6 Para 2.29

5.4. **Other Matters**

5.4.1. LP Policy 4A.4, which supersedes UDP Policy 2.9, requires renewable energy generation resulting in a 20% reduction in CO_2 emissions from the site. The development is within a Special Opportunity Area where an outline application has been made for a mixed use development. Whilst the proposal would be physically compatible with the WSRS masterplan, which would require some 2.2 MW of renewable energy, it would have the capacity to produce 18 MW of electricity, enough to provide for approximately 45-48,000 homes.[44]

5.4.2. The scale of the plant would lead to an unacceptable increase in pollutants in an area where air quality objectives are not currently being met and would not accord with UDP Policy 2.6. Deliveries would be detrimental to the free flow of traffic and residential amenity due to the nature of the access routes and so would not accord with UDP Policies 9.1 and 9.9. The proposal would not therefore comply with the development plan as a whole.[45]

5.4.3. The proposal would be consistent with the advice in paragraphs 33 to 39 of PPS1 in terms of the general design principles, including height, scale and massing, layout, landscaping, and the relationship of the scheme with the wider special opportunity site. However, the proposal would not be in accordance with paragraph 16 of PPS1 that seeks to promote development that delivers a safe and healthy place to live, due to the increase in air pollutants.[46]

5.4.4. It is accepted that the combustion of biomass for the generation of energy is designated as renewable within the Renewables Obligation. In this respect the proposal would support national policy set out in PPS22 and the *Planning and Climate Change Supplement to PPS1*, as well as targets for the facilitation of renewable energy developments. The GLA has confirmed that the proposal would generate over 20% of the renewable electricity target set out in the Mayor's 2004 *Energy Strategy*, and potentially up to half the Energy Strategy's renewable heat target for London.[47]

5.4.5. However, this would be in an AQMA where NO_2 levels are well above the Limit Value. Whilst CHP systems do not have to have an adverse effect on air quality, this proposal would. If the WSRS did not go ahead, there is no proposal for using all the heat that makes the plant so efficient. The plant emissions would not be offset by the provision of heat that would make domestic boilers and their emissions unnecessary in the WSRS. Notwithstanding the general compliance with national and regional policy, the emission of pollutants in a predominantly residential area could not be considered effective protection of the environment and so the proposal would not be entirely consistent with PPS22.[48]

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[44] LBE/5A a) i - ix
[45] LBE/5A a) x - xii
[46] LBE/5A b) i - iii
[47] LBE/5A c) i - ii
[48] LBE/5A c) iii – iv, LBE/6 Paras 4.1-4.2

5.4.6. The proposal would not fall within the regulations relating to hazardous installations and the Council has withdrawn its draft reason for refusal relating to public health and safety and odour generation.[49]

5.5. Conditions and Section 106 Undertakings

5.5.1. A list of conditions has generally been agreed between the Council and the Appellant. Suggested condition 5 relates only to the use of the northern access from Beaconsfield Road and should be amended to apply regardless of which access would be used. A Traffic Management Plan (TMP) submitted in relation to the northern access is acceptable but protection is required should the access use Randolph Road. It is accepted that conditions should not duplicate other legislation but a number of the conditions reflect those requested by the Environment Agency and English Heritage for specific reasons.[50]

5.5.2. Two Unilateral Undertakings have been provided. The first, dated 5 March 2010, provides for the provision of a Bioliquid Report to the Council on the nature and sourcing of the proposed fuel, and for an annual Bioliquid Technology Presentation on any new measures or initiatives to improve the effectiveness of electricity and heat generation at the development. It also provides for the provision of an air monitoring station at the Water Tower for a period of time and for the submission of an off-site noise monitoring strategy. Whilst the Council did not specifically request all the measures it accepts what is offered and is satisfied that the logistics would work. The second Undertaking deals with the use of the existing northern access from Beaconsfield Road to the Purple Parking area. Whilst it complies with the legal formalities, it only requires 'reasonable endeavours' to ensure the use of that access and so does not overcome the Council's concerns relating to Randolph Road access.[51]

6.0 The Case for Biofuelwatch and Ealing Friends of the Earth

6.1. Introduction

6.1.1. BIO/EFE are concerned about the ruling limiting the scope of the Inquiry. The use of biofuels may emit as much, or more, greenhouse gas than fossil fuels. In addition, biofuel production competes with food production for land, drives up food prices and causes food shortages. It also destroys wildlife and leads to tropical de-forestation.[52]

6.1.2. Given the limitation on the scope of the Inquiry, evidence is only given on air pollution. The Council is relied on to make submissions on traffic and general planning matters. This is an important case as it is believed that it is the first recovered appeal where London air quality is a major consideration since the European Commission's ruling that the UK can no longer delay compliance with pollution limits set out in the 2008 *Air Quality Directive*.[53]

[49] CD7 Sect 6, LBE/1 Para 4.6
[50] Discussion on conditions Day 5, LBE/5E
[51] Discussion on Undertakings Day 5, BNG/3D, BNG/3F
[52] BIO/2
[53] BIO/2

6.2. **Air Quality**

6.2.1. The appeal site is in a suburban location with existing air quality problems. Background air pollution sources, including the M4, M25, and Heathrow Airport make the improvement of air quality a challenge. In contrast, a similar proposal permitted in Beckton is located close to Europe's largest sewage treatment works in an area where there are several industrial plants including a desalination plant, aerobic digesters, and diesel engines burning recycled vegetable oil. It would also not be far from the 1,000 MW Barking Power Station. That scheme would not justify allowing this proposal in Southall.[54]

6.2.2. London is in default of European targets for air quality. Infringement proceedings in relation to PM_{10} standards are underway and continued exceedance of NO_2 levels could lead to further proceedings. The proposal would increase air pollution in an area that already exceeds statutory air quality objectives and is designated an AQMA. The latest *Air Quality Action Plan* (April 2008) notes that concentrations of PM_{10} and NO_2 are still likely to exceed air quality objectives in some parts of the Borough. The appellant accepts that air pollution would be increased at ground level and that the geographical area of exceedance would be extended. The area is densely populated and includes sensitive receptors such as local schools and care homes for the elderly. Whilst the latest WSRS has been refused, the site remains a regeneration area and the Air Quality Assessment takes no account of housing in the WSRS whose occupants would also be exposed to the pollution.[55]

6.2.3. The argument that the increases in pollutant concentrations due to the development would be acceptable as they would be 'small' compared to the existing extremely high levels is tantamount to saying that pollution levels could rise indefinitely. An increase would be contrary to UDP Policy 2.6 which seeks reductions in air pollutant levels. Local policies also state that development will not be permitted in areas where the air quality objectives are not currently being achieved, unless the effects on people can be demonstrated to be acceptable in relation to air quality objectives. The Mayor's draft *Air Quality Strategy* accepts that the designation of an AQMA should not halt all development but indicates that developments should be 'air quality neutral' with no increase in emissions associated with the development in comparison to the previous land use of the site. The existing use includes a 3.5 MW rated gas fired boiler with associated PRS which would be replaced with a 20 MW rated slow or medium speed compression ignition engine firing on bioliquid, which would have considerably greater emissions of NOx and particulates.[56]

6.2.4. Blue-NG's estimates of air pollution are unreliable. Traffic speeds have not been provided to indicate where queuing might lead to higher emissions, and increased congestion due to proposed residential schemes is likely to increase emissions in future years. The model used cannot combine industrial and road emissions and they have had to be superimposed.

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[54] BIO/3A Paras 7.3-7.6
[55] CD15.9, BIO/3A Paras 3.1-3.2, 4.1-4.8, BIO/5 Paras 4.1-4.8
[56] CD16.8 p61, BIO/3A Para 3.10, BIO/4A 2.13.1, BIO/5 Paras 4.9-4.10

However, methodologies in the *Local Air Quality Management Technical Guidance* (LAQM.TG09) have not been followed. Modelled values are nowhere near the actual measured values and a 'fiddle factor' of almost 10, based on a single monitoring station, has been used. No details of checking emissions data and other inputs have been provided although careful checking could negate or significantly reduce the adjustment factor. It is not valid to use only one monitoring site for model adjustment. This reduces the degree of confidence in the model results.[57]

6.2.5. Moreover, the modelling did not take full account of key factors such as the downwash effect from the adjacent 93 metre high gas holder. Indeed, it could not be confirmed that the modelling system used was designed to work where the exhaust stack was lower than an adjacent building. Best practice is to carry out sensitivity analyses of how the downwash is treated by the model but no evidence has been produced to demonstrate how the stack height was determined. The process contribution to air pollution may be significantly underestimated.[58]

6.2.6. The *London Councils Air Quality and Planning Guidance* indicates that both existing and proposed residences should be considered as receptors. The emissions from the 65 metre high stack would disperse emissions beyond the immediate locality. Impacts well beyond the immediate vicinity should be considered. Whilst pollution from a source tends to fall off with distance, care is needed in establishing a distance beyond which impacts can be ignored. The increases in concentration beyond Blue-NG's final contour would be far from negligible in comparison with the increases in concentrations close to the plant. As predictions for the Water Tower show, concentrations can increase sharply with height. Any balconies and windows at, or below, the stack height should be considered as sensitive receptors within a zone of up to 3km. In the *Air Quality Assessment* receptors are within 1km and most are much closer. The concept of smaller increases over a larger area being as dangerous as larger concentrations in a smaller area was not accepted effectively denying the relevance of total or 'societal' risk.[59]

6.2.7. The railway line is also a significant source of pollution. LAQM.TG09 identifies the line as heavily trafficked by diesel passenger trains. The emissions from the line, which can be equivalent to a busy road, are included in the National Atmospheric Emissions Inventory (NAEI), maintained on behalf of DEFRA. Emissions from this source can, in themselves, elevate NO_2 concentrations to more than the Limit Value of 40µg/m³. If included, these emissions would have significantly extended the area of exceedances. The reason given for not including them was that the Council had not asked for it but an experienced professional should know that it should have been included.[60]

6.2.8. The claim that background emissions in Ealing are trending downwards, based on the last three years of monitored results, does not hold water. Indeed, it is accepted that data is variable due to meteorological differences

[57] BIO/3A Paras 13.1-13.3, BIO/4A Paras 3.2.2-3.2.3
[58] BIO/3A Para 11.1, BIO/4A Para 3.4.2, BIO/5 Paras 5.1-5.9
[59] BIO/3A 9.10-9.13, 14.1-14.2, BIO/4A Exhibit 1 Sect 2.3, BIO/5 Paras 6.6-6.9
[60] BIO/4A Para 3.1.1, BIO/4B, BIO/4C Table 5.1, BIO/5 Paras 5.10-5.11

between years. It would, therefore, be inappropriate to predict a decrease on such a short run of data. The Council's expert produced 9 years of data which does not exhibit any material downward trend.[61]

6.2.9. The *London Council's Air Quality and Planning Guidance* states that "assessments should provide a transparent account of the modelling undertaken, all assumptions made and input data used". Innovation comes with uncertainties, particularly in emissions potential. An 'end of pipe' technology alone, such as Selective Catalytic Reduction (SCR), cannot be relied on to ensure emissions are controlled. Whilst it is claimed that worst case emissions have been assumed, an emissions guarantee sheet stating maximum emissions at different operating loads should be provided. The method of estimating hourly NO_2 is unusual and the chemistry of conversion of NOx to NO_2 may not be applicable in this case as most statistics relating to such conversions are from coal power stations and roadside air quality monitoring. Emissions need to be accurately characterised.[62]

6.2.10. Modelling is only very approximate as inputs are estimates and the future weather and background pollution levels are unknowns. At least 5 years of monitoring data should be reviewed to demonstrate a downward trend. If there isn't a downward trend then the latest annual levels should be used without downward correction. The *Air Quality Assessment* expresses surprise that air pollution increased at Hamborough Primary School between 2005 and 2007 but the experience of local people is that traffic and congestion is getting worse. There are no policies to reduce or even stabilise traffic levels and the WSRS would only increase traffic further increasing pollution levels.[63]

6.2.11. Little information is provided on $PM_{2.5}$, now thought to be the most serious pollutant, and it is not explained why $PM_{2.5}$ concentrations from the process are much lower than PM_{10} when the background figures for the two are similar. The *Air Quality Assessment* gives no error limits, has no discussion of the accuracy of the results, and there is little evidence of peer review or independent verification. The estimated concentrations of NO_2 and PM_{10} are remarkably close to the measured values. Estimating concentrations of pollutants is far from an exact science and such a match seems unlikely without some adjustment to align them. Such a match is even more unexpected as the data capture rates were only 80% and 93%. Little credence can be placed on the results.[64]

6.2.12. It is claimed that professional judgement has been used to arrive at the view that the concentrations of NO_2 would be 'negligible', 'imperceptible' or 'slight adverse' based on definitions from EPUK, a non governmental organisation. BIO/EFE are also non governmental organisations and do not support the definitions which lead to a view that none but the very largest increases in air pollution should prevent a scheme going ahead. The use of percentages is misleading. A 1µg/m³ increase in a relatively unpolluted area of 10µg/m³ would be a 10% increase but would be only a 2.5% increase in an area already at the Limit Value of 40µg/m³. An increase of

[61] LBE/3A Tables 2 & 3, BIO/5 Paras 5.12-5.15, BNG/5A Para 3.13
[62] BIO/3A Paras 9.1-9.7
[63] BIO/3A Paras 9.8-9.9, 9.15
[64] BIO/3A Para 9.14-9.18

5% categorised as 'very small' could have appreciable health effects. Cumulative impacts are also important. If air pollution levels are already high it is more important not to increase them further. Tables provided by the appellant are misleading as they show results below the relevant standards but when road traffic is added in there are extensive exceedances. No logical analysis has been produced to show why the proposal should be allowed.[65]

6.2.13. The *Air Quality Assessment* states that the process would be closely monitored and would not be operated in the event of SCR failure, but there is no indication that monitoring would be undertaken by an independent body, nor is any mechanism described to ensure that air pollution estimates are achieved. Without any enforcement mechanism or sanction there can be little confidence that the estimates of pollution would be achieved.[66]

6.2.14. PPS23 states that "It is not the case that all planning applications for development inside or adjacent to AQMAs should be refused if the developments would result in a deterioration of local air quality". However, this proposal is untypical of most planning applications. It would produce about 126 tonnes of NOx and 46 tonnes of PM_{10} a year. The NAEI provides annual mean estimates of emissions from different sources for each 1km grid square in the UK. Data for 2007 indicates that there were some 29.12 tonnes of NOx and 0.92 tonnes of PM_{10} from road and rail sources in the grid square that includes the appeal site. The NOx emissions from the proposal would be equivalent to that of domestic boilers in 250,000 homes. The Mayor's draft *Air Quality Strategy* states that all applications which propose biomass boilers within an AQMA should include an assessment of emissions against the emissions of a conventional gas boiler. That has not been done in this case but a conventional gas turbine of the same capacity would produce about a tenth of the air pollution and would be a safer option.[67]

6.2.15. Pollution that breaches Limit Values is only one consideration. The Values are based on more than just health considerations and so are weaker than if just health had been considered. There are health impacts below the standards. Scientific understanding of the health effects of exposure to air pollution is developing. The Committee on the Medical Effects of Air Pollution (COMEAP) notes that exposure to air pollutants has important effects on the cardiovascular system and that it is likely that even modest reductions in exposure will result in significant health gain. It states that "long term exposure to air pollutants has an effect on mortality and thus decreases life expectancy". A number of misleading statements have been made in the ES. Air quality standards do not represent negligible or zero risk to health and sensitive members of the public would experience adverse health effects at pollution levels below the limits. In relation to PM_{10} concentrations, EPUK notes that "a local authority may wish to encourage the implementation of mitigation measures even where increases are below

[65] BIO/3A Paras 10.1-10.10, BIO/5 Paras 5.16-5.18
[66] BIO/3A Paras 12.1-12.2
[67] CD16.8 p59, BIO/3A Para 3.8, BIO/4A Para 2.13.2, BIO/4B, BIO/5 Paras 6.1-6.5 & 6.10, Dr Ireland I/C Day 2

air quality objectives or Limit Values, as any increases are likely to result in health disbenefits.[68]

6.2.16. The 2004 World Health Organisation review reconfirmed that "exposure to particulate matter and ozone poses a significant risk to human health at concentration levels common in Europe today. Because there is no threshold, even if Limit Values are not exceeded significant health reductions, including a substantial reduction in life expectancy, are to be expected". The Mayor's *Air Quality Strategy Progress Report 2005* states that "High levels of fine particulate (PM_{10}) air pollution in 2005 were estimated to have caused 1,031 accelerated deaths and 1,088 respiratory hospital admissions in London". Government figures show that average life expectancy is reduced by up to eight months by particulate pollution and evidence to the House of Commons Environment Audit Committee in February 2010 estimated that 3,000 to 5,000 people were dying each year in London alone due to air pollution. The health costs of air pollution are estimated to be up to £20 billion a year.[69]

6.2.17. The areas around the site are relatively deprived, the three nearest electoral wards are high on the most recent index of multiple deprivation and the proposal would therefore have a disproportionate effect on residents' health. Residents already have a much higher likelihood of early death than the overall figure for Ealing[70]

6.2.18. COMEAP has devised a coefficient to characterise the effects on mortality of long term exposure to a mixture of air pollutants. The background level of $PM_{2.5}$ in Southall is around 13g/m³ which, using the coefficient, would raise the death rate by around 8%. If other pollutants are also considered it is clear that air pollution is a major issue in Southall particularly due to the underlying levels of deprivation and health.[71]

6.2.19. The various technologies that would be employed are not new in themselves but have not been brought together in this way before. There is little information on low speed diesel engines of this size and the uncertainties need to be addressed to ensure emissions are properly evaluated. The proposal would be sited in a heavily congested, highly polluted area where large increases in population are planned leading to yet more congestion and pollution. In the absence of the WSRS the proposal would predominantly provide electricity to the national grid and the rapeseed oil would have to be transported in. The objectives in respect of efficiency, renewables, and CO_2 could be achieved at a different location without the impacts of air pollution on the local population.[72]

6.2.20. The appeal scheme should be considered in isolation as it cannot be guaranteed that the wider WSRS will go ahead. Without the WSRS there would be no use for much of the heat that would be generated reducing the efficiency of the proposal. Only a small part of the 5MW of heat would be used in the PRS and the rest would be wasted. The description of the

[68] BIO/3A Paras 5.1-5.6, 5.11-5.12
[69] BIO/3A Para 2.2-2.4 & 3.3, BIO/5 Paras 7.1-7.6
[70] BIO/3A Paras 6.1-6.12
[71] BIO/5 Paras 7.7-7.10
[72] BIO/3A Paras 8.1-8.6

scheme as a CHiP plant is misleading. It is a biofuel power station whose main role would be producing electricity. This breaches the spirit of the Aarhus Convention that is intended to involve the public in environmental decision making. There is no merit in siting the proposal in Southall and its impacts would be far less if it were to be located near to its fuel source, the oilseed rape fields in South East England.[73]

6.2.21. Air Pollution is an important topic in its own right. The lives of people in Southall and beyond, their health and quality of life, should be primary considerations. The proposal was unanimously refused by Councillors and opposed by hundreds of local residents. Their views should be upheld.[74]

6.3. **Other Matters**

6.3.1. BNG has tried to justify the scheme on the basis of it being 'carbon neutral' or 'zero carbon'. The extent to which any particular biofuel achieves a reduction in greenhouse gases depends on its nature, composition and where it is grown, as well as on processing and transportation. Evidence has not been heard on these topics and so it would be unreasonable to consider the appellant's climate change arguments.[75]

6.3.2. The proposal would have a lower carbon intensity than existing coal or gas-fired power stations, but significantly higher than nuclear power, clean coal, wind, solar and marine power. Consultants for the appellant have assessed the carbon footprint of the development and concluded that without a district heating connection it would have a carbon intensity of 228 Kg CO_2eq/MWhe. This compares with 112 Kg CO_2eq/MWhe for a coal or gas fired power station with carbon capture and storage and just 30 Kg CO_2eq/MWhe for nuclear. Well before the end of its life the proposal would be delivering electricity with a carbon intensity no better than the average for the national grid. It would, therefore, make a minimal contribution to tackling climate change.[76]

6.3.3. Blue-NG discounts the possibility of odour, due to the high temperatures associated with the combustion process, and maintains that no odour problems have been identified with the use of this type of fuel at other sites across Europe. However, a biofuel power station in Saarlouis, Germany was closed down in 2008 because of odour nuisance. Blue-NG omits to mention that the SCR NOx abatement system would use urea or ammonia as the reduction agent. It is widely accepted that urea SCR systems emit small quantities of ammonia to the atmosphere and this can be a source of odour nuisance. Whilst in the UK environmental permits require operators to equip their exhaust stacks with ammonia monitoring facilities, in some American states achieving a low level of 'ammonia slip' is a requirement for biomass energy to be eligible for subsidy. Bio transfer operations in East London have led to a number of odour nuisance complaints. The possibility of odour nuisance cannot be discounted.[77]

[73] BIO/5 Paras 2.1-2.7
[74] BIO/5 Paras 8.1-8.2
[75] BIO/5 Para 1.6
[76] BIO/3B, BIO/5 Paras 1.8-1.10
[77] BIO/3A Para 15.1, BIO/5 Paras 9.1-9.2

6.4. Conditions and Section 106 Undertakings

6.4.1. BIO/EFE has little comment to make on the conditions agreed between the Council and Blue-NG. However, there is a concern in relation to suggested condition 7 about what would happen should the background noise levels fall during the lifetime of the proposal.

6.4.2. BIO/EFE suggests two additional conditions. Firstly, whilst Blue-NG has stated that it would use rape-seed oil grown in South East England, there is no mechanism to ensure that. A different sort of oil could have very different impacts and could invalidate much of the evidence presented at the Inquiry. A condition should therefore be imposed limiting the fuel type and source to rape-seed oil grown in the South East of England.[78]

6.4.3. Secondly, Blue-NG states that emissions from the plant would be continuously monitored and that if they exceed the levels specified in the application the Council would have the power to close the plant down. Ealing does not have the manpower to monitor the data 24/7. A condition should be imposed that would require a regime that would allow breaches of emissions to be detected in real time and action taken within minutes. Blue-NG should fund an independent agency, or consultant, who would be contacted automatically at any time of day or night if there were a breach.[79]

6.4.4. BIO/EFE has no objection to the measures proposed in the first Section 106 Undertaking. However, it would only provide for a report on what has been done and would not prevent any 'misdemeanour'. No comment is made in relation to the second Section 106 Undertaking relating to the use of the northern access to Beaconsfield Road.[80]

7.0 The Cases for Interested Persons

7.1. **Rev Bookless** has been in the area for 19 years, is committed to sustainability, and was originally pleased to hear of the proposal as there is a need for sustainable power plants and a place for biofuels. However, there is no long term commitment to use only ethically sourced material. In any event, opinions on the sustainability of biofuels are changing and it would be premature to grant permission for this proposal which could become a white elephant. The fuel would not be sourced locally and would have to be transported in creating a carbon cost. The scheme should be close to the fuel not on a landlocked urban site. In terms of air quality, the monitoring is skewed by reliance on one unrepresentative site in Southall. Levels of pollution elsewhere are very different. It is an area of traffic and other pollution leading to local residents suffering from breathing related problems. At present there is no major access to the site which would have been provided across the country park by the WSRS. Southall is congested and queues are not unusual. The proposal would add to this which would be unsustainable.[81]

[78] BIO/3C, Discussion of conditions Day 5
[79] BIO/3C, Discussion of conditions Day 5
[80] BNG/3D, Discussion of Section 106 Undertakings Day 5
[81] Oral submission Day 1

7.2. **Richard Harkinson** considers the proposal a medium sized vegetable oil burning power station that would increase both NOx and $PM_{2.5}$. Research indicates that such installations significantly increase other pollutants and setting the plant 5 metres into contaminated ground where the water table is some 2.3 metres below the surface would create another potential source of pollution. The scoping opinion of December 2008 indicates that the draft LAQM.TG09 and the *London Council's Air Quality and Planning Guidance* June 2007 should be referenced in the Air Quality Assessment both of which draw attention to the need to model emissions from diesel engines on the adjacent railway. This has not been done. Although the support of the Council's EHO and the GLA is claimed, they have only a limited time to respond and were not provided with all the information in a timely manner. The key to air pollution is small particulates. The assertion that the proposal would only emit small levels of $PM_{2.5}$ has not been rigorously tested. The Limit Value is 25µg/m³ compared to 15µg/m³ in America and a WHO target of 10µg/m³. Advice to planners is that 66% of PM_{10} levels can be constituted as $PM_{2.5}$ and measured concentrations in 15 European cities show actual concentrations of 75%. The plant should not be allowed in a residential area where more houses are planned and air quality is already poor. Whilst ruled not to be a matter for the Inquiry there are also concerns about the source of the fuel that would be used.[82]

7.3. **Sarah Edwards** is a member of Ealing Green Party and objects to the proposal. Sourcing of the fuel is a concern and the limited remit of the Inquiry is disappointing. The Council's list of those notified is puzzling as no notification was received leading to concerns about public involvement. Air quality is already poor, which leads to health problems, and the Borough has been an AQMA since 2003. Southall scores badly on health indicators and evidence to the House of Commons Environment Audit Committee estimated that 3-5,000 people die early each year in London due to air pollution. The Council were right to reject the proposal and it would be unacceptable to allow development that would worsen air quality.[83]

7.4. **Maryla Hart** expressed disappointment at the restricted scope of the Inquiry and notwithstanding the ruling set out her concerns about the impacts of producing biofuels, not only in the UK but abroad.[84]

7.5. **Nick Ford** is an Acton resident and having worked in Borneo in 2004 expressed concern about the fuel and its production. Climate change and rising food prices caused by biofuel production affect local people. The proposal is not a green or ethical option and is not the way to fuel houses. Public perception is important and Mr Ford does not want the proposal to be built in his name.[85]

7.6. **Councillor Mann** believes that biofuels are a false solution to climate change as they contribute to food price rises, put pressure on global food supplies, and lead to human rights abuses in some producing countries. The proposal would pollute the local area adding to health risks and would only create a few new jobs. Blair Peach and Hamborough Primary Schools

[82] OBJ/1 read Day 1
[83] Oral submission Day 2
[84] Oral submission Day 2
[85] Oral submission Day 3

are within a kilometre of the site and NOx levels in 2008 were 46% above the legal limit. PM_{10} levels at Blair Peach School were above the daily limit more often in 2007 than in 2006. These levels would rise further as a result of the scheme. Southall is a congested area and the WSRS would add more than 3,000 houses leading to more traffic. Smell and noise are also concerns. The proposal should be rejected for the sake of local people.[86]

7.7. **Councillor Reeves** has lived and worked in the area for 30 years and voted against the proposal at Committee but found it a difficult decision. The report to committee sets out the issues carefully but the conclusion that the proposal would cause pollution but would not compromise policy was a worry. Heathrow Airport and traffic already affect air quality. Modelling indicates that NO_2 and PM_{10} would be slightly adverse but the area can't take any more adverse impacts. It is a balanced judgement but too big a risk to allow any more adverse impacts. Odours are also a concern with vegetable oil having a fried fat smell. The stack would be high but air flows are difficult to predict. The tanks would have to be vented and the smell would spread. Occupiers of the nearby Water Tower do not control their ventilation directly and would be unable to do anything about any smell. Fuel would have to be brought in but not in sufficient quantities to make the use of rail or canal economic or practical. Lorries would have to use roads that are already gridlocked and pass through residential areas. Beaconsfield Road is unsuitable as the schools and college attract numerous pedestrians. The proposal should be refused on air quality and transport grounds.[87]

7.8. **Councillor Kang's** ward is very densely populated and is one of the most deprived in the country. NHS figures show residents are very susceptible to cardiac and respiratory diseases and the proposal would have a detrimental impact on public health through extensive air pollution. The site is surrounded by densely populated residential areas where the road infrastructure is old and not designed for modern traffic levels. Access would have to be through these areas on narrow roads and the tankers delivering the fuel would conflict with the schools and college in the area. The proposal would add to the pollution and traffic problems and should not be allowed.[88]

7.9. **Councillor Noori** has been a resident in Southall for 21 years. The population is elderly and many have respiratory problems. The area already has a worse air quality than elsewhere in the Borough, and the proposal would compound that. The proposal would use narrow roads that serve a shopping centre, dental surgeries, a post office, schools and a college and would be a health and safety hazard. It would be difficult for lorries to turn into the residential roads, particularly if they met a vehicle coming the other way. Congestion would get worse and the lives of people, particularly those working shifts, would be adversely affected. The proposal would create very few jobs for unemployed local people. The proposed fuel would affect food prices. This is not an appropriate area for the scheme.[89]

[86] OBJ/2 Oral submission Day 3
[87] Oral submission Day 3
[88] OBJ/3 Oral submission Day 3
[89] Oral submission Day 3

7.10. **Jules Tennick** is an Environmental Health Officer with many years experience, albeit not in the specific field of air pollution. Research indicates that thousands of Londoners are dying each year as a result of high air pollution levels. Levels in Southall exceed European limits and so levels should be reduced rather than allowing developments that would make them worse. Lorries bringing in the fuel would produce more PM_{10} and $PM_{2.5}$ than the plant itself causing health problems. In addition, the lorries would pass through areas extensively used by school children, a particularly vulnerable group. As rape seed oil has a low calorific mass compared to fossil fuels more has to be burned to produce the same amount of energy. For this reason it should not be transported long distances producing even more pollution. Sustainable forms of energy such as wind or tides do not need transportation. Ms Tennick also objects to the effects caused by the use of biofuels. [90]

7.11. **Aneaka Kellay** is concerned that people have not heard about the Inquiry. She has worked at a school in Beaconsfield Road and the road is not suitable for heavy lorries. The area is occupied by poor minority peoples who would be particularly affected by rising food prices as a result of the use of biofuel. It is unbelievable that the proposal would be a zero carbon scheme. Although it would contribute to renewables in London and could power 48,000 houses, if the houses are not in Southall then why should the plant be there? The effect on air quality is also a concern. Local democracy should be upheld and the proposal rejected.[91]

7.12. **Diane Scott** lives in Chiswick and objects to the use of biofuels generally. The 65 metre high stack would decrease emission levels locally but spread them over a wider area creating effects further afield than Southall. Chiswick already suffers from poor air quality with 68µg/m³ recorded last year and 71µg/m³ this year. Government and GLA policy is to reduce air pollution but the proposal would make them worse. Increases in particulates would also have an effect on health. Comments made by others on transport issues are supported as transporting fuel would create pollution.[92]

7.13. **Salvinder Dhillon** considers that the proposal would bring little benefit to the people of Southall and is concerned that it was not widely publicised, although Councillors have tried to spread the word by mouth. The proposal would be a sugar coated poison pill. The Annual Health Report indicates that local residents have a life span 10 years less on average than in the surrounding areas due to pollution. The European limits for pollution should be met. Pollution from the plant would worsen skin and heart disease. Similar plants in Germany have been closed. Traffic congestion is a daily frustration and the WSRS, which has gone for the Mayor's consideration, would make matters worse. It would be a nightmare to bring heavy lorries into the area to deliver fuel. The plant would sell the energy produced, is only for profit, and would not benefit the community which deserves better and does not want the scheme. The site could provide greenery which

[90] OBJ/4 Oral submission Day 3
[91] Oral submission Day 3
[92] Oral submission Day 3

would uplift the whole area. The Secretary of State should uphold local democracy and refuse the proposal.[93]

7.14. **Bernard Burns** is appalled that out of all the PRSs in the country this one, in a highly populated area, should be chosen. The benefits of using waste heat would be better obtained by burning natural gas, indeed the scheme depends on the continued use of natural gas in the PRS. Diffusion tube data has been used selectively as a downward trend will always be found if starting from the highest recorded level. In addition, the presentation of results is confusing, exceedances are not obvious, and members of the public may have been misled. There is a duty under the Aarhus Convention to produce clear information. Whilst local schools have been mentioned, there are also at least three community/day centres on nearby Featherstone Road.[94]

7.15. **Amandeep Kellay** has written a planning report on a CHP for Waltham Forest where there is a positive plan led system with a Local Development Framework. Compared to that, the site here is only vaguely designated as an opportunity site with no mention of a power plant. There has been little consultation and the application is opportunistic and for profit at the expense of other considerations.[95]

7.16. **Councillor Gurcharan Singh** has been a resident in the area since 1972 and would reinforce what the residents of Southall are saying. The two wards close to the plant are in the most deprived areas in terms of health and economics. Congestion leads to poor air quality and the proposal would make it worse. The health risks should be taken into account. The proposal would affect the rain forest and environmental conditions but would not make matters better for local residents.[96]

7.17. **Zenith Milner MSc** considers that good value for money and good practice are required with a positive or neutral effect on people and the environment. A power station in a residential area would degrade it and prevent any improvement. It is outrageous to imply that the design respects the community when local residents do not want it. 214 letters, 1,072 cards and 340 e-mails were submitted and only 23 supported the scheme. Committee members got to grips with the proposal and unanimously rejected it. There is opposition to such schemes around the country and a decision should be delayed to see what happens.

7.18. Councillors, residents and GP's are concerned about health. The idea that a slight increase in pollution can be acceptable when it is already above statutory limits is abhorrent. Medical opinion or statistical significance should have been used, not the professional opinion of one expert. Many local surgeries did not know of the scheme but indicated that they would have objected if they had known. Residents in the area already have a life expectancy 10 years less than in surrounding areas. Any increase in pollution will make the situation and health problems worse not just locally but further afield.

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[93] Oral submission Day 3
[94] OBJ/5 Oral submission Day 4
[95] Oral submission Day 4
[96] Oral submission Day 5

7.19. Local issues affect people in deprived areas like Southall. In terms of transport feasibility, the proposed delivery vehicles have not been tried in practice and the use of rail or the canal has been discounted as too expensive. This is not showing the way in green development when millions would be received in Renewable Obligation Certificates (ROC) and leads to the question of where other corners might be cut. A heavy subsidy is required but in Europe plants close when the subsidy stops.

7.20. The implication is that the houses that would use the power generated would be in Ealing but the electricity would go to the grid and could be used anywhere. The WSRS has not been given the go ahead and so the benefits of the heat generation that it would have used are questionable.

7.21. Consultation is not mentioned in the received documents. The consultation undertaken does not meet the requirements of the Aarhus Convention. The requirement is not just to hand out leaflets but to give proper information and to make sure it is understood. Information should have been provided in the language of the local residents not just English. The Convention has not been met in spirit or in the letter of the law and a decision should be postponed until the legal requirements have been met.

7.22. Whilst the remit of the Inquiry has been limited as set out in the Technical Annex in the Companion Guide to PPS22, that is only guidance. The environment should be interpreted widely. Bristol Council is corresponding with the Secretary of State on this and a decision should await his reply. DEFRA has stated that Britain needs to increase its food supply and the UN has said that food production needs to double so it is not practical to use land for fuel production. The sourcing of the fuel can't be monitored effectively. The area where the fuel would be grown is unknown but it would need to be large and would not be practical in Britain which does not have the space. In any event, the oil is only part of the product grown and what happens to the rest is not known. ROC subsidies push up food prices, which is not ethical, and Ofgem is not geared up to administer the ROC system as it has no inspectors or independent assessors. Emissions are also produced by the fuel production and transportation and are not practically covered. Starvation and climate change would be increased in the name of cutting emissions. The proposal should be rejected.

8.0 The Case for Blue-NG

8.1. Introduction[97]

8.1.1. The application was discussed with the Council for nearly two years. The Council's EHO has been closely involved in various iterations of the *Air Quality Assessment* and concluded that "the current proposal provides a high standard of emissions control which will ensure that the Council's efforts to improve air quality in the area will not be compromised". In addition, the proposal has been subjected to a high degree of scrutiny by officers of the GLA.

8.1.2. Another feature of the scheme is that it is very similar to that included within the WSRS, which has been assessed by different consultants and

[97] BNG/7 Paras 1-7

further scrutinised by officers of the Council and the GLA. The result of that process is that there is no objection to the WSRS on air quality grounds, although the overall emissions would be greater than those in this case largely because of the traffic that would be generated. The notional refusal was solely on the grounds of traffic congestion.

8.1.3. There is no challenge from the Council to the benefits of the proposal and it has not carried out a balancing exercise between the potential benefits and harm to reach a view on the overall merits.

8.2. **Transportation**

8.2.1. Two clear conclusions emerged from the consultation process. The first was an unequivocal statement that the traffic impact would be minimal, and the second was that the access along Randolph Road and The Straight was acceptable. The report to Committee concluded that "Once completed the development would result in a negligible impact on the existing highway network and would have no detrimental effect on road safety in the vicinity of the application site" whilst the recommendation that planning permission be granted included a condition requiring access via Randolph Road and The Straight. The draft reason for refusal does not mention highway safety, only the free flow of traffic. Even if safety is accepted as being subsumed into the issue of the free flow of traffic, it is accepted that there would be negligible impact on the capacity of the local highway network.[98]

8.2.2. A TS, consistent with national guidance, was submitted with the application. The use of the canal or rail for fuel freight has been investigated and is not a viable alternative. The TS demonstrates that about 70 vehicle trips a day would be removed from the Brent Road access to the wider site and a small number of delivery vehicles would be added to other parts of the highway network. There would be an average of 4 fuel tanker movements in each direction each day if a small tanker were used and an average of 2 tanker movements if a larger 15.3 metre vehicle were used. If deliveries were between 09:00 and 18:00 hours a vehicle would enter or leave the site about every two hours. Non-HGV visits by maintenance staff would occur once or twice a week, and there would be monthly visits to the visitor's area. The 8 trips a day by the smaller tanker would be the equivalent of trips generated by a single detached dwelling and would be imperceptible on the local and wider highway network. The TS concludes that the proposal would not result in any material impact on the surrounding highway network and would have no detrimental impact on highway safety.[99]

8.2.3. Randolph Road is a residential road some 7.6 metres wide with parking bays on both sides for its entire length. Double yellow lines used to extend for 21 metres from the junctions either end but have been reduced to 7.5 metres from the give way line to increase parking. This has made access for delivery and refuse vehicles more difficult. The distance between parking bays is 3.6 meters effectively leaving a single carriageway width. Whilst there are a number of parking spaces available during the day, it is common for all spaces to be occupied over night. The road is relatively lightly trafficked and is straight with good visibility from one end to the other.

[98] CD15.2, p13, p32, p33 condition 3, BNG/7 Paras 46-49
[99] BNG/6A Paras 6.1-6.3 & 7.1, 10.1-10.10

When vehicles of any size are encountered approaching from the opposite direction they either wait or pull into an available space. The frequency of vehicle movements is, therefore, relevant but the size is not.[100]

8.2.4. The TS included a swept path analysis for a small 12 metre rigid tanker with a 21,000 litre capacity. When approaching the site it could turn into Randolph Road by using both sides of Beaconsfield Road and Randolph Road and would be able to fit between the parking bays on Randolph Road provided that the vehicles were parked correctly within them. It could then turn right into The Straight. When leaving the site the swept path indicates that it is unlikely that the 12 metre vehicle could pass legally to the left of a traffic island and still turn left into Randolph Road without interfering with vehicles parked in the bays, although it could turn right out of Randolph Road comfortably.[101]

8.2.5. Following the Council's resolution to refuse planning permission, the use of a small articulated vehicle was investigated. A swept path for a standard 10.7 metre articulated vehicle indicates that it could perform the manoeuvre at each end of Randolph Road more easily than the 12 metre rigid vehicle. Blue-NG's preferred haulier has confirmed that a DAF 85 day cab tractor unit would be used. An 8 metre tanker trailer with a capacity of 20,000 litres would be used to achieve the 10.7 metre length. A swept path analysis for this vehicle indicates that it could turn left utilising the centre hatching but without encroaching on the opposite running lane of Beaconsfield Road. Whilst 1.3 metres clearance is normally considered necessary between vehicles, it is not a minimum and less could be adequate in this situation. The vehicle would fit between the parking bays on Randolph Road with a maximum clearance of 0.262 metre, which is better than that of the rigid delivery truck. Although the DAF cab would be larger than the tractor unit modelled, the tolerances are due to the trailer and not the cab. It could also carry out the legal left turn manoeuvre from The Straight into Randolph Road. Whilst reference has been made to FTA guidance, this applies to developments including industrial estates with dozens of vehicles accessing the site rather than situations where there would be few deliveries. In any event, the swept path software allows tolerances and relies on average performance.[102]

8.2.6. There is no weight or width restriction on Randolph Road and it is used by other large vehicles. A large refuse vehicle would be slightly shorter than the rigid vehicle at 11.35 metres but manoeuvres in a similar way. Such a vehicle would also have to use both sides of Beaconsfield Road to enter Randolph Road but would have slightly more room to manoeuvre between the parked cars. However, a legal left turn out of The Straight would interfere with parked cars or require a multi point turn. Although a 9.5 metre refuse vehicle is used in the Borough, the modelling software includes a 9 metre vehicle swept path which also uses both sides of Beaconsfield Road indicating that the impact would be the same as for the larger refuse

[100] BNG/6A Paras 8.9-8.11
[101] BNG/6A Paras 6.4-6.6, BNG/6B Apps A & B
[102] BNG/6A Paras 8.1, 8.3-8.8 & 9.8, BNG/6B App F, BNG/6E, Mr Fitter I/C Day 2 & XE Day 3

vehicle. In any event, the custom 10.7 metre tanker would be more manoeuvrable than the smaller refuse vehicle.[103]

8.2.7. Prior to the Inquiry alternative access strategies were re-examined at the Council's request. The Crescent is a two way road but in recent years a Traffic Regulation Order has prevented access from the north and only permits 'left out' egress onto Beaconsfield Road. The road has also been narrowed enhancing pedestrian crossing facilities. For The Crescent to be used the Order would have to be revoked for all vehicles, the pedestrian area reduced and the junction radii increased. It would also require a separate stage of the traffic signals and would significantly reduce the capacity of the junction. This would be unacceptable. The southern access to the adjacent Purple Parking site via Brent Road passes under the railway line with a 2.3 metre vehicle height restriction. If a tanker could be manufactured to pass under the railway it would require around 10 deliveries a day which would not be viable.[104]

8.2.8. The northern access to the Purple Parking site is off Beaconsfield Road to the west of Randolph Road. Whilst Beaconsfield Road is residential and carries significantly greater volumes of traffic than Randolph Road, including buses and deliveries to commercial and educational premises, it is wider than Randolph Road. A larger 15.3 metre tanker could utilise this access using both sides of Beaconsfield Road but if a vehicle were waiting to leave the tanker would have to wait for it to pull out. This would apply equally to a 10.7 metre tanker and so it would be logical to use the larger vehicle which would mean an average of 2 deliveries a day.[105]

8.2.9. The Council confirmed on 9 February 2010 that a 10.78 metre tanker could be manoeuvred into and out of Randolph Road, although there are still concerns about the potential overturn from Beaconsfield Road and the clearance that would be available between the tanker and parked vehicles on Randolph Road. The access via the Purple Parking site from Beaconsfield Road was stated to be acceptable subject to a suitable traffic management and access strategy.[106]

8.2.10. No application plan shows access from Beaconsfield Road, although a drawing in the *Design and Access Statement* indicates a future site access from the north. No red line plan includes the Beaconsfield Road access. However, details could be included in a Delivery Management Plan required by condition. The view that there is a procedural difficulty in considering the northern access was not raised until just before the Inquiry opened. There is no legal requirement, where it is proposed to use an existing access with no alteration, for the whole of the access route to the point of access from the highway to be included within the red line. Whilst the application indicated that the northern access would be provided in conjunction with the regeneration scheme, and not tied to Beaconsfield Road, it is agreed that there are no transport implications in bringing forward the Beaconsfield

[103] BNG/6A Para 8.2, BNG/6B App E, BNG/6D, BNG/7 Para 51, Mr Fitter I/C Days 2 & 3
[104] BNG/6A Paras 9.1, 9.4, 9.14-9.15
[105] BNG/6A Paras 9.9-9.13 & 9.16
[106] BNG/6A Paras 7.2-7.3, BNG/6B App D

Road access independently of the WSRS. There would be no potential prejudice.[107]

8.2.11. If the Secretary of State concluded otherwise, there is no tenable objection to the use of the southern access and if there was concern about its use in the longer term a Unilateral Undertaking would provide a very strong prospect that the northern access would be available shortly after the implementation of the appeal proposal. If a further planning application were necessary to bring the northern access into use it is very unlikely that anyone would be able to advance an overriding objection to the use of that access at all or in advance of the WSRS.[108]

8.3. **Air Quality**

8.3.1. Although technical air quality evidence was produced by both the Council and Biofuelwatch, both witnesses were only appointed about a week before the exchange of proofs of evidence and neither specifically concluded that it was their professional judgement that planning permission should be refused on air quality grounds. The Council's witness agreed that he had chosen his words carefully and only "considered that it would be appropriate to refuse this application on air quality grounds". The conclusion of Biofuelwatch's witness couldn't possibly be construed as suggesting planning permission should be refused. Whilst the Council's draft reason for refusal alleged harm from NO_2, NOx, PM_{10}, and $PM_{2.5}$, neither expert produced any evidence other than in relation to NO_2.[109]

8.3.2. The *Environmental Protection Act 1990* deals with the control of dust and particulates associated with construction, whilst the air quality impacts of the proposal in use have been assessed against the *UK Air Quality Strategy*. The Mayor's *Air Quality Strategy* recognises that the major source of NO_2 and PM_{10} is from road transport and domestic gas usage and sets out a number of measures to reduce emissions. The proposed facility would require an Environmental Permit to operate that would set out a number of conditions and controls, including emission limits. If these were not complied with the process could be shut down. Paragraph 1G.2 of Annex 1 to PPS23 states "It is not the case that all planning applications for developments inside or adjacent to AQMAs should be refused if the developments would result in a deterioration of local air quality. Such an approach could sterilise development, particularly where authorities have designated their entire areas as AQMAs".[110]

8.3.3. The Council completed its first round of air quality reviews and assessments in 2000. These concluded that the levels of PM_{10} and NO_2 would not meet objectives set out in the *Air Quality Regulations*. The whole Borough was declared an AQMA in December 2000 and an *Air Quality Action Plan* was published in April 2003. The latest *Air Quality Progress Report* identifies that concentrations of PM_{10} and NO_2 are still likely to exceed the objectives. Continuous real time monitoring and NO_2 diffusion tubes are used in the Borough. The nearest real time site is at Blair Peach School, which is an

[107] CD10.2, BNG/7 Para 53-56, Mr Fitter XE Day 3, Mr Waters I/C Day 4
[108] BNG/7 Para 57
[109] LBE/3A Para 5.11, BNG/7 Paras 9-12
[110] BNG/5A Paras 2.1-2.16

urban background site. The most relevant diffusion tube sites are at The Straight opposite Randolph Road, Hamborough Primary School on South Road, 4 Merrick Road, Blair Peach School, 11 Broadway, and at the junction of Brent Road and Western Road.[111]

8.3.4. Although it is suggested that there is no indication of significant improvement in background air quality over the last 10 years, measures are in place to improve air quality and NO_2 levels have been falling since 2006. The levels at Blair Peach School have been fairly stable and it is considered that concentrations will reduce. [112]

8.3.5. A dispersion model has been used to assess the proposal's emissions on local air quality. The movement of air over and around buildings can increase ground level concentrations of pollutants. Nearby buildings and structures have therefore been included in the model, as well as the proposed WSRS buildings that would include up to 3,750 units of housing, up to 20,050 m² of retail, up to 4,700 m² of commercial leisure uses, a hotel and office/studio units. The cumulative impact with the WSRS was not required to be modelled as it was comprehensively covered in the WSRS application. Modelling has been carried out at discrete receptors and over a grid. The assessment is based on 5 years of meteorological data from the closest site to reduce the effects of atypical weather conditions. There are no statutory significance criteria for interpreting air quality impacts but guidance has been produced by the former National Society for Clean Air, now EPUK, and the latest assessment criteria, released in November 2009, have been used.[113]

8.3.6. The construction phase has been assessed against a number of publications. Whilst there is potential for the generation of dust, the impacts would be localised within around 200 metres. The nearest residential receptors are approximately 230 metres away. PM_{10} concentration would be modestly increased but any adverse effects are likely to be short term with an insignificant impact outside the site boundary. Construction traffic would add to traffic levels and the greatest potential for impacts would be adjacent to the principal access to the site. However, with appropriate mitigation and good site practices, air quality impacts during construction could be minimised such that dust and PM_{10} impacts would be negligible.[114]

8.3.7. The effects of road traffic on NO_2 concentrations during operation have been modelled and the predictions verified against the NO_2 diffusion tube monitoring undertaken by the Council. The model used is the best available. Absolute levels were not shown originally as traffic impacts were not requested to be included. Concentrations have been predicted over a grid of receptors to allow contouring of the results. The Council was asked which sites should be used for verification and bias corrected diffusion tube data from Hamborough Primary School was used. Most other sites do not have any traffic data, which takes a long period to gather, are influenced by the railway, or are alongside congested junctions and so are not suitable. Using only one site would make the modelling more uncertain but there is

[111] BNG/5A Paras 4.1-4.9
[112] BNG/7 Paras 18 & 36, Dr Davey I/C Day 3
[113] BNG/3A Para 3.2, BNG/5A Paras 3.8-3.18, BNG/7 Paras 23, 31 & 41
[114] BNG/5A Paras 3.2, 5.1-5.5, 5.42-5.45, 5.51-5.52

uncertainty in any modelling. Roads models under predict and an adjustment factor of 9.49 is not uncommon.[115]

8.3.8. The impacts on annual mean NO_2 concentrations are based on 70% conversion of NOx to NO_2. It has been assumed that the engines will be operated continually at 100% load to represent a worst case and no account has been taken of the reduction in emissions as a result of the 6 existing boilers being switched off when the development is operational. The emission rates given by the manufacturer are guaranteed rates and in practice are likely to be around 25% lower. The maximum predicted contribution from the proposed development would be 2.7µg/m³ at a height of 40 metres at the Water Tower under 2004 meteorological conditions. However, the total concentration at that point would be below the annual mean objective of 40µg/m³.[116]

8.3.9. The latest November 2009 EPUK assessment criteria use percentages to define the magnitude of change. Once the magnitude has been determined the impact of the proposal can be assessed using descriptors. The descriptors, both magnitude and significance, need to be taken into account. The guidance also includes a flow chart that details how air quality should be considered in a planning application. This has been taken into consideration and account has been taken of how populated the area is. There is no challenge to the assessment of background levels, or process contributions, and the only criticism might be that background levels have been underestimated.[117]

8.3.10. Even if that were the case, the effect would only be to increase one receptor from slight adverse to moderate adverse and even then only if the 2011 background levels at the higher levels of the Water Tower have been significantly underestimated. There would be a minimal impact on exceedances and so the outcome would be that air quality is a high priority consideration rather than overriding. This is a matter of professional judgement. The Guidance is predicated on first carrying out an evaluation by reference to the impact and significance criteria and then applying professional judgement in the light of that assessment. Even if it were overriding an automatic recommendation of refusal would not always be necessary or appropriate as noted in the 2010 update of *Development Control: Planning for Air Quality*. Whilst this is not statutory guidance it is the best available.[118]

8.3.11. Even if the impact is described as an overriding consideration there is no presumption for refusal unless the proposed mitigation measures are inadequate. As the predictions are based on a worst case, impacts are anticipated to be lower than estimated in operation. In terms of mitigation during operation, best in class technology, SCR, would be used to significantly abate NOx emissions. The process would not be operated in the event of SCR failure. Regular maintenance would optimise the performance of the engines and continuous stack emission monitoring and off-site monitoring at the Water Tower are proposed. The Environmental Permitting

[115] BNG/5A Paras 3.3-3.7, BNG/5N Para A3.234, BNG/7 Paras 19 & 20, Dr Davey Rex Day 4
[116] BNG/5A Paras 5.6-5.10 , BNG/5B App E Tables E1 & E2, BNG/5O, Dr Davey I/C Day 3
[117] BNG/5A Paras 3.17-3.18, BNG/7 Para 13, LBE/3A Paras 3.9-3.10
[118] BNG/5M p35 footnote, BNG/7 Paras 15-17, 21-22, Dr Davey I/C & XE by LBE & BIO/EFE Day 3

regime would strictly regulate monitoring and control of the process which would be from a central control point. Emissions would, therefore, be adequately controlled and impacts mitigated.[119]

8.3.12. There are currently no exceedances of pollutants such as PM_{10} but there are for NOx and NO_2 so these have been concentrated on. Whilst there are health impacts with any pollutants, assessment has worked to the current objectives which take account of health impacts. The process contributions from the proposed development at various receptors where there are existing exceedances are very small. At Hamborough School the process would add around 0.8µg/m³ to a level that has varied from 49 to 61µg/m³ between 2004 and 2008. DEFRA background figures indicate that this should drop from 51.8 to 42.5µg/m³. The process would add about 1 µg/m³ on South Road where levels are around 63µg/m³. Impacts would range from imperceptible to slight adverse. The annual mean NO_2 concentrations at the Water Tower are predicted to increase with height but would be negligible at lower levels and only slight adverse at the upper levels. Impacts generally would be no more than slight adverse with the majority negligible. The Mayor's *Air Quality Strategy* recognises that emissions from domestic gas boilers are of increasing significance. If the proposal were to provide heat to the WSRS, it would also result in a large reduction in emissions from that development. The Council's EHO is not of the view that these levels would hinder the achievement of local air quality objectives.[120]

8.3.13. Neither the Council's EHO, nor the GLA, have expressed any concerns over health related impacts due to the proposal. Although BIO/EFE raised concerns about particulates, there is no evidence that emissions of particulates would be unacceptable. Assertions that statements about air quality standards and objectives are incorrect or misleading in relation to harm to human health are not well founded. The *Air Quality Strategy for England, Scotland, Wales and Northern Ireland* states at paragraph 15 of volume 1 "based on standards from expert recommendations representing levels at which no significant health effects would be expected in the population as a whole". Paragraph 18 states "Standards, as the benchmarks for setting objectives, are set purely with regard to scientific and medical evidence on the effects of a particular pollutant on health or, in the appropriate context, on the wider environment, as minimum or zero risk levels". Nothing in any policy, strategy or guidance supports the proposition that the levels of deprivation and the ethnic mix in the locality should be taken into account.[121]

8.3.14. Contour plots in the *Air Quality Assessment* indicate the impact of a 65 metre high stack. It was tested for best dispersion which led to the current siting in the region of 200 metres from the gas holder. Concentrations will fall with distance as they spread out over a wider area and contours go down to 0.3µg/m³. Beyond that concentrations would be even less and so

[119] BNG/5A Paras 5.46-5.50, 5.53-5.54, BNG/7 Para 39, Dr Davey XE by BIO/EFE Day 4
[120] BNG/5A Paras 5.11-5.21, BNG/5O, Dr Davey XE by LBE Day 3, XE by BIO/EFE Day 4
[121] BNG/5A Para 5.22, BNG/5K Paras 15 & 18, BNG/7 Paras 42-44

minimal. The AIRMOD model has been used throughout and whilst not perfect is an approved model and one of the best ways to assess impacts.[122]

8.3.15. For 1 hour mean predictions of NO_2 a NOx to NO_2 conversion ration of 50% has been used as recommended by Environment Agency guidance. Worst case conditions have been considered as for the annual mean. The highest predicted concentration would be 77.1µg/m³, well below the objective of 200µg/m³. Annual Mean PM_{10} concentrations for all receptors are predicted to be well below the objective of 40µg/m³ with the highest predicted concentration being 20.5µg/m³ at the Water Tower. Whilst the diffusion tube near the Water Tower has recorded levels over the Limit Value it is nearer to the road and the railway than the Tower.[123]

8.3.16. In terms of 24 hour mean PM_{10} the number of exceedances of 50µg/m³ is predicted to be less than 5 in a year, well below the objective of 35 exceedances in a year. The maximum predicted concentration of $PM_{2.5}$ is 13.3µg/m³ well below the objective of 25µg/m³. The maximum predicted CO process contribution would be negligible and exceedance of the CO objective is highly unlikely either with or without the proposed development.[124]

8.3.17. Claims by BIO/EFE that the proposal would not be 'air quality neutral' and that the plant does not represent 'best available technique for the generation of renewable energy' are based on the Mayor's draft *Air Quality Strategy*. This has not yet reached the stage of public consultation. In any event, the requirement for air quality neutrality is not prescriptive and source apportionment methodologies have not yet been developed. What was suggested as an alternative to SCR was not an alternative but a completely different type of installation that would not constitute renewable power generation. Little weight can be given to these points.[125]

8.3.18. Meetings were held with the Council's EHO and the GLA. The methodology of the assessment, identification of receptors, and findings were discussed. The Council identified that the cumulative impacts of the facility and road traffic should be included but that emissions from railway activity should not. In any event, LAQM.TG09 indicates that the requirement to assess railway emissions is directed to periodic assessments by Councils and not individual planning applications and they are included within the DEFRA background figures. No concern was expressed about the methodology or the level of impact predicted and objections now raised effectively reject those judgements.[126]

8.4. **Other Matters**

8.4.1. The potential for odour has been assessed by reviewing process activities, assessing sensitive receptors, and reviewing similar operational plants to develop a considered investigative strategy. Bioliquids can have an associated odour but are not volatile or offensive. Odour may occur when venting the fuel tanks during filling but would not be significant or cause

[122] CD9.7 App 6, Dr Davey XE by BIO/EFE Day 3
[123] BNG/5A Paras 5.27-5.29, BNG/5B Apps F & G, BNG/7 Para 18, Dr Davey XE by LBE Day 3
[124] BNG/5A Paras 5.30-5.34, BNG/5B Apps H to J, Dr Davey XE by LBE Day 3
[125] BNG/7 Paras 26-29, BIO/4A Paras 2.13.1-2.13.3, Dr Ireland XE Day 2
[126] BNG/5A Paras 3.21-3.27, BNG/7 Paras 14, 24-25

nuisance beyond the site boundary. Filling would only occur over a short period of time and best available techniques would be used to minimise the potential for the release of odour. The risk of spillage would be minimised by training, and controls would prevent over filling of the tanks.[127]

8.4.2. There is no issue between the Council and Blue-NG on the matters set out in the Secretary of State's letter of 19 October 2009. There would be compliance with all relevant strategic development plan policies. The GLA, in a letter dated 26 January 2010, states that the application now complies with the relevant LP policies in relation to climate change, air quality and transport. It was the view of Ealing's Officers in the report to Committee that all relevant UDP Policies were complied with and the SCG accepts that the principle of the development is acceptable in an Opportunity Area.[128]

8.4.3. It is not disputed that the proposal is consistent with paragraphs 33 to 39 of PPS1 specifically mentioned by the Secretary of State. The appellant's desire for high quality design is reflected in the engagement of a leading architectural practice. The CHiP building would create visual interest through its bold, irregular form and use of materials. The siting, footprint, and massing comply with the design parameters for the energy centre within the WSRS masterplan. The height of the building has been reduced and, although the stack would be 8 metres higher than that in the masterplan it would be diminished as a feature by the adjacent 93 metre high gas holder. Glazing has been introduced, particularly on the north elevation, to provide some public awareness of the activity and a visitors centre, with disabled access, has been incorporated. The landscape strategy would integrate with that of the proposed WSRS and become part of it. The GLA observes that no further strategic concern is raised in respect of inclusive design and urban design.[129]

8.4.4. The Government accepts that biomass CHP technology is a legitimate means of generating renewable energy. Indeed, it is expected to provide the largest single contribution to the UK's emissions reduction targets. The Council agrees that the technology proposed would be renewable energy generation and would accord with national and regional energy policies for the long term reduction of CO_2 emissions and renewable energy. The GLA identified the positive contribution the proposal would make towards meeting the strategic CO_2 and renewable energy targets, set out in the Mayor's 2004 *Energy Strategy*, by providing 75% (18MW) of London's 2010 target and 25% of the 2020 target for biomass fuelled CHP electricity plants. The Council has not yet set specific targets for renewable energy generation in the Borough but the proposal would have the potential to privately supply renewable electricity and heat to the proposed WSRS enabling it to attain Code for Sustainable Homes Level 6 making it a zero carbon regeneration scheme. It would maximise the renewable energy potential afforded by the PRS for the wider benefit of the local area and would have the capacity to provide the equivalent of the electricity needs of approximately 45-48,000 homes. The proposal would be consistent with the spirit of the *Supplement to PPS1* which encourages "the highest viable resource and energy efficiency

[127] BNG/5A Paras 3.19-3.20, 5.35-5.38
[128] BNG/3A Para 10.3, BNG/3B App 12, BNG/7 Para 58
[129] BNG/3A 10.3ii) & 10.5-10.8, BNG/3B App 12

and reduction in emissions" and that opportunities are maximised. It notes that developments should not be deterred unless there are "exceptional reasons" for doing so.[130]

8.4.5. These are weighty matters to put into the overall balance. No objection could override the benefits of a scheme for a sustainable form of renewable power generation on a contaminated brownfield site that would make a very substantial contribution towards meeting strategic energy targets. The proposal was supported by the professional Officers of the Council and the GLA. The planning balance is overwhelmingly in favour of the grant of planning permission.[131]

8.5. **Conditions and Section 106 Undertakings**

8.5.1. A number of conditions have been agreed with the Council. A TMP has been agreed for the northern access and is the subject of condition 5. The Council's concern that if the access via Randolph Road were to be used there would be no protection is understood and Blue-NG are content that the condition could be altered provided that an acknowledgement is made of what has been agreed in connection with the northern access.[132]

8.5.2. Blue-NG has contracts in place with farms in the south east of England to provide energy crop rape seed. In response to the concerns of some objectors Blue-NG is prepared to accept a condition or S106 obligation committing it to only generate electricity from renewable sources defined as such in the Renewables Obligation, although this is not thought to be necessary. The plant would not be viable without ROCs and there is, therefore, a significant incentive to ensure that such a condition or obligation was complied with.[133]

8.5.3. In relation to the conditions suggested by BIO/EFE, there is no justification for going beyond the legal requirement in relation to renewables and condition 1 would be more onerous than that. In terms of the second condition, the matter is dealt with by the Environmental Permitting Regulations. As the process would be less than 50MW it would be regulated by Ealing and the Environmental Permit would set out a number of conditions and controls, including emission limits and monitoring. If these are not met Ealing would have the power to shut the process down. There is no justification for going further.[134]

8.5.4. A Unilateral Undertaking would provide for reporting to the Council on the proposed bioliquid prior to implementation of the development and then to report on the anniversary of first commencing commercial operation. It would also provide for off-site air quality monitoring at the Water Tower and an off-site noise monitoring strategy.[135]

8.5.5. A second Unilateral Undertaking would give comfort in relation to the northern access by requiring reasonable endeavours to secure the northern

[130] BNG/3A Paras 10.9-10.11, BNG/7 Paras 59-60
[131] BNG/7 Paras 61-62
[132] LBE/5E, Discussion on conditions Day 5
[133] BNG/4A Sect 5
[134] BNG/5A Paras 2.14-2.16, BIO/3C, Discussion on conditions Day 5
[135] BNG/3D, Discussion on S106 Undertakings Day 5

access rights and providing that the southern access would cease to be used when the northern access became legally and physically available.[136]

9.0 Written Representations[137]

Objectors

9.1. Local people find the appeal scheme and the wider WSRS scheme confusing. Consultation should take the multi ethnic/cultural/linguistic nature of the area into account. The procedural requirements have not been met and the consultation period is considered to have been inadequate. Little detail is provided as to who would construct and run the proposal. In the forthcoming 'post bureaucratic age' following the election, planning decisions will be devolved to local communities. The Council unanimously rejected the proposal and its decision should not be overturned. The proposal would be connected to the national grid and would not provide any local benefits.

9.2. Air quality in Southall is already poor, failing to meet European requirements, and causing health issues. The proposal, and the lorries bringing in fuel, would make it worse as demonstrated by the appellant's air quality modelling. Moreover, there are a number of primary schools in this densely populated residential area and proposals for numerous new houses on the adjacent site. Pollutants can cause a range of ailments and even premature death. The area is designated an AQMA and the Council has a duty to improve air quality but this proposal would cause more health hazards in an area that already has problems.

9.3. The proposal would only be efficient if the heat generated is captured and used but that would not be the case in the absence of the WSRS. It is not known if the site is subject to restrictive covenants that would preclude the development. Details of the financing should also be disclosed.

9.4. Congestion is already a problem and will be made worse by the proposed average of 8 tankers a day delivering fuel on narrow residential roads.

9.5. The 65 metre high stack would look ugly from the residential area and smells would mean windows have to be kept shut, even in the summer. Moreover, the site is contaminated and contamination has caused health problems elsewhere such as Corby. Storage of fuel could also be a hazard in a residential area. Permission for a similar plant in Germany has been revoked due to its impact on the environment.

9.6. The ES is fundamentally and irretrievably deficient as climate and climatic factors are not included and so the appeal should be dismissed. Unsustainable sourcing of biofuels diminishes food production causing food price rises and long term food security and, in less well regulated countries, compromises the human rights of vulnerable peoples. The sustainability of the fuel is fundamental to the environmental justification of the scheme and the 'intention' to use British rape seed oil is insufficient. Emissions including from the production and transportation of the fuel should be reported transparently. There is growing protest about the effects of biomass power

[136] BNG/3F, Discussion on S106 Undertakings Day 5
[137] OBJ/6, OBJ/7, OBJ/8, ID/7

plants. Government policy is wrong and it is ironic that local people and Councillors are thinking of the greater good and not just of their back yard. The wider effect on increases in carbon emissions must be considered.

Supporters

9.7. If the UK is to meet its ambitious targets for electricity from renewable sources then projects such as the proposed CHP must go ahead. Climate change is a very real problem. Whilst the relative merits of one approach over another can be argued, doing nothing is not an option if climate change is to be addressed. The proposal would replace the burning of fossil fuels with biofuel that would be sustainably sourced. Surplus land is becoming available in Britain as a result of changes in the Common Agricultural Policy. The proposal would help utilise that land for renewable energy purposes creating opportunities for the UK agricultural industry.

10.0 Inspector's Conclusions

[The references in square brackets are to earlier paragraphs in this report]

10.1. Introduction

10.1.1. A number of parties, including BIO/EFE a Rule 6 party, expressed concern about the ruling limiting the scope of the Inquiry. However, notwithstanding that it is guidance rather than policy, paragraph 43 of the Technical Annex – Biomass of *Planning for Renewable Energy – A Companion Guide to PPS22* states that "The remit for planners is around the power plant and associated impacts and not the production of the fuel source". This is reinforced by paragraph 2.5.10 in the draft *National Policy Statement on Renewable Energy Infrastructure* which maintains that "Given that operators will need to provide information on the sustainability of the biomass used to Ofgem and will also need to comply with any other requirements or restrictions that may arise, the IPC does not need to consider the source or sustainability of the proposed biomass fuel to be used within the proposed plant". I consider that the same approach would be logical in this case.[1.8, 6.1.1, 7.1, 7.2, 7.3, 7.4, 7.5, 7.6, 7.9, 7.10, 7.14, 7.16, 7.17, 9.6]

10.1.2. In addition to the matters that the Secretary of State has asked to be informed on, the Council would have refused the application for two principle reasons: the adverse effect on traffic and the effect on air pollution. BIO/EFE concentrated on air quality relying on the Council to give evidence on traffic. I have considered all these matters before carrying out a balancing exercise between benefits and harm to reach an overall conclusion.[5.1.1, 6.1.2, 8.1.3]

10.2. Transportation

10.2.1. A TA submitted with the application indicates that the only access that would be used for deliveries is via The Straight. Vehicles leaving the M4 at junction 3 would pass through Southall, including Uxbridge Road and South Road, before passing along Beaconsfield Road and Randolph Road to reach The Straight. These roads become increasingly residential in nature. Randolph Road is effectively reduced to 3.2-3.6 metres wide by permit controlled residents' parking on both sides for its full length, although it is not subject to any weight or width restriction. The TA states that a 12 metre rigid vehicle would be used to "minimise danger, obstruction and inconvenience to users of the local highway". The use of such a vehicle would mean that up to 4 deliveries (8 two way trips) could be expected a day, plus periodic deliveries of urea. There would also be non-HGV visits by maintenance staff once or twice a week and monthly visits to the visitor's area.[5.2.1, 5.2.2, 5.2.4, 8.2.2, 8.2.3, 8.2.6]

10.2.2. Some 70 vehicle trips a day would be removed from the highway network when the access to the wider Purple Parking site ceased to be used, although that would be as a result of the WSRS rather than this proposal. Delivery vehicles accessing the proposed development would add movements to another, residential, part of the network.[8.2.2]

10.2.3. Swept paths in the TA show turning movements for a 12 metre rigid vehicle. When turning into Randolph Road from Beaconsfield Road it would need to swing across both sides of Beaconsfield Road, which is some 7.5-8.0 metres wide and serves a number of residential roads, local schools, a college and

community facilities. The road is busy and queuing back from the signalised junction with South Road, which has three times the average number of personal injury accidents than other similar junctions in the Borough, occurs throughout the day. It often extends back beyond Randolph Road and can persist for 20 to 30 minutes. A vehicle waiting to turn left would therefore frequently have to wait for the queue to dissipate, or for an oncoming driver to hold back and allow the turn, adversely affecting the free flow of traffic. This could cause frustration Indeed, drivers were observed driving up the opposing carriageway to turn into a residential road further along when queuing occurs.[5.2.1, 5.2.3, 5.2.5, 7.1, 7.7, 7.8, 7.9. 7.11, 7.13, 9.2, 8.2.4]

10.2.4. When entering Randolph Road a 12 metre vehicle would only fit between the parking bays on Randolph Road provided that the vehicles were parked correctly within them. Randolph Road is busier than might be expected for a residential side street as drivers accessing shops on The Crescent have to do so via Randolph Road. Due to the parking, Randolph Road operates on a 'shuttle' basis. Parking spaces are around 90% occupied during the day. If vehicles travelling in opposite directions meet one has to either pull into a vacant parking space or reverse to a point where they can pass. A delivery vehicle would find it more difficult to find a space large enough for this due to its size. An increase in vehicles using the road would increase the adverse effect this has on the free flow of traffic.[5.2.5, 8.2.4]

10.2.5. The 12 metre rigid vehicle could turn right from Randolph Road into The Straight and then make its delivery. However, on leaving the site the vehicle could not pass legally to the left of a traffic island and turn left into Randolph Road without interfering with vehicles parked in the bays. This might be capable of being overcome by alterations to the road layout but none have been suggested. A rigid delivery vehicle could turn right out of Randolph Road into Beaconsfield Road. However, because of queues back from the junction with South Road there would be occasions where the vehicle would have to either edge out and 'force' its way into the flow of traffic or wait for a driver to allow it in. This would prevent other traffic entering or leaving Randolph Road and affect the free flow of west bound traffic on Beaconsfield.[5.2.5, 5.2.10, 8.2.4]

10.2.6. I accept that refuse and other large vehicles use the road at present. However, refuse vehicles would be much less frequent than tanker delivery vehicles. They have flashing warning lights and crew in high visibility jackets to warn of its presence. I do not consider that the use by refuse vehicles, or other large vehicles, would justify allowing a proposal that would significantly increase the likelihood of a fuel delivery vehicle affecting the free flow of traffic. Whilst highway safety might not be mentioned in the Council's reasons for refusal, I consider that the frustration that would be caused by the adverse effect on traffic flows could also adversely affect highway safety. I accept that PPG13 and the Mayor's *Transport Strategy* seek to balance the movement of goods, the free flow of traffic and the interests of residents. However, notwithstanding the conclusions in the TA and the Officer's report to Committee, I do not consider that the proposed access arrangements would be satisfactory. They would, therefore, be contrary to the aims of saved UDP Policies 9.1 and 9.9.[3.2, 5.2.5, 5.2.11, 8.2.1, 8.2.2, 8.2.6]

10.2.7. Subsequent to the Council's resolution on the proposal, the appellant's Technical Note 1 suggested the use of a 10.78 metre long site specific articulated tanker and the imposition of a condition restricting the fuel delivery vehicle to "an articulated semi-trailer with an overall length no greater than 11 metres". Blue-NG's preferred haulier has confirmed that a DAF 85 day cab would be used. An 8 metre tanker trailer with a capacity of 20,000 litres would make up the proposed length.[5.2.6, 8.2.5]

10.2.8. A swept path analysis indicates that this vehicle could turn right into Randolph Road by encroaching only onto the hatching in the middle of Beaconsfield Road. However, the remaining carriageway width for oncoming traffic would only be approximately 3 metres wide. The FTA guidance *Designing for Deliveries*, which applies to all situations including access to busy industrial estates, indicates a preferred clearance of 1.3 metres leaving only 1.7 metres. Whilst this is not a minimum and on-coming traffic, if not already queuing, could pass the turning vehicle, I consider that the manoeuvre would effectively use most of the road. It would still therefore have an effect on the free flow of traffic as a result of driver caution. This could also affect drivers using the correct alignment and cause encroachment onto the footpath when turning. There would still be the danger of conflict with vehicles seeking to turn out of Randolph Road and already occupying the bell mouth at the entrance to the road.[5.2.7, 5.2.8, 8.2.5]

10.2.9. In any event, the maximum clearance between the tanker and a correctly parked car in Randolph Road would be only 0.283 metre, significantly less than the FTA recommendation of 0.5 metre from the carriageway edge where there are vertical obstructions within 0.5 metre. The guidance emphasises that standards should not rely on the ultimate performance of vehicle or driver. There would be the same problems with passing or reversing, and with turning right out of Randolph Road, as with a 12 metre rigid vehicle. I accept that the tanker might be more manoeuvrable, that clearance distances are only guidance, and that swept path programmes include a tolerance allowance. However, I do not consider that the slight improvement the use of such a vehicle would bring would be sufficient to overcome the adverse effect on the free flow of traffic and make increased use of the proposed access acceptable.[5.2.7, 5.2.8, 5.2.9, 5.2.10, 8.2.5]

10.2.10. Prior to the Inquiry alternative transport strategies were re-examined at the Council's request. The use of canal or rail for fuel freight has been investigated but is not a viable alternative. To enable use of The Crescent a Traffic Regulation Order would have to be revoked for all vehicles, junction radii would have to be increased decreasing pedestrian space, and a separate stage of the traffic lights on South Road would be required significantly reducing the capacity of the busy junction. This would not be acceptable to the highway authority. A southern access to the adjacent Purple Parking area from Brent Road has a height restriction of 2.3 metres under the railway effectively making it impractical for deliveries.[7.7, 7.19, 8.2.2, 8.2.7]

10.2.11. It is accepted that the use of an existing access from Beaconsfield Road to the Purple Parking area would be preferable in highway terms to the use of Randolph Road, subject to a suitable traffic management and access strategy. Whilst Beaconsfield Road is residential and carries greater

volumes of traffic than Randolph Road, it is wider. A tanker would still have to use both sides of the road to turn into the access but would be much further west away from the queuing back from the junction with South Road. If a vehicle were waiting to leave, the tanker turning in would have to wait for it to turn out and so the access would still not be ideal. This would apply to both a 10.7 metre and a 15.3 metre tanker so it would be sensible to use the larger vehicle. This would have a greater capacity and would reduce deliveries to 2 a day (4 two way movements).[5.2.12, 8.2.8, 8.2.9]

10.2.12. However, there is no application plan that shows access from the north. The *Design and Access Statement* indicates that access would transfer to the north of the site when the WSRS infrastructure was in place. However, this would include improved access to South Road and a direct access to the Hayes By-Pass avoiding residential areas. In my view, this is very different to the suggestion of using the existing access from Beaconsfield Road. Notwithstanding whether there is a legal requirement to show the whole access route from a public highway when an existing access would be used without alteration, I consider that the alteration of a fundamental part of the application without notice or consultation would prejudice those not notified.[5.2.12, 5.2.13, 7.1, 8.2.10]

10.2.13. In any event, it is far from clear that such an access could be provided immediately, if at all. A Section 106 Undertaking only provides for the use of 'best endeavours' and would allow the use of the unacceptable route along Randolph Road for an indefinite period. The appellant only acknowledges that there would be a very strong possibility that the northern access would be available shortly after the implementation of any planning permission for the proposal.[5.2.13, 5.5.2, 8.2.11, 8.5.5]

10.2.14. I conclude that the proposed access arrangements would have an unacceptably detrimental impact on the free flow of traffic contrary to the aims of saved UDP Policies 9.1 and 9.9.

10.3. **Air Quality**

10.3.1. European Directives have introduced binding Limit Values for a number of pollutants, including NO_2, which have been transposed into domestic law by the *Air Quality Standards Regulations 2007*. Both the Objective and Limit Value for NO_2 is 40µg/m³ and the target date for achieving the Limit Value was 1 January 2010. Assessments in 2000 concluded that the levels for PM_{10} and NO_2 in Ealing would not meet the objectives and the whole Borough was declared an AQMA in December 2000. An *Air Quality Action Plan* was published in April 2003 but the latest *Air Quality Progress Report* April 2008 identifies that the concentrations of PM_{10} and NO_2 are still likely to exceed the objectives.[5.3.1, 6.2.2, 8.3.3]

10.3.2. The highest average 1 hour mean prediction of NO_2 would be 77.1µg/m³, well below the objective of 200µg/m³. Although little information is given on $PM_{2.5}$ levels, the highest predicted annual mean PM_{10} concentration is 20.5µg/m³ compared to the objective of 40µg/m³ whilst the number of predicted exceedances of the PM_{10} 24 hour mean is less than 5 a year compared to the objective of 35. The maximum predicted CO process contribution would be negligible and exceedance of the objective would be

highly unlikely with or without the proposed development. Evidence has therefore concentrated on NO_2.[6.2.11, 7.2, 8.3.12, 8.3.15, 8.3.16]

10.3.3. LP Policy 4A.19 and saved UDP Policy 2.6 indicate that reductions in the levels of air pollutants will be sought and Action 46 in Ealing's *Air Quality Action Plan* indicates that planning permission will be refused where a development hinders the achievement of air quality objectives. Whilst Appendix 1G of PPS23 indicates that not all applications inside or adjacent to AQMAs should be refused if they result in a deterioration of local air quality as this could sterilise development, it accepts that air quality is likely to be particularly important where granting planning permission would conflict with or render unworkable elements of a Local Authority's *Air Quality Action Plan*.[3.4, 3.5, 5.3.2, 6.2.3, 8.3.2]

10.3.4. The Mayor's draft *Air Quality Strategy* accepts that the designation of an AQMA should not halt all development but indicates that developments should be air quality neutral and that emissions should be assessed against those from a conventional gas boiler. The proposal would replace a 3.5MW gas fired boiler with a 20MW biomass engine that would have greater emissions. There has been no assessment against a gas boiler but a gas turbine would produce less air pollution. However, this document has not yet been to public consultation and so can be given very little weight.[6.2.3, 6.2.14, 8.3.17]

10.3.5. During construction there would be a potential for dust generation but the impacts would be localised to within about 200 metres and the nearest residential receptors would be approximately 230 metres away. PM_{10} concentrations would be moderately increased but would be likely to be short term and have an insignificant impact outside the site boundary. Construction traffic would add to traffic levels with the greatest impact at the site access. However, I consider that with appropriate mitigation and good site practices the impact on air quality during construction would be negligible.[8.3.6]

10.3.6. Two types of monitoring, continuous real time monitoring and NO_2 diffusion tubes, are used in the Borough with the former being the most accurate. The nearest real time location to the appeal site is Blair Peach School which is an urban background site. The most relevant diffusion tube sites are at The Straight opposite Randolph Road, Hamborough Primary School on South Road, 4 Merrick Road, Blair Peach School, 11 Broadway, and at the junction of Brent Road and Western Road.[5.3.3, 8.3.3]

10.3.7. Data from the last three years shows a slight decrease in NO_2 levels, but figures for the longer period 2001 to 2009 show no such trend. Indeed 2009 levels, albeit not bias adjusted, are generally higher than those in 2001, as are the bias adjusted figures for 2008. Meteorological conditions affect readings and it is therefore important to look at a range of data. Whilst data from Blair Peach School has been stable, only 5 years is available. I do not therefore consider that the evidence indicates that pollutant levels are falling. Indeed, the site's location close to background pollution sources such as the railway, M4, M25 and Heathrow Airport make improving air quality a challenge. Anecdotal evidence from local residents is that traffic and congestion are getting worse and the WSRS, if it proceeds,

would add significantly to the amount of traffic in the area.[5.3.3, 6.2.1, 6.2.8, 6.2.10, 7.6, 7.7, 7.14, 8.3.4, 8.3.5]

10.3.8. The effect of emissions on local air quality has been assessed using a recognised model but any modelling process includes uncertainties. Inputs are estimates and future weather and background pollution levels are unknown. Notwithstanding the fact that the model used might be the best available, other factors that could affect the results are the downwash effect of the 93 metres high gas holder, traffic speeds, and the fact that industrial and road emissions have had to be superimposed. The technologies to be used are not in themselves new but have not been used together in this way before adding to uncertainty about emission levels. Emissions from the railway were not specifically included but form part of the background figures. Whilst verification would normally be carried out using the actual levels from several sites, in this case the data from only one site has been used. This is due to a lack of traffic data at other sites, the influence of the railway, or a position alongside congested junctions. However, this also adds to the uncertainty in the modelling results. The modelling under predicted the measured results by a factor of 9.49 and, whilst this may not be unusual, I consider that it indicates that the predicted results should be treated with some caution.[5.3.4, 6.2.4, 6.2.5, 6.2.7, 6.2.9, 6.2.10, 6.2.19, 7.1, 7.2, 8.3.5, 8.3.7, 8.3.18]

10.3.9. Nearby buildings and structures were included in the model as air movement over and around buildings can increase ground level concentrations of pollutants. This included the WSRS buildings. The cumulative impact with the WSRS was not included as it had been modelled in the WSRS application.[6.2.2, 8.3.5]

10.3.10. The 65 metre high stack is designed to disperse emissions over a wider area than the immediate locality. Whilst predicted levels for the Water Tower indicate that concentrations can increase with height, concentrations fall with distance and there comes a point where the impact would be negligible. Blue-NG's assessment shows contours down to 0.3 µg/m³. I accept that beyond this contour concentrations would be even less and would, therefore, have a minimal impact.[6.2.6, 7.12, 8.3.14]

10.3.11. Absolute levels were produced at the Inquiry but were not requested earlier. At Hamborough School the process is anticipated to add 0.8µg/m³ to the 49-61µg/m³ recorded over the last 5 years. 1.0-1.1 µg/m³, the equivalent to an increase of 7000 vehicles a day travelling at 20kph measured 5 metres from the centre of the road, would be added to the level of around 63µg/m³ at the junction of South Road and Beaconsfield Road. At the Water Tower, the nearest residential building to the appeal site, some 0.9 µg/m³ would be added to levels 10 metres above ground level. Levels at ground level, which would be lower than those higher up, were 52 and 45.1 µg/m³ in 2007 and 2008.[5.3.5, 7.6, 8.3.7, 8.3.12]

10.3.12. Predictions are based on worse case assumptions such as 100% loading and continuous operation. Emission rates given by the engine manufacturer are guaranteed rates and actual emissions are likely to be around 25% lower. Moreover, no account has been taken of the reduction in emissions due to switching off the six existing boilers when the proposal was brought into operation.[8.3.8, 8.3.11]

10.3.13. EPUK produces guidance in *Development Control: Planning for Air Quality*. This indicates that an evaluation by reference to the impact and significance criteria should be carried out before applying professional judgement. Factors to be considered include the magnitude of changes and the descriptions of the impacts at the receptors, the number of people affected and exposed to levels above the objective or Limit Values, whether an exceedance area would be substantially increased, uncertainty, whether a Limit Value is removed or reduced, and the extent to which an objective or Limit Value is exceeded. A flow chart details how air quality should be addressed in the planning process. The latest draft of the Guidance indicates a less prescriptive approach to assessment with more emphasis on professional judgement. Whilst this is not statutory guidance it is acknowledged as the best available.[5.3.6, 8.3.5, 8.3.9, 8.3.10]

10.3.14. None of the experts produced full details of their assessments and judgements. Whilst it has been suggested that background levels might be underestimated, Blue-NG's process contributions were not challenged and its assessment of descriptors was not questioned, although BIO/EFE disagree with the descriptors and believe that the use of percentages to indicate magnitude is misleading. I have some sympathy with BIO/EFE's view on magnitude as a large percentage increase to a very low level could well be acceptable whilst a small percentage increase to a level already well above the Limit Value could be completely unacceptable. Even if background levels have been underestimated only one receptor would increase from slight adverse to moderate adverse. The main difference between the parties is, therefore, the application of professional judgement.[6.2.12, 7.7, 8.3.9, 8.3.10]

10.3.15. Whilst it is agreed that pollution levels would rise, the experts for the two main parties are divided as to whether air quality should be described as an overriding or a high priority. However, the wording for both categories in the EPUK flow chart is very similar. In my view, the argument that increases in pollutant concentrations would be acceptable as they would be small needs to be tempered by consideration of other factors. Many people would be affected in this densely populated area that includes sensitive receptors such as schools and care homes for the elderly, the exceedance area would only be increased slightly but Limit Values are already exceeded by up to around 50% in some locations and these exceedances would be increased. Worse case assumptions have been made but there is undoubted uncertainty in the modelling that has been carried out.[5.3.7, 5.3.8, 6.2.2, 6.2.3]

10.3.16. I accept that neither the Council's EHO nor the GLA expressed any concerns about health related impacts and that no policy or guidance specifically requires levels of deprivation to be taken into account. However, EPUK guidance indicates that mitigation measures might be considered where increases are below objective or Limit Values as any increases are likely to result in health disbenefits. I therefore consider that deprivation and effects on health should be considered. Although BIO/EFE assert that air quality standards do not represent negligible or zero health effects the *Air Quality Strategy for England, Scotland, Wales and Northern Ireland* indicates that standards represent levels at which no significant health effects would be expected in the population as a whole and are set, purely with regard to

scientific and medical evidence, as minimum or zero risk levels.[6.2.15, 7.2, 7.3, 8.3.13]

10.3.17. Nevertheless, the World Health Organisation considers that exposure to particulate matter does pose a significant risk to human health at concentration levels common in Europe today and the Mayor's *Air Quality Strategy* states that high levels of PM_{10} caused over 1,000 accelerated deaths and over 1,000 respiratory hospital admissions in London in 2005. COMEAP has highlighted the effects on mortality of long term exposure to a mixture of air pollutants and local residents have a much higher likelihood of an early death than in the rest of the Borough. 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 health effects due to the proposal.[6.2.15, 6.2.16, 6.2.17, 6.2.18, 7.1, 7.2, 7.3, 7.6, 7.8, 7.9, 7.10, 7.12, 7.13, 7.16, 7.18, 9.2]

10.3.18. Whilst not all applications within an AQMA that have a detrimental impact should be refused, the proposal is not a run of the mill scheme. It would produce about 126 tonnes of NOx and 46 tonnes of PM_{10} a year compared to NAEI 2007 data that shows some 29.12 tonnes of NOx and 0.92 tonnes of PM_{10} from road and rail sources in kilometre square containing the appeal site.[6.2.14]

10.3.19. In terms of mitigation during operation, best in class technology, SCR, would be used and the process would not be operated if it failed. Maintenance would optimise the performance of the engines and continuous stack monitoring and off-site monitoring at the Water Tower are proposed. Although doubt has been expressed about the ability of Ofgem to administer the ROC system, the facility would be controlled under the Environmental Permitting regime which would set conditions and controls, including emission limits. As the process would be less than 50MW it would be regulated by Ealing and if the limits were breached the plant could be shut down.[7.19, 8.3.2, 8.3.11, 8.3.17, 8.5.3]

10.3.20. The GLA's early comments were that there would be no strategic air quality issues. However, that was a strategic view and not a consideration of the impact on the local area or the policy test in the UDP. A letter dated 26 January 2010 explicitly states that it should not be read as a letter of support from the Mayor.[5.3.9]

10.3.21. Reference has been made to the fact that the WSRS scheme was not refused on air quality grounds. However, that was a different scheme and, in my view, the lack of an air quality reason for refusal would not justify allowing this scheme. Whilst the WSRS would have produced greater emissions of pollutants than the appeal scheme, this would have been off-set to some extent by the provision of heat and power to approximately 3,750 units of housing, 20,050 m² of retail, 4,700 m² of commercial leisure uses, a hotel and office/studio units. There would be no need for domestic boilers in the scheme the emissions from which the Mayor's *Air Quality Strategy* recognises are of increasing significance.[6.2.20, 8.3.2, 8.3.5, 8.3.12]

10.3.22. A benefit of the scheme is that it would provide necessary heat to the PRS operation and so there would be some justification in siting the proposal on the appeal site, even in the absence of the WSRS. If the WSRS were to go

ahead there would be a greater benefit from siting the proposal in Southall. Whilst Blue-NG has been granted planning permission for a similar plant at Beckton, that would be close to Europe's largest sewage treatment works in an area with several industrial plants and not far from Barking Power Station. I do not consider that scheme would justify allowing this proposal in a densely populated residential area in Southall.[6.2.1, 6.2.19, 6.2.20, 7.10, 7.11, 7.20, 9.3]

10.3.23. 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.

10.4. **Other Matters**

10.4.1. Whilst fuel would be stored on site it does not fall within the regulations for hazardous substances. Indeed, the Council has withdrawn its objection on health and safety grounds and on the grounds of odour generation. Whilst bioliquids can have an odour similar to fried food, the potential for odour has been assessed. Odour might be released when venting fuel tanks, and particularly when filling them, and SCR abatement systems emit small quantities of urea or ammonia that can cause odour nuisance. However, best available techniques would be used to minimise the potential for release of odour. Training and controls would prevent spillage from over filling the storage tanks and stack emissions would be monitored. Notwithstanding that a biofuel station in Saarlouis, Germany was closed due to odour nuisance, there is no reason to believe that odours would cause any nuisance beyond the site boundary in this case.[5.4.6, 6.3.3, 7.6, 7.7, 8.4.1, 9.5]

10.4.2. The site is within a defined Special Opportunity Area where an outline application has been made for a wider mixed use redevelopment. The proposal would be compatible with the WSRS masterplan that includes an energy centre. The design of the proposal would not be that of a run of the mill industrial building. It has been designed by a well-known firm of architects and, although the height has been reduced, it would have a bold, irregular form using glazing to provide some awareness of the activity within. In terms of height, scale and massing, layout, and landscaping it would comply with the design parameters for the energy centre in the wider redevelopment. The stack would be some 8 metres higher than that envisaged for the energy centre but, from many vantage points, it would be seen in conjunction with the adjacent 93 metres high gas holder and, in my view, would not appear out of keeping. Whilst some local residents are vocal in their opposition to the proposal, I do not consider that this amounts to the scheme failing to comply with the design principles of respecting local context, character and communities as set out in LP Policy 4B.1. Neither the Council nor the GLA raise any major concerns about design. I therefore conclude, having regard to the advice in paragraphs 33 to 39 of PPS1, that the proposal would be appropriate in its context and would take the opportunities available for improving the character and design quality of the area.[2.1, 5.4.1, 5.4.3, 7.15, 7.17, 9.5]

10.4.3. Notwithstanding this the proposal would not be fully in accordance with PPS1 as paragraph 16 seeks development that delivers a safe and healthy place to live. Air quality would be adversely affected. For that reason the proposal would also fail to conform with the aims of saved UDP Policy 2.6.[3.5, 5.4.3]

10.4.4. Whilst the proposal would have a lower carbon intensity than coal or gas fired power stations, it would be higher than nuclear, clean coal, wind, solar and marine power. However, the Government accepts that biomass CHP technology is a means of generating renewable energy that is expected to provide the largest single contribution to the UK's emissions reduction targets. The scheme would generate over 20% of the renewable electricity target, and potentially up to half the heat target, in the Mayor's *Energy Strategy*. The Council and the GLA agree that the technology proposed would be renewable energy generation and accord with national and regional energy policies for the long term CO_2 and renewable energy targets. To that extent the scheme would support national policy in PPS22 and the *Planning and Climate Change Supplement to PPS1*.[5.4.4, 6.3.2, 8.4.4]

10.4.5. However, the proposal would be within an AQMA where the NO_2 levels are already well above the Limit Values. CHP systems do not have to have an adverse effect on air quality but this proposal would. The development would have the capacity to produce 18MW of electricity, enough to power 45-48,000 homes. In the absence of the WSRS, which would require some 2.2MW to power and heat the houses proposed, the electricity generated would go to the national grid and there would be little local benefit to offset the accepted increase in pollution. Emissions would not be offset by making the need for domestic boilers in the WSRS superfluous. The proposal would not provide effective protection of the environment and so would not be fully consistent with the aims of PPS22.[5.4.1, 5.4.3, 5.4.5, 9.3]

10.4.6. I see no reason why details of the funding of the proposal should be made available, and concerns over whether there are any restrictive covenants relating to the site is a legal matter rather than a planning consideration. Concerns that there could be problems due to contamination could be addressed by conditions requiring investigation prior to any development taking place and for remediation to be proposed, approved and implemented.[9.3, 9.5]

10.4.7. I consider that claims that the ES is fundamentally flawed, due to a failure to consider climate and climatic factors, to be unfounded. The production of the fuel source is not within the remit of the Inquiry. Indeed, paragraph 43 of the Technical Annex to the *Companion Guide to PPS22* states "Many of the environmental issues associated with the fuel supply (eg impact on landscape, ecology, archaeology, land use etc) may be covered by an Environmental Impact Assessment undertaken by other bodies in connection with the scheme – for instance the Forestry Commission for all applications submitted in England under the Energy Crops Scheme". I consider that matters relating to the power plant and its associated impacts have been covered adequately in the ES for this scheme.[1.8, 9.6]

10.4.8. In terms of mitigation, the design was amended to reduce the height of the proposed CHiP building and the height and position of the stack has been designed to disperse emissions as far as possible. Best in class technology,

SCR, would abate NOx emissions, regular maintenance would optimise the performance of the engines, and continuous stack emission monitoring and off-site monitoring at the Water Tower are proposed. The latter would be ensured by a Section 106 Undertaking. The Environmental Permitting regime would regulate monitoring and control of the process, including emission levels. In addition, conditions could be attached to mitigate against the impact of vehicular traffic, noise, ground contamination, archaeological remains, and hazards to air traffic. These are dealt with in more detail in section 10.5 below.[1.2, 8.3.5, 8.3.11, 8.3.14]

10.4.9. Whilst it has been suggested that the Aarhus Convention has not been met, the ES has addressed the requirement to provide environmental information relating to the scheme. Consultation has been undertaken in accordance with statutory requirements and the application and the Inquiry were publicised. I therefore consider that the Convention requirements have been met.[1.9, 7.14, 7.21]

10.5. Conditions and Section 106 Undertakings

10.5.1. A number of conditions have generally been agreed between the Council and Blue-NG. The only other comments on conditions were by BIO/EFE who raised a query on suggested condition 7 and suggested two additional conditions. I have considered all the suggested conditions against the tests set out in *Circular 11/95* and have amended the wording in some cases in the interests of clarity.[5.5.1, 6.4.1, 6.4.2, 8.5.1, 8.5.2, 8.5.3]

10.5.2. If the Secretary of State were minded to grant planning permission suggested conditions 1 and 2, the standard time condition and a condition setting out the plans and documents that would be approved, would be necessary and should be attached.

10.5.3. Access via Randolph Road, as applied for, would require a limitation on delivery vehicle size to minimise the impact on the free flow of traffic. For the same reason, details of manoeuvring and turning movements for construction traffic accessing the site should also be required. As the operational deliveries would be via residential streets where parking is more intense during the night, delivery numbers and times should be limited to safeguard residential amenity as far as possible. Suggested conditions 3, 4 and 6 should therefore be attached.

10.5.4. Suggested condition 5 relates to the use of the northern access from Beaconsfield Road, for which the Council has approved a Traffic Management Plan that generally provides the equivalent measures to suggested conditions 3 and 4 in relation to Randolph Road. If the Secretary of State is minded to consider use of this access as part of the proposal then suggested condition 5 should also be attached. As it is uncertain when the northern access could be implemented conditions 3 and 4 would still be necessary to cover any period between implementation and adoption of the northern access.

10.5.5. The site is an industrial location where there may well be contamination. Suggested conditions 9, 10, 11 and 12 would be necessary to provide for investigation and remediation of any contamination discovered. To ensure that other operations in the ground do not provide a route by which any contamination could find its way into the water table suggested conditions 8

and 13 relating to drainage, and 14 relating to piling operations, would also be necessary.[7.2, 9.5]

10.5.6. Suggested condition 7 would ensure that noise levels beyond the site boundary did not cause any nuisance and should be attached to safeguard the living conditions of local residents. Whilst I note the concern of BIO/EFE that should the background noise reduce in the future then the impact of noise from the site might be increased, it would be unreasonable in my view to require more than ensuring that there was no impact at existing background levels. Requiring a programme of archaeological work prior to any development, as provided for in suggested condition 15, would protect any potentially significant archaeological remains. Suggested condition 19 would require the submission of samples of materials for the external surfaces of the proposed structures and would be necessary to safeguard the character and appearance of the area.[7.6]

10.5.7. The site is relatively close to Heathrow Airport and suggested conditions 16 and 17, relating to landscaping and a Bird Hazard Management Plan, should be attached to prevent any increase in bird hazard risk. Suggested condition 16 would need the addition of a timetable for implementation. It should be noted that Oak, Scot's Pine and Beech should not be included in any planting scheme as they can create large canopies suitable for the roosting and nesting of hazardous bird species such as corvids, pigeons and starlings. Berry/fruit bearing plant species should be kept to less than 20% of the total planting and dispersed throughout the site to avoid the creation of a dense food source for hazardous bird species.

10.5.8. The Bird Hazard Management Plan must ensure that flat/shallow pitched roofs be constructed to allow access to all areas by foot using permanent fixed access stairs ladders or similar. Gulls must not be allowed to nest, roost or loaf on the building. Checks must be made weekly, or sooner if bird activity dictates, during the breeding season. Outside of the breeding season gull activity must be monitored and the roof checked regularly to ensure that gulls do not utilise the roof. Any gulls found nesting; roosting or loafing must be dispersed when detected or when requested by BAA Airside Operations staff. In some instances it may be necessary to contact BAA Airside Operations staff before bird dispersal takes place. Any nests or eggs found on the roof must be removed. The breeding season for gulls typically runs from March to June and the appropriate licences must be obtained where applicable from Natural England before the removal of nests and eggs.

10.5.9. Access for mobility impaired persons is covered by other legislation and suggested condition 18 would not be necessary. Whilst use of the Visitors' Centre to increase awareness of climate change and sustainable development is laudable, I do not consider it necessary to make the proposed development acceptable in planning terms and therefore suggested condition 20 would also be unnecessary. Turning to the two conditions suggested by BIO/EFE, the first relates to the fuel type and its sourcing. Whilst I note Blue-NG's willingness to accept such a condition, the plant would not be viable without ROCs and the ROC system would ensure that renewable sources were used. Moreover, the Environmental Permitting regime would regulate emissions and their monitoring and I do not consider that there is any justification for going beyond this regime. As the plant

would be less than 50MW Ealing would have the power to close the plant if it exceeded the emission limits. I do not, therefore consider that the two conditions suggested by BIO/EFE are necessary.

10.5.10. Since the Inquiry closed the *Community and Infrastructure Levy Regulations 2010* have come into effect. Obligations are now required to comply with tests (a) to (c) in Regulation 122. The parties have not specifically commented on this change. It is now unlawful for a planning obligation to be taken into account if it does not meet the tests of being: (a) necessary to make the development acceptable in planning terms; (b) directly related to the development; and, (c) fairly and reasonably related in scale and kind to the development.

10.5.11. A signed Undertaking, dated 5 March 2010, would provide for a Bioliquid Report to be submitted to the Council prior to any development taking place providing details of the fuel to be used. This would be followed by an annual presentation on new measures and initiatives. Whilst these might be of interest, only a report would be required. Ofgem would administer the ROC system relating to the fuel used. The Undertaking would also provide for off-site air quality monitoring at the Water Tower and for an off-site Noise Monitoring Strategy. Whilst the air quality monitoring might provide some comfort to occupiers of the Water Tower, there is no provision for any action other than monitoring. Emissions would be monitored under the Environmental Permitting regime and action could be taken by the Council if emission levels were exceeded. Little evidence has been provided on any unacceptable increase in noise and disturbance but in any event the provision for noise monitoring is not precise as no acceptable noise level is prescribed. I do not consider that the Undertaking meets the tests in Regulation 122 and therefore its consideration would be unlawful.[5.5.2, 8.5.4]

10.5.12. I consider that the provision of a northern access from Beaconsfield Road is not part of the application and that its consideration would be prejudicial but even if there were no procedural problem the use of such an access would need to be secured. A second signed Section 106 Undertaking, dated 16 March 2010, would only ensure that best endeavours were used to secure the use of the northern access and would allow the use of an unacceptable access route for an indefinite period. If the Secretary of State considers that the use of Randolph Road was acceptable until a northern access could be provided then I consider that the Undertaking would satisfy the tests in Regulation 122.[5.2.13, 5.5.2, 8.2.11, 8.5.5, 10.2.6, 10.2.13, 10.2.14]

11.0 Overall Conclusion and Recommendation

Overall Conclusion

11.1. The proposed development, on a contaminated brownfield site, would accord with national and regional energy policies for the long term CO_2 and renewable energy targets. The proposal would generate over 20% of the renewable energy target and potentially up to half the heat target in the Mayor's Energy Strategy. However, this would be in a densely populated urban area which already suffers from deprivation and where the air quality already exceeds the Limit Value for NO_2 by up to 50% in places. Not only would the proposal have a detrimental impact on the already very poor air quality, albeit relatively small, but it would require deliveries of fuel that

would be detrimental to the free flow of traffic in a congested residential area close to schools and community facilities.[10.2.6, 10.2.9, 10.2.14, 10.3.15, 10.3.23, 10.4.4]

11.2. I consider that the undoubted benefits in terms of meeting renewable energy and emissions targets would not, in this case, outweigh the detrimental impact the proposal would have on the free flow of traffic, and on air quality.

Recommendation

11.3. I therefore recommend that the appeal be dismissed and planning permission be refused.

11.4. If the Secretary of State disagrees with my recommendation and is minded to allow the proposal, the Conditions set out in Appendix 3 should be attached for the reasons given in Section 10.5 above.

K D Barton

INSPECTOR

APPENDIX 1 – APPEARANCES

FOR LONDON BOROUGH OF EALING:

Richard Ground of Counsel	Instructed by Mr Umrigar, Ealing Borough Council
He called	
Dr Michael Bull	Director, Ove Arup and Partners Ltd
Tim Melhuish	Principal Transport Planner, London Borough of Ealing

FOR BIOFUELWATCH/EALING FRIENDS OF THE EARTH:

Robert Palgrave	Biofuelwatch
He called	
Dr Matthew Ireland	MNA Advisory Limited
Nic Ferriday	Ealing Friends of the Earth

INTERESTED PERSONS:

Reverend Dave Bookless
Richard Harkinson
Sarah Edwards
Maryla Hart
Nick Ford
Councillor Mann
Councillor Reeves
Councillor Kang
Councillor Noori
Jules Tennick
Aneaka Kaur Kellay
Diane Scott
Salvinder Dhillon
Bernard Burns
Amandeep Kellay
Councillor Gurcharan Singh
Zenith Milner

FOR BLUE-NG:

Brian Ash QC	Instructed by Norton Rose
He called	
Richard Fitter	Entran Limited – Transportation
Dr Nick Davey	Entran Limited – Air Quality
Tim Waters	Planing Perspectives - Planning

APPENDIX 2 - DOCUMENTS

Core Documents

CD1	Copy of Appeal Form
CD2	Supplementary Page to Appeal Form including Site Ownership Certificate
CD3	Ealing Borough Council Appeal Questionnaire
CD4	Copy of LPS's Minded to Refuse Planning Permission Notice dated 17 September 2009
CD5	Grounds of Appeal
CD6	Site Location Plan and Site Aerial Photograph
CD7	Statement of Common Ground
CD8	Submissions on Scope of Inquiry
CD8.1	Appellant's Submission at Pre-Inquiry Meeting 25 January 2010
CD8.2	BIO's Response dated 29 January 2010
CD8.3	Appellant's Final Comments dated 1 February 2010
CD8.4	Inspector's Ruling dated 2 February 2010
CD9	Original Planning Application Documents (P/2009/0780)
CD9.1	Covering letter from Planning Perspectives LLP dated 17 March 2009
CD9.2	Planning Application Form and Certificates
CD9.3	Statement of Community Involvement (December 2008)
CD9.4	PADHI Report by Mouchel
CD9.5	Blue-NG Questions and Answers Document
CD9.6	Planning Statement by Planning Perspectives LLP (March 2009)
CD9.7	Environmental Statement Volumes 1 & 2 and Non-Technical Summary by Environmental Perspectives
CD9.8	Design and Access Statement by Mouchel
CD9.9	Application Drawings Nos

TE001/BE/03/01/0960/002D – General Arrangement
TE001/BE/03/01/0960/003B – Plan View
TE001/BE/03/01/0960/004C – Elevations AA and BB Sheet 1
TE001/BE/03/01/0960/004C – Elevations DD and EE Sheet 2
TE001/BE/03/01/0960/004C – Elevations CC and FF Sheet 3
TE001/BE/03/01/0960/004B – Elevations GG Sheet 4
TE001/BE/03/01/0960/005C – Isometric View Sheet 1
TE001/BE/03/01/0960/005C – Isometric View Rendered Sheet 2
TE001/BE/03/01/0960/006C – Location Plan
TE001/BE/03/01/0960/024C – Energy Centre in Overall Development
TE001/BE/03/01/0960/025B – CHiP Building Sheet 1
TE001/BE/03/01/0960/025B – CHiP Building Sheet 2
TE001/BE/03/01/0960/025B – ChiP Building Sheet 3
TE001/BE/03/01/0960/026B – Turbo Expander Building Sheet 1
TE001/BE/03/01/0960/026B – Turbo Expander Building Sheet 2
TE001/BE/03/01/0960/027B – Service Building and Pump House

	TE001/BE/03/01/0960/030A – Sub-Station TE001/BE/03/01/0960/033A – Future Access Routes TE001/BE/03/01/0960/034A – Site Landscaping and Screening
CD9.10	Air Quality Impact Assessment (Single Engine Option) by Entran
CD10	Amended Application Documents (submitted 13 July 2009)
CD10.1	Covering letter by Planning Perspectives LLP dated 13 July 2009
CD10.2	Design and Access Statement by Fielden Clegg Bradley
CD10.3	Additional Environmental Information Report incorporating Updated Noise Report, Updated Ground Conditions report, and Updated Flood Risk Assessment
CD10.4	Application Drawings Nos
	TE001/BE/03/01/0960/025D – Elevations TE001/BE/03/01/0960/025E – Plans and Section TE001/BE/03/01/0960/025D – Photomontage 20013 P1 – Noise Contour Drawing 30001 P1 – CHiP Building Elevations CC and FF 30002 P1 – CHiP Building Elevation GG 30003 P1 – CHiP Building Elevations AA and BB 30004 P1 – CHiP Building Elevations DD and EE 30005 P1 – Turbo Expander Building Elevations 30006 P1 – Turbo Expander Building Plan and Isometric 30007 P1 – Service Building and Pump House 30008 P1 – Customer Sub-Station 30009 P1 – CHiP Building Plan View 30010 P1 – CHiP Building Isometric View 30011 P1 – Future Regeneration Plan View
CD11	Third Party Correspondence and Representations to the Planning Application
CD11.1	Letter from R Palgrave to Ealing Borough Council dated 30 April 2009
CD12	Third Party Representations to the Application
CD13	Post Application Correspondence with Ealing Borough Council
CD13.1	Blue-NG Response to Objections submitted to Ealing Borough Council
CD13.2	Letter from Ealing Borough Council Withdrawing Three reasons for Refusal
CD13.3	Technical Notes on Transport (Entran)
CD14	Planning Policy Documents
CD14.1	PPS1 – Delivering Sustainable Development (including accompanying Guidance to PPS21 The Planning System: General Principles
CD14.2	Planning Policy Statement: Planning and Climate Change – Supplement to Planning Policy Statement 1
CD14.3	PPS22 – Renewable Energy
CD14.4	PPS23 – Planning and Pollution Control
CD14.5	Relevant Extracts from London Plan – Spatial Development Strategy for Greater London (Consolidated with alterations since

	2004 – February 2008)
CD14.6	Relevant Extracts from Ealing Unitary Development Plan 2004
CD14.7	SPG1 Sustainability Checklist
CD14.8	SPG2 Water, Drainage and Flooding
CD14.9	SPG3 Air Quality
CD14.10	SPG7 Accessible Ealing
CD14.11	SPG8 Safer Ealing
CD14.12	SPG10 Noise and Vibration
CD15	Ealing Borough Council and GLA Reports
CD15.1	Ealing Borough Council EIA Scoping Opinion dated 23 December 2008
CD15.2	Ealing Borough Council's Officer's Report to Committee plus addendum
CD15.3	Ealing Borough Council agreed Committee Minutes dated September 2009
CD15.4	Ealing Borough Council draft Reasons for Refusal issued 11 September 2009
CD15.5	Ealing Borough Council revised Reasons for Refusal dated 12 November 2009
CD15.6	Ealing Borough Council Decision Notice dated 17 September 2009
CD15.7	GLA Planning Report PDU/0119D/01 dated 27 May 2008
CD15.8	Letter from GLA to Planning Perspectives LLP dated 26 January 2010 re compliance with London Plan
CD15.9	Ealing Borough Council Air Quality Progress Report April 2008
CD16	Other Relevant Documents
CD16.1	Planning for Renewable Energy: A Companion Guide to PPS22
CD16.2	Renewables Obligation Orders 2002, 2007 and 2009
CD16.3	2007 Energy White Paper
CD16.4	Mayor's Energy Strategy (Green Light to Clean Power) February 2004
CD16.5	The Mayor's Air Quality Strategy 2002
CD16.6	Draft National Policy Statement for Renewable Energy Infrastructure (EN-3) 9 November 2009
CD16.7	Ofgem Fuel Sampling and Measurement Guidelines
CD16.8	The Mayor's draft Air Quality Strategy for consultation with the London Assembly and functional bodies: Clearing the Air October 2009
CD16.9	National Society of Clean Air: Development Control: Planning for Air Quality September 2006
CD16.10	Institute of Air Quality Management: Position on the Description of Air Quality Impacts and the Assessment of their Significance 2009
CD16.11	Fourth Round Updating and Screening Assessment for London

	Borough of Ealing June 2009
CD17	Southall Regeneration Scheme Planning Application
CD17.1	Energy Strategy Report dated October 2008
CD17.2	Addendum to Energy Strategy Report dated May 2009

London Borough of Ealing Documents

LBE/1	London Borough of Ealing's Statement of Case
LBE/2	Not Used
LBE/3A	Proof of Evidence of Dr Michael Bull on Air Quality Issues including revised Table 3 and Figure 2
LBE/3B	Extracts from Local Air Quality Management Technical Guidance LAQM.TG(09) February 2009
LBE/4A	Proof of Evidence of Mr Melhuish on Highway and Traffic Issues
LBE/4B	Summary Proof of Evidence of Mr Melhuish on Highway and Traffic Issues
LBE/4C	Extract from Designing for Deliveries by Freight Transport Association Limited
LBE/5A	Proof of Evidence of Sandra Winwood on Statement of Matters
LBE/5B	SI 2008 No 550 The Town and Country Planning (General Development Procedure)(Amendment)(England) Order 2008
LBE/5C	Suggested Conditions
LBE/5D	Guidance on information requirements and validation
LBE/5E	Amended list of suggested conditions
LBE/6	Closing Submissions on behalf of Ealing
LBE/7	Costs Decision APP/J0540/A/09/2103133 referred to in Ealing's response to Costs Application by Blue-NG

Biofuelwatch/Ealing Friends of the Earth's Documents

BIO/1	Biofuelwatch/Ealing Friends of the Earth's Statement of Case
BIO/2	Biofuelwatch/Ealing Friends of the Earth's Opening Submissions
BIO/3A	Proof of Evidence of Nic Ferriday and Robert Palgrave
BIO/3B	Extract from Report by E4tech re CO2 footprint of the proposed plant
BIO/3C	Conditions suggested by Biofuelwatch and Ealing Friends of the Earth
BIO/3D	Extract from Cleaning the Air – The Mayor's draft Air Quality Strategy for consultation with the London Assembly and functional bodies October 2009
BIO/4A	Proof of Evidence of Dr Matthew Ireland on Air Quality Issues
BIO/4B	Supplementary Proof of Evidence of Dr Matthew Ireland on Air Quality Issues
BIO/4C	Extracts from Local Air Quality Management Technical Guidance LAQM.TG(09) February 2009
BIO/4D	Dr Ireland's Note re Experience

BIO/5	Biofuelwatch/Ealing Friends of the Earth Closing Submission

Objector's Documents

OBJ/1	Submission by Richard Harkinson
OBJ/2	Submission by Councillor Mann
OBJ/3	Submission by Councillor Kang
OBJ/4	Submission by Jules Tennick
OBJ/5	Submission by Bernard Burns
OBJ/6	Written Statement from Secretary of Avenue Road & Villiers Road Residents' Association
OBJ/7	Written Statement from Catherine Bennett
OBJ/8	Written submission by the Occupier 82 Abbots Road Southall
OBJ/9/1-7	Bundle of documents supporting verbal submission by Ms Milner

Blue-NG's Documents

BNG/1	Blue-NG's Statement of Case
BNG/2	Blue-NG's Opening Submissions
BNG/3A	Proof of Evidence of Timothy Waters on Planning Issues
BNG/3B	Appendices to Proof of Evidence of Timothy Waters on Planning Issues
BNG/3C	Summary Proof of Evidence of Timothy Waters on Planning Issues
BNG/3D	Section 106 Undertaking
BNG/3E	Note on How Statutory Requirements relating to the Environmental Impact Assessment have been met
BNG/3F	Second Section 106 Undertaking concerning northern access from Beaconsfield Road
BNG/4A	Written Statement by Andrew Mercer
BNG/5A	Proof of Evidence of Dr Nicholas Davey on Air Quality Issues
BNG/5B	Appendices to Proof of Evidence of Dr Nicholas Davey on Air Quality Issues
BNG/5C	Summary Proof of Evidence of Dr Nicholas Davey on Air Quality Issues
BNG/5D	Conclusions of London Assembly Environment Committee Air Quality Response November 2009
BNG/5E	Freedom of Information request to GLA by T Henderson and GLA response
BNG/5F	Extract from Chapter 1 of the Local Air Quality Management Technical Guidance LAQM.TG(09) February 2009
BNG/5G	Matrix Table from National Atmospheric Inventory web site NOx annual mean concentrations
BNG/5H	Extract from Annex 3 of the Local Air Quality Management Technical Guidance LAQM.TG(09) February 2009
BNG/5J	Extract from Report to Committee on Southall Regeneration Scheme

BNG/5K	Extract from The Air Quality Strategy for England, Scotland, Wales and Northern Ireland Volume 1
BNG/5L	Extract from Development Control: Planning for Air Quality (2010 Update) Draft for Consultation 25 February 2010
BNG/5M	Extract from Development Control: Planning for Air Quality (2010 Update) Draft for Consultation 25 February 2010
BNG/5N	Extract from Local Air Quality Management Technical Guidance LAQM.TG(09) February 2009
BNG/5O	NO2 2011 Background + Process + Roads
BNG/5P	Extract from Cleaning the Air - The Mayor's Air Quality Strategy September 2002
BNG/5Q	Extract from Clearing the Air – The Mayor's draft Air Quality Strategy for consultation with the London Assembly and functional bodies October 2009
BNG/6A	Proof of Evidence of Richard Fitter on Highway and Traffic Issues
BNG/6B	Appendices to Proof of Evidence of Richard Fitter on Highway and Traffic Issues
BNG/6C	Summary Proof of Evidence of Richard Fitter on Highway and Traffic Issues
BNG/6D	Swept Path Analyses Figs 7, 8 and 8A
BNG/6E	Extract from Designing for Deliveries pages 8 and 9
BNG/6F	Traffic Management Plan February 2010
BNG/7	Closing Submission on behalf of the Appellant
BNG/8	Written Application for Costs on behalf of Blu-NG

Inquiry Documents

ID/1	Agenda for Pre-Inquiry Meeting
ID/2	Note on Document Preparation and Numbering
ID/3	Notes of Pre-Inquiry Meeting
ID/4	Ruling on Evidence relating to the Sourcing and Wider Global Sustainability of the Biomass Fuel That Might Be Used
ID/5	Council's Letter of Notification of the Inquiry and the list of those notified
ID/5A	Additional pages of those notified
ID/6	Letter dated 19 October 2009 setting out the matters the Secretary of State wishes to be informed of
ID/7	Representations received at appeal stage

APPENDIX 3 – SCHEDULE OF CONDITIONS TO BE ATTACHED SHOULD PLANNING PERMISSION BE GRANTED

1) The development hereby permitted shall begin not later than three years from the date of this decision.

2) The development hereby approved shall be carried out in accordance with the following approved plans and documents:

   TE001/BE/03/01/0960/025D (sheet 2) (elevations), TE001/BE/03/01/0960/025E (sheet 1) (plans and section), TE001/BE/03/01/0960/025E (sheet 3) (photomontage), 08/1695/DRG/CIVIL/20013 P1 (proposed layout), 30001 P1, 30002 P1, 30003 P1, 30004 P1 (CHiP building elevations), 30005 P1, 30006 P1 (turbo expander building), 30007 P1 (service building and pump house), 30008 P1 (customer substation), 30009 P1, 30010 P1 (CHiP building plan and isometric views), 30011 P1 (regeneration view). Design & Access Statement (in support of amended planning application) FeildenCleggBradleyStudios (July 2009); Additional Environmental Information Report by environmental perspectives (July 2009) received 13 July 2009. Design & Access Statement by Mouchel Ltd (March 2009), Environmental Statement by environmental perspectives LLP (March 2009). Planning Statement by planning perspectives (March 2009), PADHI Report by Mouchel Ltd (March 2009), Statement of Community Involvement by 3G Communications (December 2008).

3) Fuel and urea deliveries to the development via Randolph Road and The Straight shall only be made using an articulated semi-trailer tanker with an overall length no greater than 11 m in accordance with details to be submitted to and approved in writing by the Local Planning Authority. These vehicles are to be used throughout the life of the development.

4) Fuel and urea deliveries to the development via Randolph Road and The Straight shall not be made between the hours of 2200 and 0600 Monday to Friday, and shall not be made between the hours of 2000 and 0800 on Saturdays, Sundays and Bank Holidays. The total number of fuel deliveries shall not exceed 40 in any one week.

5) No development shall take place until details of a scheme for site construction vehicle manoeuvring and turning movements, including swept-path diagrams, to demonstrate how vehicles will access the site and be able to turn into and emerge from the site in a forward gear have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the commencement of works on site and retained for the duration of the construction period.

6) The rating level of the noise emitted from the plant operation on site, as assessed under BS 4142: 1997, shall be at least 5 dB(A) below the existing background noise level at the nearest or worst affected residential property. Mitigation measures and recommendations contained within the approved noise report shall be implemented prior to the operation of the CHiP plant and retained thereafter. Such measures shall demonstrate that attenuation performance meets Environmental Health Standards.

7) No development shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been

submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented before the development is brought into use.

The scheme shall include:

i) Confirmation of the post construction surface water discharge rate.

ii) A clearly labeled drainage layout plan showing pipe networks and any attenuation systems, with calculated volumes. This plan should show any pipe 'node numbers' that have been referred to in network calculations and it should also show invert and cover levels of manholes.

iii) Confirmation of the critical storm duration.

iv) Where an outfall discharge control device is to be used such as a hydrobrake or twin orifice, this should be shown on the plan with the rate of discharge stated.

v) Calculations should demonstrate how the system operates during a 1 in 100 year critical duration storm event. If overland flooding occurs in this event, a plan should also be submitted detailing the location of overland flow paths.

vi) Details of how the scheme shall be maintained and managed after completion.

8) No development shall take place until the following components of a scheme to deal with the risks associated with contamination of the site have each been submitted to and approved, in writing, by the Local Planning Authority:

1) A preliminary risk assessment which has identified:

i) all previous uses

ii) potential contaminants associated with those uses

iii) a conceptual model of the site indicating sources, pathways and receptors

iv) potentially unacceptable risks arising from contamination at the site.

2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

3) The site investigation results and the detailed risk assessment and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The scheme shall be implemented as approved.

9) Prior to occupation of any part of the development hereby permitted, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance

with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include a plan for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the local planning authority.

10) Reports on monitoring, maintenance and any contingency action carried out in accordance with a long-term monitoring and maintenance plan shall be submitted to the local planning authority as set out in that plan. On completion of the monitoring programme a final report demonstrating that all long- term site remediation criteria have been met and documenting the decision to cease monitoring shall be submitted to and approved in writing by the Local Planning Authority.

11) If, during development, significant contamination not previously identified is found to be present at the site then no further development shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.

12) The development hereby permitted shall not be commenced until a scheme for the disposal of foul and surface water has been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented as approved. No infiltration of surface water drainage into the ground will be permitted unless it has been demonstrated that there is no resultant unacceptable risk to controlled waters.

13) Piling, or any other foundation designs using penetrative methods, shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater.

14) No development, including site remediation, shall take place until the applicant, agent or successor in deed or title, has secured the implementation of a programme of archaeological work, in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority.

15) No development shall take place until full details of soft and water landscaping works have been submitted to and approved in writing by the Local Planning Authority. Details shall comply with Advice Note 3, 'Potential Bird Hazards from Amenity Landscaping & Building Design' available at www.aoa.org.uk/publications/safeguarding.asp). These details shall include :

    i) the species, number and spacing of trees and shrubs

    ii) details of any water features

    No subsequent alterations to the approved landscaping scheme are to take place unless submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented no later than in the first planting season after completion.

16) No development shall take place until a Bird Hazard Management Plan has been submitted to and approved in writing by the Local Planning Authority. The submitted plan shall include details of the management of any flat/shallow pitched/green roofs on buildings within the site which may be attractive to nesting, roosting and "loafing" birds. The management plan shall comply with

Advice Note 8 'Potential Bird Hazards from Building Design'. The Bird Hazard Management Plan shall be implemented as approved, on completion of the development and shall remain in force for the life of the building. No subsequent alterations to the plan are to take place.

17) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Only in the event that the Secretary of State is minded to consider the use of the northern access as part of the application should the following additional condition be attached.

18) Fuel and Urea deliveries to and from the site via Beaconsfield Road and the site's northern access shall be undertaken as specified in the Southall Gas Pressure Reduction Station, The Straight, Southall Proposed Combined Heat and Intelligent Power Facility Traffic Management Plan prepared by Entran Limited dated February 2010 Revision V2.

APPENDIX 4 – GLOSSARY

AQMA	Air Quality Management Area
BIO/EFE	Biofuelwatch/Ealing Friends of the Earth
CHP	Combined Heat and Power
CHiP	Combined Heat and intelligent Power
CO_2	Carbon dioxide
COMEAP	The Committee on the Medical Effects of Air Pollution
DEFRA	Department for Environment, Food and Rural Affairs
EHO	Environmental Health Officer
EPUK	Environmental Protection UK
ES	Environmental Statement
FTA	Freight Transport Association
GLA	Greater London Authority
NAEI	National Atmospheric Emissions Inventory
LAQM.TG09	Local Air Quality Management Technical Guidance 2009
LP	The London Plan consolidated with alterations February 2008
MW	Megawatts
NO_2	Nitrogen dioxide
PIM	Pre-Inquiry Meeting
PPG13	Planning Policy Guidance Note 13: Transport
PPS1	Planning Policy Statement 1: Delivering Sustainable Development
PPS22	Planning Policy Statement 22: Renewable Energy
PPS23	Planning Policy Statement 23: Planning and Pollution Control
ROC	Renewable Obligation Certificate
PRS	Gas Pressure reduction Station
SCG	Statement of Common Ground
SCR	Selective Catalytic Reduction
SoM	The Secretary of State's Statement of Matters
TA	Transport Assessment
TMP	Traffic Management Plan
UDP	Ealing Unitary Development Plan
WSRS	West Southall Regeneration Scheme