



# Department for Communities and Local Government

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Our Ref: APP/T1600/A/13/2200210

Your Ref: NR/1422

6 January 2015

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78  
APPEAL BY URBASER BALFOUR BEATTY  
LAND AT JAVELIN PARK, NEAR HARESFIELD, GLOUCESTERSHIRE  
APPLICATION REF: 12/0008/STMAJW**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Brian Cook BA (Hons) DipTP MRTPI, who held a public local inquiry between 19 November and 13 December 2013 and between 14 – 29 January 2014 into your client's appeal against Gloucestershire County Council's (the Council) refusal to grant planning permission for an Energy from Waste (EfW) facility for the combustion of non-hazardous waste and the generation of energy, comprising the main EfW facility, a bottom ash processing facility and education/visitor centre, together with associated/ancillary infrastructure including access roads, weighbridges, fencing/gates, lighting, emissions stack, surface water drainage basins and landscaping, in accordance with application ref 12/0008/STMAJW dated 31 January 2012.
2. On 16 July 2013, the appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to the Town and Country Planning Act 1990, because the appeal involves proposals of major significance for the delivery of the Government's climate change programme and energy policies.

**Inspector's recommendation and summary of the decision**

3. The Inspector recommended that the appeal be allowed and planning permission granted subject to conditions. The Secretary of State agrees with the Inspector's analysis, except where indicated below and he has decided to allow the appeal and grant planning permission. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

## **Procedural matters**

4. In reaching this position, the Secretary of State has taken into account the Environmental Statement (ES) which was submitted under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations, the two further statements submitted under Regulation 22(1) and the further clarification and errata statements (IR8). The Secretary of State considers that the ES and the further information provided complies with the above regulations and that sufficient information has been provided for him to assess the environmental impact of the proposals.

## **Matters arising after the close of the inquiry**

5. The Secretary of State has taken account of the fact that, following the close of the inquiry, two matters occurred on which the comments of the main and Rule 6 parties were requested by the Planning Inspectorate on 10 March 2014 (IR17). On 18 February 2014 the Court of Appeal decision in *Barnwell Manor Wind Energy Limited v East Northamptonshire DC, English Heritage, National Trust and Secretary of State for Communities and Local Government* [2014] EWCA Civ 137 (*Barnwell Manor*) was handed down (IR18). In addition, on 6 March 2014, the Government issued the National Planning Practice Guidance (the Guidance) (IR19).
6. Subsequently, on 1 August 2014, the Secretary of State received a letter from GlosVAIN which purported to describe new information, relevant to the Secretary of State's decision on this appeal. GlosVAIN's letter was circulated to interested parties on 16 September 2014. On 16 October 2014, the Secretary of State circulated the responses received and also invited comments on his publication of new planning policy and new planning practice guidance on waste.
7. In coming to his decision on the appeal before him, the Secretary of State has taken account of all the representations referred to in paragraphs 5 and 6 above, which are listed at Annex A to this letter.
8. The Secretary of State is also in receipt of further correspondence following the close of the inquiry which is again listed at Annex A. He has carefully considered these representations but does not consider that they raise new matters that would affect his decision or require him to refer back to parties on their contents prior to reaching his decision. Copies of the representations referred to in paragraphs 5-8 will be provided on application to the address at the bottom of the first page of this letter.

## **Policy considerations**

9. In deciding the appeal the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
10. In this case the development plan consists of the Waste Core Strategy (WCS) (2012), the saved policies of the Waste Local Plan (WLP) (2004) and the Stroud District Local Plan (SDLP) (2005). The Secretary of State considers that the policies identified in

IR30 – 39 are the most relevant policies to this appeal. The Secretary of State has had regard to the Inspector's remarks about the emerging Stroud District Local Plan (IR41) and he is aware that the Plan's examination in public is due to resume shortly.

11. The Secretary of State observes that Planning Policy Statement 10: *Planning for Sustainable Waste Management* was cancelled with the publication of the new waste policy and guidance in October 2014. With that exception, he has had regard to those documents identified by the Inspector at IR42. The Secretary of State has also taken into account the Guidance published in March 2014; and the policy and guidance on waste published on 16 October 2014;
12. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA), the Secretary of State has paid special attention to the desirability of preserving those listed structures potentially affected by the scheme or their settings or any features of special architectural or historic interest which they may possess.

### **Preliminary Matters**

13. The Secretary of State has had regard to the Inspector's remarks at IR16 and IR21 about his role in relation to the WCS and about his former links with Gloucestershire including its County Council, and the fact that parties were made aware of those points.
14. In relation to the residual Municipal Solid Waste (MSW) treatment procurement project and the preparation of the WCS, the Secretary of State has taken account of the Inspector's timeline at IR964 and his comments at IR965. The Secretary of State sees no reason to disagree with the Inspector's analysis and conclusions about the way the WCS should be interpreted (IR966 – 992) including the weight to be given in this particular case to the Framework in respect of policy on the historic environment (IR989).
15. The Secretary of State has carefully considered the Inspector's comments about the procurement process (IR993 – 996) and he agrees with the Inspector (IR997) that this is not a matter he should take into account in his determination of this appeal.

### **Main Issues**

16. The Secretary of State agrees that the main issues in this appeal are those identified by the Inspector at IR998.

### ***Delivery of the Government's climate change programme and energy policies***

17. The Secretary of State has noted the Inspector's introductory remarks at IR999-1009 and, like the Inspector, he considers that the two issues are firstly, the extent to which the appeal proposal would represent a renewable and low carbon source of energy and secondly, the contribution, if any, it would make towards cutting greenhouse gas emissions (IR1010).
18. The Secretary of State agrees with the Inspector's analysis in respect of renewable and low carbon energy (IR1011-1017) and endorses his summary (IR1018) that

national energy policy confirms that there is an urgent and continuing need for new renewable electricity generating projects and recognises that even small scale projects have a valuable contribution to make. He also agrees that there is no limit to the provision that can come forward and no threshold below which the renewable energy contribution from a mixed scheme should be disregarded in some way and that EfW is a potential source of such energy which unlike weather dependant sources can provide a dependable peak and base load power on demand (IR1018). Like the Inspector, the Secretary of State considers that, with around half its exported electricity classified as renewable, the scheme would accord with national energy policy in this regard (IR1019).

19. The Secretary of State has given careful consideration to the Inspector's assessment of greenhouse gas emissions IR1020-1032. In terms of whether the proposal would be inherently better than landfill with regard to greenhouse gas emissions, the Secretary of State agrees with the Inspector that the EfW facility proposed would be better than landfill since there can be no methane released to the atmosphere as a result of the process (IR1033).
20. Turning to whether the proposal can be classified as low carbon, for the reasons given at IR1034-1035, the Secretary of State agrees with the Inspector that Government energy policy confirms that CO2 emissions from schemes like the appeal proposal are not a barrier to consent (IR1035).
21. For the reasons given by the Inspector at IR1036, the Secretary of State agrees with the Inspector's conclusion that the appeal proposal would contribute to the Government's overall policy for energy production over the period to 2050 and would do nothing to hinder its climate change programme. He agrees too that this would be a benefit of the scheme to which considerable weight should be attributed in the planning balance (IR1037).

***Whether the appeal proposal would be acceptable 'in principle' under WCS policy***  
**WCS6**

22. Having had regard to the Inspector's introductory remarks at IR1038-1042, the Secretary of State shares his view that, in principle, planning permission should be granted for the appeal proposal under policy WCS6 subject to compliance with its criteria a, b and c. He has gone on to consider those criteria.
23. The Secretary of State has carefully considered the Inspector's reasoning and conclusions on how the General and Key Development Criteria apply to this appeal (IR1043-1057). He has considered the representation dated 29 October 2014 submitted by GlosVAIN which argues that a localised height restriction applies to the appeal site but, having taken account of the Inspector's remarks at IR1123-1124, he does not consider that the height restriction relating to the planning consent for warehousing on the site amounts to a localised height restriction applicable to the appeal before him. He agrees with the Inspector's conclusion at IR1057 that the appeal proposal would be within the parameters of the guidance that underpins that part of the General Development Criteria in Appendix 5 as adopted. Like the Inspector (IR1057), the Secretary of State agrees that it is incompatible with the content of the WCS to object to the appeal proposal for reasons of height and scale.

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# Report to the Secretary of State for Communities and Local Government

by Brian Cook BA(Hons) DipTP MRTPI

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

Date: 6 June 2014

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THE TOWN AND COUNTRY PLANNING ACT 1990

GLOUCESTERSHIRE COUNTY COUNCIL

APPEAL BY

URBASER BALFOUR BEATTY

Inquiry opened on 19 November 2013

File Ref(s): APP/T1600/A/13/2200210

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12. A SOCG between UBB and GlosVAIN dated 17 October 2013 (CD4.9) sets out by way of text changes in red to the SOCG between UBB and GCC those areas of agreement and disagreement between the two parties and a considerable number of qualifications to other parts of the document.
13. When the planning application was consulted upon by GCC over 4,000 responses were received. These are all included with the appeal questionnaire and some, such as the representations by GlosVAIN, are extensive. Further submissions were made in response to the notification of the appeal by GCC on 15 July 2013 and these continued to be received up to the close of the Inquiry. Most of these were made by GlosVAIN and particular interested parties.
14. In my view such submissions by the main and Rule 6 parties after the Inquiry opened was not within either the spirit or the letter of Rule 6 of the Town and Country Planning (Inquiries Procedure) (England) Rules 2000. Accordingly, when resuming the Inquiry on 14 January 2014 after the Christmas break I announced that I would not accept from those parties any further document not first published in January 2014 unless the exceptional circumstances to do so were explained to me.
15. Submissions from particular interested parties continued to be received with some sent to the Programme Officer as late as during closing submissions. Again, this seemed to me contrary to natural justice and prejudicial to UBB in particular. During the afternoon of 28 January 2014 I announced that any submission made after 12.40 on that day (this being the time when closing submissions started) would be forwarded to the Secretary of State and not considered by me. Both David Elvin QC and Richard Phillips QC supported and endorsed this approach.
16. The Waste Core Strategy (WCS) (CD5.1) was adopted by GCC on 21 November 2012 following examination between 5 September 2011 and August 2012 in accordance with the provisions of the 2004 Act. I carried out that examination. I raised this matter at the pre-Inquiry meeting stating that I saw no reason why I should not hold the Inquiry. All present agreed and full details are given at paragraph 3 of CD4.12. In the event, a great deal of material from the WCS evidence base and examination library was introduced to the Inquiry Core Document library (CD5.7 to CD5.58 inclusive). Included among these documents was my report to GCC (CD5.49).
17. Following the close of the Inquiry two matters occurred on which the comments of the main and Rule 6 parties were requested on 10 March 2014 (PINQ 1).
18. On 18 February 2014 the Court of Appeal decision in *Barnwell Manor Wind Energy Limited v East Northamptonshire DC, English Heritage, National Trust and Secretary of State for Communities and Local Government* [2014] EWCA Civ 137 (*Barnwell Manor*) was handed down. The judgement upholds that of the Hon. Mrs Justice Lang in the lower court and has an important bearing on the cases put by GCC and UBB on the heritage issue. Accordingly, what was said by Mr Moules and Mr Phillips in closing on the other cases cited in their evidence is edited to an extent in my recording of their respective cases on heritage impacts.
19. On 6 March 2014 the National Planning Practice Guidance went 'live' on the Department for Communities and Local Government web site. This has replaced a large number of guidance documents including CDs 6.2, 6.7, 6.10, 6.13 and

- 6.14, listed towards the end of this report. However, the Ministerial Statement published at the launch is clear from the bullet points set out that where appropriate the National Planning Practice Guidance provides only greater clarity and affirmation of matters already included in policy (the Framework typically) rather than any new or additional policy. None of those bulleted points relate specifically to the matters relevant to the determination of this appeal since the reference to renewable energy is not to energy recovered from waste. As such where references to replaced documents were made in the closing submissions of the advocates these references remain in the summary of the cases made.
20. Responses to the letter of 10 March were received from GFOEN (PINQ2), GCC (PINQ3), GlosVAIN (PINQ4) and UBB (PINQ5 and PINQ6). Unfortunately, in his response on behalf of GlosVAIN, Mr Watson raised another matter. Comments on this were invited by letter dated 28 March 2014 (PINQ7). Responses to this letter were received from UBB (PINQ8) and GCC (PINQ9). I have taken into account all the views expressed in these various letters in making my recommendation.
21. Finally, I feel it is important to record that I worked for GCC planning department between August 1975 and December 1978 and lived to the north of the City of Gloucester. I moved to an adjoining county in 1978 and have lived there ever since. I mention this because I am as a consequence very familiar with the wider area in which the appeal site lies and have seen its evolution over a period of nearly 40 years. Parties to the Inquiry were made aware of that.

### **The Site and Surroundings**

22. The appeal site is located approximately 1.6km west of the centre of Haresfield and 8.5km south of the centre of Gloucester. It is approximately 5.1ha in area (including the site access road) and forms the southern part of Javelin Park, a disused former airfield and cleared brownfield site, currently comprising derelict ground, hard-standing and vegetated areas.
23. The appeal site is bounded to the north by an undeveloped derelict area, (the northern part of Javelin Park) with extant planning permission for B8 use which also extends to the appeal site itself, beyond which lies Blooms Garden Centre. Junction 12 of the M5 motorway is approximately 550 metres to the north. The eastern boundary of the appeal site is formed by the B4008 beyond which are agricultural fields and one residential property, the Lodge, which is approximately 50 metres from the site boundary beyond a mature hedgerow. A small unnamed watercourse flows into the south-east corner of the appeal site and continues along the southern and western boundaries delineated by a security fence and hedge respectively.
24. Agricultural fields lie to the south and west of the appeal site. The M5 motorway runs in a north-east/south-west orientation, approximately 70 metres from the western boundary. Hiltmead Farmhouse is located approximately 230 metres to the west on the opposite side of the M5 motorway.
25. Access to the appeal site is via a purpose built private road from a roundabout junction, recently constructed to provide access to Javelin Park from the B4008. Another access onto the northern half of Javelin Park is via a right turn lane on the B4008 and is shared with the Blooms Garden Centre access. There are no Public Rights of Way crossing or passing adjacent to the site.

1006. The appeal proposal would have a dual role. First, it would manage by means of combustion some 190,000 tonnes of non-hazardous residual MSW and C+I waste per annum, the overwhelming majority of which is currently disposed of to landfill. Second, the process would have an installed electricity generating capacity of some 17.4 Megawatts of which 14.5 Megawatts would be exported to the local network while the remainder would be used in the operation of the facility [47]. The facility has been designed and would be constructed in CHP ready mode with its R1 status confirmed by the EA [9]. This is the highest level of certification available prior to actual construction and operation of a facility [94].
1007. Renewable energy is that which comes from renewable non-fossil sources. The appeal proposal would use residual waste as the fuel source. Typically, such wastes contain a significant proportion of materials like food and wood (the 'biogenic' materials) and energy produced from this material is considered to be renewable. However, residual waste also contains wastes, such as plastics, manufactured from 'fossil' fuels. Energy from this fraction of the waste stream is not renewable and, for a mixed waste stream such as that in the appeal proposal, the energy recovered is considered to be only a partially renewable energy source (CD7.9, paragraph 18).
1008. UBB's case on this is put in detail by Mr Aumonier (UBB 5) and by Mr Phillips in closing [89 to 138]. In short, this is that there is an urgent need to divert the County's waste from landfill; much needed renewable energy with potential exploitation of CHP would be provided thus increasing energy security and assisting the achievement of renewable energy targets; and carbon dioxide otherwise emitted in the generation of energy would be reduced and harmful methane emissions from landfilling would be displaced [138].
1009. GlosVAIN accepts that renewable energy would be generated from the biogenic fraction of the waste and that this electricity would be classed as low carbon [785]. Nor does GlosVAIN challenge the need for renewable generating capacity [786]. However, it does challenge assumptions made by UBB and thus the actual contribution that would be made believing the renewable element to be considerably overstated [787 to 792]. GlosVAIN also considers even the lower carbon savings now claimed to be overstated since no allowance is made by Mr Aumonier in his WRATE model for the decarbonisation of the electricity grid to 2030 [795]. Finally, GlosVAIN does not accept that the facility would ever operate in CHP mode thus rendering its efficiency less than claimed [801]. SDC takes a similar position in that regard [707 to 715].
1010. What therefore appears to me to be in issue is first, the extent to which the appeal proposal would represent a renewable and low carbon source of energy and, second, the contribution, if any, it would make towards cutting greenhouse gas emissions. The weight that should be attributed in any planning balance to these two benefits claimed for the proposal can then be assessed.

#### Renewable and low carbon energy

1011. Residual waste typically contains many items that will have come from biological sources and the carbon stored within them is known as biogenic carbon. Other items that will be present such as plastics are manufactured using fossil fuels such as oil and the carbon embedded in them is known as fossil carbon. Biogenic carbon is also termed short cycle carbon because it was only



recently absorbed in growing matter. On the other hand, fossil carbon was absorbed millions of years ago and would be newly released to the atmosphere if combusted (CD7.9, paragraphs 37 to 38). These are principally accounting conventions when calculating contributions to global warming; the atmosphere does not distinguish between CO<sub>2</sub> released from a biogenic or fossil source (CD7.9, paragraph 37 and footnote 26).

1012. The extent to which the energy produced by the appeal proposal can be classed as renewable therefore turns on the proportion of biogenic material in the residual waste stream that would be treated. In the submitted application documents the renewable energy was assessed as 56% of the total ([48] and UBB1, paragraph 5.3.31) although this was revised to 52.6% by Mr Roberts (UBB1 Y, paragraph 8) as a result of further calculations by Mr Aumonier. For the reasons Mr Watson sets out (GV1, paragraphs 264 to 279) GlosVAIN calculate the figure as 47.8%.
1013. UBB used data for the County to assess the composition of MSW and EA Wales data for C+I waste composition (UBB5 I, paragraph 2.1.3). This is somewhat dated being from 2007, 2008 and 2010. The WDA has to accept the waste that is provided to it by the WCAs (whose collection arrangements may change) and UBB recognise that the make-up of the waste that the facility would deal with will likely change over its operational lifetime [110]. There it is said that UBB could preferentially select C+I waste with a high biomass content which would enhance the renewable energy produced. Ironically, if GlosVAIN is correct about the extent to which the WDA has overstated the MSW that would arise over the lifetime of the facility, the opportunity for UBB to do so may well present itself.
1014. In these circumstances there is therefore some uncertainty about the proportion of the energy that would be produced that could be correctly classed as renewable at any point in the facility's operational life. Although Mr Watson suggested that it may actually be lower than he calculated (GV1, paragraph 276) he did not put a figure on this [792].
1015. However, it seems to me that this is not relevant to this particular issue. I was not directed to any policy statement that sought to set a threshold for renewable energy above which a proposal must remain to be classed as making a contribution to the nation's renewable energy requirements. On the contrary, the evidence is that even the contribution made by small schemes is to be welcomed [111].
1016. Moreover, EN-1 confirms that to meet the target of sourcing 15% of the total UK energy across all sectors from renewable sources by 2020 '*...new projects need to continue to come forward urgently...*' (CD6.5, paragraph 3.4.1). While it goes on to suggest that by that date 30% or more of the UK's electricity generation at all scales 'could' come from renewable sources, there was no evidence to support Mr Watson's assertion that there was 'no doubt' that the proportion of electricity supply coming from renewable energy would exceed 15% well before 2020 (GV1, paragraph 100). Even if that assertion is proved to be correct, as Mr Aumonier points out, it is but a point on a trajectory towards maximising the contribution from renewables, rather than a ceiling on that contribution (UBB5/REB/A, paragraph 50). This is reinforced later in the same section of EN-1 (CD6.5, paragraph 3.4.5).

1017. Furthermore, the same section of EN-1 confirms EfW as one of the five sources of future large-scale renewable energy generation, the others being onshore and off shore wind, biomass and wave and tidal (CD6.5, paragraph 3.4.3). It goes on to say that renewable energy from the combustion of waste in EfW plants such as that proposed satisfies what Mr Phillips described as the four 'D's: dependable, diversified, distributed and dispatchable energy [107].

1018. In summary therefore, national energy policy confirms that there is an urgent and continuing need for new renewable electricity generating projects and recognises that even small scale projects have a valuable contribution to make. There is no limit to the provision that can come forward and no threshold below which the renewable energy contribution from a mixed scheme should be disregarded in some way. EfW is recognised as a potential source of such energy which unlike weather dependent sources can provide dependable peak and base load power on demand.

1019. The appeal proposal would export some 14.5 Megawatts to the local grid with around half classified as renewable. The appeal scheme would therefore accord with national energy policy in this regard. I return to consider the low carbon nature of the proposal below.

#### Greenhouse gas emissions

1020. Guide to the Debate contains a useful section on this and compares EfW with landfill (CD7.9, paragraphs 33 to 44). This is relevant to the consideration of this appeal since the appeal proposal is designed to manage residual waste, that is waste which remains after the prevention, preparing for reuse and recycling initiatives and activities of both the WCAs and the commercial and industrial waste generators have been brought to bear. Currently, this waste is largely landfilled by the WDA and the private sector.

1021. In short, managing untreated mixed waste by either combustion in an EfW plant or deposit in a landfill will release gases that contribute to global warming. However, whereas landfill will release both CO<sub>2</sub> and methane, an EfW process emits only CO<sub>2</sub>. Methane is currently assessed as being 25 times more damaging (CD7.9, paragraph 35) although this multiplier may be increased (UBB5 I, paragraph 1.3). Whether EfW produces a lower volume of greenhouse gases than landfill is a complex assessment that needs to be undertaken on a case-by-case basis (CD7.9, paragraph 42). Nevertheless, there are two general rules that apply. These are (CD7.9, paragraph 43):

- The proportion and type of biogenic waste is key with high biogenic content making EfW inherently better and landfill inherently worse.
- The more efficient the EfW plant is at turning waste into energy, the greater the carbon offset from conventional power generation and the lower the net emissions from EfW.

1022. UBB has used WRATE to assess the CO<sub>2</sub> equivalent savings that would be achieved by the appeal proposal. This is explained by Mr Aumonier in his evidence (UBB5, section 5.5) and set out in detail in UBB5 I. GlosVAIN is highly critical of the approach used (GV1, paragraphs 323 to 359).

1023. Some of these criticisms do not stand scrutiny. The assumption in the model that the electricity exported from the appeal proposal would displace that

otherwise produced by a CCGT should not be criticised. This is what Guide to the Debate identifies as the current standard comparator since this is the marginal technology choice if building a new power station [115]. As already discussed [1005] this document is one which should be afforded considerable weight as part of Government policy.

1024. In contrast to GlosVAIN, the change to Footnote 29 in the Guide to the Debate that Mr Watson draws attention to (PINQ4) still does not advocate the use of the long run marginal supply as the comparator. In addition, he may well be right that Dairy Crest provides a major opportunity to match available heat load with potential heat supply from the appeal proposal. Mr Aumonier did not rule this out although he accepted that it was a long shot [711]. However, for the 'win-win' opportunity Mr Watson claims to be realised, there would need to be an available site and a clear proposal at or nearer to the Dairy Crest plant; none has been put forward at this Inquiry. Mr Watson's argument is therefore a theoretical one to which very little weight should be given.

1025. Nor is it wrong to consider the savings by comparison with greenhouse gas emissions from landfill. That is the waste management method that is used now and would be used in the near future at least should the appeal proposal not come forward [477].

1026. Having said that, WRATE is clearly very sensitive to the default assumptions embedded in the model and those fed into it. That much is clear since while the model used for the submitted the planning application assessed the carbon benefit as some 40,480 tonnes CO<sub>2</sub> equivalent (UBB5, paragraph 183), that undertaken by Mr Aumonier estimated the saving to be 19,714 tonnes CO<sub>2</sub> equivalent (UBB5, paragraph 181). Although Mr Aumonier explains the reasons for this (UBB5, paragraphs 183 to 184), it does tend to lend support to some of the criticisms identified by Mr Watson (GV1, paragraph 329).

1027. Guide to the Debate confirms that generating heat and electricity together through CHP typically produces much greater efficiencies, in excess of 40% (CD7.9, paragraph 121). As set out above from the same source, the more efficient the EfW plant is, the greater the carbon offset [1021]. It is not therefore surprising that Mr Aumonier does not dispute (UBB5/REB/A, paragraph 23) Mr Watson's evidence that incinerators are particularly inefficient generators of electricity although this can be improved by operation as CHP (GV1, paragraph 348).

1028. From this it seems to me therefore that the carbon offset that would be achieved, the extent to which the appeal proposal can be considered low carbon and therefore the contribution to reducing greenhouse emissions that would be made by the appeal proposal, will be influenced by the potential for CHP to be realised.

1029. That no contracts exist between UBB and potential users of any heat is entirely to be expected at this stage of the process towards a planning permission and this has been accepted in other appeal decisions of this nature [120]. Nevertheless, UBB has identified what it considers to be a number of potential users through the heat user study presented by Mr Aumonier (UBB5C). However, Mr Simons neatly summarised the difficulty with this evidence based as it is largely on conversations and correspondence entered into by Mr Aumonier but not available to the Inquiry for reasons of commercial sensitivity [711].

Equally concerning is the observation in Guide to the Debate that while many EfW plants are built 'CHP ready' a lack of heat customers, due either to location or the relative cost of alternatives, means that they operate in the less efficient electricity-only mode (CD7.9, paragraph 81). Mr Watson's evidence was that only three out of 25 plants actually export heat (GV1, paragraph 357).

1030. Given that the WCS is technology neutral it would have not been sensible to examine the CHP potential of every site from the outset of the site selection process. To have done so and then sieved out those with no or only poor potential in relation to only one of the many waste management uses envisaged by the WCS may have excluded sites which in all other respects would have been suitable. I therefore agree with the position of UBB that it was right to investigate this matter once a shortlist of sites had been drawn up on the basis of the full range of criteria [122].
1031. No party to the Inquiry suggested that any of the other sites allocated in the WCS had a CHP potential the same as or better than the appeal site [123]. However, retrofitting existing developments with the necessary infrastructure to accept heat from an external source such as the appeal proposal was said by GlosVAIN to be problematic [797], an assertion that did not seem to be challenged by UBB [124].
1032. There are nevertheless a number of potential housing and commercial developments proposed in the immediate vicinity of the appeal site where this would not be a barrier if the necessary infrastructure was included from the outset. These are the northern part of Javelin Park, Quedgeley East and the extension to Hunts Grove. Mr Wyatt however confirmed in answer to my question that there was no specific policy requirement for the developers of these proposed sites to specifically consider the utilisation of any heat available locally. Such use could come forward however as an 'Allowable Solution' under policy ES1 of the SDLP submitted for examination for addressing regulated CO2 emissions targets (CD5.4, page 138). Taking this into consideration I generally agree with UBB about the prospects of the potential for CHP being taken up at one of these sites being realistic although I would not put it as high as Mr Phillips did [126].
1033. To summarise, whether the appeal proposal would be inherently better than landfill with regard to greenhouse gas emissions would depend on the biogenic composition of the wastes. There is no evidence that the content of the residual waste would be determined by the management route chosen. Whatever the biogenic content of the residual waste was at any point in time the EfW facility proposed would be better than landfill in terms of greenhouse gas emissions since there can be no methane released to atmosphere as a result of the process.
1034. However, whether the proposal can be classified as low carbon seems to me uncertain. Although UBB argue that EfW is low carbon the sources quoted for this assertion (Guide to the Debate, EN-1, EN-3 and various appeal decisions) [109], do not put it in quite those terms. In fact Guide to the Debate comes closest to that characterisation when it refers to energy from waste as a partially renewable energy source, '*sometimes referred to as a low carbon source*' (CD7.9, page 1) and, in the context of financing, says (CD7.9, pages 6 to 7) that resources will be put to '*...optimising the role of energy from waste in the hierarchy and as a source of low carbon energy*' (my emphasis throughout).

1035. Indeed EN-3 recognises that CO2 emissions may be a significant adverse impact of waste combustion plant (CD6.5, paragraph 2.5.38) which seems to me inconsistent with an assertion that EfW technology is low carbon. However, Government energy policy confirms that CO2 emissions are not reasons to prohibit the consenting of projects which use these technologies [113]. Furthermore, EN-3 sets that recognition within the context of section 2.2 of EN-1 which is generally about the road to 2050, the transition to a low carbon economy and the decarbonisation of the power generation sector by moving away from fossil fuels. The clear message, therefore, is that in that overall context CO2 emissions from schemes like the appeal proposal are not a barrier to consent.

#### Conclusion on this issue

1036. There is no development plan policy directly relevant to this issue. In terms of national policy the appeal proposal would:

- Provide an uncertain but not insignificant proportion of the exported electricity generated in the form of nationally needed renewable energy.
- Provide that proportion in a form that was dependable, diversified, distributed and dispatchable.
- Displace fossil fuel generated electricity for that proportion of the generated power and, if the potential is realised, heat that is classed as renewable.
- Displace methane emissions that would arise from continued landfilling of the residual wastes which would be managed at the facility.

1037. The appeal proposal would therefore contribute to the Government's overall policy for energy production over the period to 2050 and would do nothing to hinder its climate change programme. This would be a benefit of the scheme to which considerable weight should be attributed in the planning balance.

*Whether the appeal proposal would be acceptable 'in principle' under WCS policy WCS6*

#### Introduction

1038. The part of paragraph 18 of *Tesco* that Mr Elvin emphasised is quoted above [500]. He set out the whole paragraph in his closing submissions (GCC/INQ/13, paragraph 15). There it also says that '(the carefully crafted and considered development plan) *is intended to guide the behaviour of developers and planning authorities*'. This is echoed in the WCS itself where the reason for following a site allocations approach rather than one that is criteria-based is to '*...provide greater certainty for residents and businesses about what may come forward and where, but will also increase confidence within the waste industry as to the availability of suitable sites...which will in turn...improve the prospects of delivery.*' (CD5.1, paragraph 4.81). Clearly therefore a prospective developer is entitled to read the WCS and understand from it what might be acceptable on any given plot of land, particularly those specifically allocated for waste uses.

1039. GCC does not dispute that the recent strategic allocation of the appeal site in WCS policy WCS6 means that the principle of its development for waste management facilities is established [498]. Following *Tesco* and reading the