



Appeal Decision

Inquiry held on 3-5 March, 7-9 April
and 16 April 2009

Site visit made on 17 April 2009

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Appeal Ref: APP/K3225/A/08/2086011

Land to the South East of Bishop's Castle, Shropshire SY9 5BX

- 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 Bishop's Castle Biomass Power Ltd against South Shropshire District Council, now known as Shropshire Council.
- The application Ref:1/08/20502/F, is dated 7 March 2008.
- The development proposed is a renewable energy power plant with an embedded generator exporting to the local grid; thermal input is 13 MW; the development is under 5,000 m² comprising two buildings and some external plant; the power plant building is 62 m x 23 m (1426 m²), the reception area attached is 8 m x 6 m (48 m²) and the external equipment a total of 96 m²; the pelletiser building is 640 m².

Decision

1. I allow the appeal and grant planning permission for the erection of a biomass combined heat and power plant, pelletiser and associated works on land at Bishop's Castle Business Park, Bishop's Castle, SY9 5BX in accordance with the terms of the application Ref:1/08/20502/F, dated 7 March 2008, and the plans submitted therewith, as amended, numbered Figures 1, 2, 3, 4, 5, 6, 7A, 8A, 9A, 10A, 11, 12, 13, 14, 15, 15L, 16, 16L and Drawing Nos.LA3252/1 and SD1A, subject to the conditions in the Schedule of Conditions set out in this decision.

Preliminary matters

2. The Council failed to make a decision on the planning application in the required amount of time, and did not resolve how it would have determined the application had it been able to do so. The Council's involvement in the Inquiry was limited primarily to the discussion about possible conditions.¹ On application, the Bishop's Castle Group (BCG) was granted Rule 6(6) status and participated fully in the Inquiry process.
3. The scale of Figures 9 and 10 was incorrectly shown on the application drawings. Amended drawings specifying the correct scale were submitted by letter dated 2 February 2009. Revisions to Figures 7 and 8 were submitted at the Inquiry to correct inaccurate dimensions. Notwithstanding the description of the proposed development on the application form, the Council and the appellant agreed a revised description and site address, which I consider later.

¹ In accordance with the Minutes of the meeting of the Development Control Committee on 10 December 2008 – Document 57.

4. BCG advised at the opening of the Inquiry that it proposed to call two additional witnesses, and proofs of evidence were submitted at the Inquiry. The extra documents were addressed at the Inquiry without need of a specific adjournment for this purpose.
5. I made an accompanied site visit to the biomass power plant at Eccleshall, Staffordshire on Monday 6 April 2009. I also completed an unaccompanied visit to this plant to view it from local public roads late at night on Thursday 16 April 2009.
6. The appellant's closing submissions raised a question about amending the red line boundary of the appeal site.² I ruled that it was too late in the proceedings for this to be raised. BCG commented about this in correspondence submitted on 21 April, after the close of the Inquiry. In the circumstances, I exceptionally accepted this correspondence and the parties were given until 6 May to submit written representations on this point. BCG submitted further details on 24 April, but I did not accept that part of the correspondence concerning events which had transpired after the close of the Inquiry about trees. The appellant commented on 28 April, with BCG responding on 6 May. The appellant then made final comments, again on 6 May. I have taken these submissions into account in determining the appeal. However, I did not accept an email from BCG which arrived after the close of business on 6 May.

Main issues

7. I consider the main issues in this appeal to be the effects of the proposed development on:
 - (a) The character and appearance of the area.
 - (b) The living conditions of nearby residents, and on other land uses and activities in the locality, with particular reference to pollution, noise and disturbance.

I have also considered the compatibility of the proposal with national and local policy in respect of the generation of energy from renewable sources.

Reasons

Validity of application, description of proposal and Environmental Impact Assessment

8. Before considering the main issues identified above, it is necessary to consider representations concerning the validity of the application and the appeal, along with submissions about Environmental Impact Assessment (EIA).
9. BCG considers that the application is invalid and should be refused because land required to create the access spur to the proposed site from the existing internal estate road is not included within the red line defining the appeal site.

² The parties were advised by an email from PINS dated 14 April 2009 that the description of the proposed development included alterations to access, but that it appeared that such alterations would lie outside the appeal site edged red. The email invited submissions at the resumed Inquiry about the implications. The appellant responded in writing [Document 42] that permission could be subject to a Grampian style condition that "No development shall take place unless and until such planning permission as is required for the works to the access in so far as they lie outside the application site has been granted".

I was able to judge the relationship between the existing estate road and the appeal site at my site inspection. The appellant acknowledges that the road spur would be off-site work, but considers this could be addressed by a negatively worded condition. I have had regard to guidance about the content of applications. However, the Council accepted the application as valid and an appeal was submitted and accepted on the basis of this application. I have also taken into account the advice in Circular 11/95 *The Use of Conditions in Planning Permissions*, which provides that a condition may require a means of access even if such works are not included in the application, provided that they can be undertaken on land which is under the control of the applicant and sufficiently relates to the proposed development. The land required for access here is owned by the local authority. There is nothing before me to indicate that the imposition of a negatively worded condition should be ruled out on the grounds that there is no prospect at all of consent being granted for an access. I find no grounds for dismissing the appeal on the basis of an invalid application, or because it would be inappropriate to deal with access by means of an appropriate planning condition.

10. Notwithstanding the description of the proposed development on the application form, the Council and the appellant describe the proposal more succinctly as: "Erection of a biomass combined heat and power plant and pelletiser and associated works and alterations to existing vehicular access on land at Bishop's Castle Business Park, Bishop's Castle, SY9 5BX".³ However, if access was to be secured by means of a negatively worded or Grampian condition for off-site works then the reference to it should be deleted from the description. There was no dispute at the Inquiry that access would require a separate planning permission. I have therefore dealt with the appeal on the basis of an application for the 'Erection of a biomass combined heat and power plant, pelletiser and associated works'. I refer to 'combined heat and power' in this decision as CHP.
11. I turn next to the implications for EIA. Dealing with the proposal on the basis set out above would mean that the access should properly be regarded as an integral part of the development for the purposes of determining whether EIA is required. Paragraph 46 of Circular 02/99 advises that in such cases, the need for EIA (including the applicability of any indicative thresholds) must be considered in respect of the total development.⁴ The proposed plant and the access could not each proceed independently. The inclusion of the access would result in the area of the development exceeding the 0.5 ha threshold in Column 2 of the Table in Schedule 2 of the EIA Regulations with regard to Column 1 3(a) installations. On this basis, the proposal would be Schedule 2 development, and so the matter was referred to the Secretary of State for a Screening Direction.
12. The Secretary of State found that the proposal would, for the purposes of the EIA Regulations, not be likely to have significant effects on the environment by virtue of factors such as its nature, size or location. A Direction was issued on 27 May 2009 that the proposal is not EIA development. I do not disagree with

³ Addendum to Statement of Common Ground (SoCG) at Document 19.

⁴ Circular 02/99 *Environmental Impact Assessment*. BCG cited the judgement in *R (Baker) v North East Somerset Council and Hinton Organics (Wessex)* [2009] EWHC 595 (Admin) Case No. CO/397/2007, which concerns extensions, but I consider that the advice in Circular 02/99 is more pertinent to the circumstances here.

- this finding. However, this determination, made pursuant to the EIA Regulations, has no bearing on my assessment of the environmental effects of the proposal in deciding this appeal on its planning merits.
13. BCG considers that there is inadequate technical information about the proposal to permit a proper debate about its merits. I disagree. Substantial information about its environmental effects has been provided by the appellant. I consider that this, together with the evidence before the Inquiry, along with what I witnessed at my site inspections, provides sufficient information to inform my decision. In particular, I am satisfied that the specified parameters for the scheme provide a reasonable basis for determining whether the imposition of appropriate conditions would enable the development to proceed.
 14. BCG doubts that the size of the site is adequate for fuel handling, and raises in this regard possible future use of the land edged in blue on the application plans. However, any development of the land edged in blue would be subject to planning controls. With the exception of possible off-site conditions, the land edged blue is not a matter before me. Site size and speculation about future use of the land edged in blue, are not considerations which, in my view, should weigh against the proposal.
 15. I referred above to the accompanied visit made to the plant at Eccleshall, but BCG point out that the appellant was unable to direct it to a facility where similar technology to that proposed in the appeal scheme could be observed. However, the *Companion Guide* (PPS22CG) to Planning Policy Statement 22: *Renewable Energy* (PPS22) states that energy generation based on biomass is technologically well advanced and widely utilised in many parts of the world, for example in Scandinavia and North America the use of wood for heat and electricity generation on a commercial scale is well established. In determining the appeal on its planning merits, I do not believe that any adverse inference should be drawn from the fact that the appellant did not identify a similar plant to visit.
 16. Neither the way in which the then South Shropshire District Council dealt with the application, nor the dispute about the appellant's initial reluctance to make public certain data, have been influential in my determination of this appeal, which I have considered afresh, and on its planning merits.

Proposed development

17. The *Description of project*, which accompanied the planning application, indicates that the power plant would be rated 13 MW thermal maximum input.⁵ A two-stage steam turbine generating a nominal 2.5 MWe of power at 11 KV is proposed, with a transformer reducing up to 0.5 MWe of the nominal power to 415 V for the parasitic load in the power plant, and a high voltage connection to the substation on Love Lane. Technical details would be supplied and approved when the contracts for final equipment were let. An air-cooled cooling plant is proposed. The scheme includes a controlled environment with negative air pressure behind concertina doors. The *Description of project* states that fuels would be energy crops, non-food crops and wood chip, although the appellant suggested a condition at the appeal stage to restrict fuels to clean

⁵ *Description of project*, CJ Day Associates for Bishop's Castle Biomass Power Ltd, March 2008.

wood chip.⁶ Generation of power would be favoured not heat recovery, with the low grade heat in the turbine-generator cooling water reduced to 35°C for drying of the wet wood chip to a very dry fuel for pelletisation.

18. Air pollution control equipment was specified as high quality combustion and high efficiency multi-cyclones, but the appellant indicated at the Inquiry that the process would most likely be fitted with a fabric filter. The plant would be fitted with continuous emissions monitoring for particulates (PM₁₀) and oxides of nitrogen (NO_x), it would also monitor air flow speeds and rates, temperatures and carbon monoxide (CO).⁷ Figure 10A indicates that the power plant would be a maximum of 12 m high, and the stack would be 16 m high with a diameter of 1.2 m.
19. The appellant indicated at the Inquiry that it would be necessary to impose a condition preventing separate operation of the power plant and pelletiser to ensure that the proposal was a CHP scheme, and that it accorded with the agreed description. Figure 14 indicates "Heat mains subject to route surveys and subject to contracts" extending from the appeal site to other parts of the industrial/business estate, to the community college and sports and arts centre, and to an industrial estate off the B488. Off-site private power mains were also discussed at the Inquiry. Given the speculative nature of these off-site links, I have given little weight to these details. However, the site lies within a settlement, where there might be potential to utilise any surplus heat from the appeal scheme.
20. The *Description of project*, states that 8 jobs would be created for direct operation of the plant and pelletiser. However, it was evident at the Inquiry that this might depend upon the degree of automation installed within the proposed plant. Other jobs would also be created in the rural economy in producing and transporting wood chips.

Planning policy

21. I am required to decide this appeal having regard to the development plan, and to make my determination in accordance with it, unless material considerations indicate otherwise. The development plan includes the Regional Spatial Strategy for the West Midlands, January 2008 (RSS), and saved policies of the Shropshire and Telford and Wrekin Joint Structure Plan, adopted 2002 (SP), and the South Shropshire Local Plan, adopted 2005 (LP). I deal with the most relevant policies below, but have had regard to all submissions about policy.
22. The appeal site lies within an area identified in the LP where Policy S2 states that industrial and business development would be permitted. The proposed pelletiser would be an industrial use, whereas the proposed power plant would be unclassified. However, the combined operation would be an employment use that I consider would be consistent with the underlying objectives of Policy S2. I note that the estate may well have been marketed as a business park, but this does not negate its allocation in the LP.

⁶ Document 18.

⁷ Summary of Technical Details, Mr Kernon's Appendix 1.

Character and appearance

23. The appeal site lies at the edge of Bishop's Castle. Most of this rural market town is located on higher ground to the west of the appeal site. Surrounding three sides of the appeal site edged red there is open land, including some belts of birch trees, which is shown edged blue on the application drawings. To the north-east, beyond a hedgerow and lane, there is an open field, part of which is sometimes used for the local agricultural show, along with tennis courts further along the B488. To the east lies part of the sewage treatment works, beyond which there is open farmland. To the south there is open storage associated with a builders' merchant, and the estate's internal access road, which joins the B4385. The builders' merchant has a large industrial type shed sited at the entrance to the estate. On the other side of the estate access road there is a veterinary clinic. Next to the clinic is a modern unit occupied by a business which prepares food and drink hampers for distribution. The adjoining land benefits from planning permission for three starter units. There is also a temporary building in a central part of the estate that was used in the past as a child care facility. The remainder of the estate is open/undeveloped land, a large part of which is used as allotments and a bike track under temporary tenure.
24. There are residential dwellings to the west of the allotments, on the western side of the B488. The nearest dwelling would be some 148 m from the corner of the proposed pelletiser building.⁸ To the south of the industrial/business estate are playing fields. A large community college and associated playing areas lie to the south-west of the appeal site, on the opposite corner of the B4385/B488 junction. There are large buildings in the wider area within the industrial estate on the western side of Love Lane, and within the substantial complex that comprises a timber yard and sawmill. The proposal would be within the development boundary for Bishop's Castle, and so would not harm the sharp edge between the urban and rural areas, as defined in the LP.
25. The scheme proposes large, functional buildings of a simple industrial design located towards the rear of a designated industrial/business area, and close to the sewage works. Off-site landscaping would help to soften the visual impact of the proposed structures, by breaking up local and close range views of what would be bulky buildings. Scope exists to provide for this within the land edged in blue on the application plans. Its visual impact in this setting would depend much on the external materials used, which could be a matter for approval. I acknowledge that these would be large utilitarian structures. However, there are other large buildings both on this estate and in the wider area. The proposed design would not be inappropriate in its context, nor would it fail to take the opportunities available for improving the character and quality of the area and the way it functions. I find no grounds to reject the proposal because of conflict with the advice in Planning Policy Statement 1: *Delivering Sustainable Development* (PPS1) about design.
26. The design of the proposed buildings is criticised on the basis that it would not meet the high aesthetic standards required by the local planning authority for the building used for packing and distributing hampers. This building, which is at the front of the estate and is prominent in views from the road, includes

⁸ The distance was agreed by the parties at the Inquiry.

attractive design features. However, the appeal site is set well back from the B488 and B4385, to the rear of the estate, and close to the sewage works. Its different context to the hampers building means that different design considerations would apply. I am satisfied that this part of estate would be appropriate for large buildings and that the structures would not be out of keeping with their surroundings by reason of their scale or proportions. I note that the Council's Planning Practice Note on Material Planning Considerations cites the design guidance in PPS1, and states that achieving proper standards of design does not mean that new development must copy what exists in the locality.

27. The likelihood and possible extent of any steam/condensation plume from the stack was a matter of some speculation at the Inquiry, depending on the fuel moisture content. Even if such a plume were to be apparent for a substantial proportion of the cooler part of the year, I am not convinced that this would substantially harm the local landscape, given that the site is within an industrial/business area on the edge of a rural settlement. In this relatively low part of the landscape I do not consider that even a large plume at times would significantly detract from the wider appreciation of the surrounding hills.
28. The Shropshire Hills Area of Outstanding Natural Beauty (AONB) lies some distance to the south-east, south and south-west of Bishop's Castle. The nearest part of the AONB to the appeal site is some 300 m along the B4385 to the south-east of the estate access, where the land starts to rise up towards Oakeley Mynd and beyond to Long Mynd. I saw the view from vantage points in this vicinity during my accompanied visit to Oakeley House and nearby footpaths. The proposed development would be visible beyond the open fields, but it would be seen in the context of the settlement, which would be apparent rising up the hill slopes behind and to the sides of the proposed structures. Other large buildings within the industrial estates within Bishop's Castle, and in the open countryside, are also visible from these vantage points. The proposed structures would be more prominent from higher vantage points to the east of Oakeley House, but would still be seen to be part of the settlement. I do not consider that at this distance the proposal would harm views out of the AONB. The footpaths across the flatter land towards Love Lane would provide more close range views of the proposed development. However, this would be unlikely to affect walker's appreciation of the AONB, which would for the most part be derived from views in the opposite direction towards the rising hills to the east and south.
29. I also saw the view from vantage points within and beyond Bishop's Castle, to the west of the appeal site. The proposed buildings would be visible from Field Lane, which forms part of the Shropshire Way. The existing buildings on Bishop's Castle Business Park are visible along the B4385 between the playing fields in front and the open agricultural fields behind. The proposed structures would be larger and higher than the existing buildings, but would be seen as part of the same eastward projection of the settlement. In this context, I do not consider that the proposal would be visually intrusive upon the open countryside around the settlement or would harm more distant views to the higher land that comprises the AONB. Similarly, for the other vantage points to which I was referred, it seems to me that the proposed development would appear as part of the settlement fringe, in a relatively low part of the

landscape, where it would not significantly detract from more distant views towards the higher attractive rolling hills. Vehicles within the AONB as a result of the proposal would not be a significant addition to the traffic already on these rural roads, and so would not affect the landscape. I do not believe that the proposal would unduly affect the natural beauty of the AONB.

30. I have had regard to the objectives and policies for the AONB, to which I was referred, although these are not planning policy.⁹ These generally apply to development within the AONB, and so the proposal would not offend such policies. I note that Policy 30 provides that larger scale energy developments would be more suitable outside the AONB, e.g. linked to market towns where transport links are better, closer to larger scale demand, etc. Policy 32 states that biomass energy based on existing resources in the area, such as woodfuel and agricultural by-products, is particularly compatible with the AONB and is strongly supported. However, the status of these policies means that they can be given limited weight in determining this appeal on its planning merits. Nevertheless, they reinforce my view that there is no reason to reject the proposal on the grounds of likely harm to the AONB.
31. Introducing such large structures into what is currently an open area would significantly change the local townscape. However, this part of the town is specifically identified for industrial/business development, and I am satisfied, subject to appropriate conditions, that the proposal would be an acceptable addition in this context. The outlook for those working on the allotments or using the bike track would be significantly altered by the proposal. Notwithstanding the considerable investment in time and money towards improving these facilities, they must properly be considered temporary uses. As a result, the change in views from these vantage points cannot be given much weight in terms of the longer-term planning of the area, as envisaged in the LP designation for industrial/business development.
32. On the first main issue, I do not consider that the proposal would have an unacceptable adverse effect on the character and appearance of the area. I am satisfied that the proposal would not offend RSS Policy QE1, with regard to conserving and enhancing the environment, including the AONB; Policy QE3 concerning the quality of the built environment; or Policy QE6, which aims to safeguard landscape character. I find no conflict with LP Policy E1, which deals with landscape conservation, or Policy E6 with respect to design.

Pollution, noise and disturbance

33. The existing air quality in Bishop's Castle is good, with low background air pollution. The appellant acknowledges that the biomass plant would be likely to result in marginal increases in ground level concentrations of air pollution at the nearest sensitive receptors, and that emissions from the process have the potential to affect the health of local residents and people using the nearby cycle park, allotments and footpaths.
34. The proposal would not have a net rated thermal input of 20 or more megawatts and would not burn waste, so it would not require a permit under the Environmental Permitting Regulations 2007 (EP). Some controls, which I

⁹ AONB Management Plan - Document 40.5.

deal with later, would exist under the Clear Air Act 1993 (CAA), but I concur with the parties that these would not provide for specific emission limits. Emissions might affect amenity, which is a planning consideration. In the circumstances which apply here, I find that consideration of emission limits imposed by means of planning conditions would not result in any duplication of the planning and pollution control regimes.¹⁰ I set this out in advance because it is relevant to the way the respective cases have been argued.

35. BCG's technical case rests on the insufficient evidence provided by the appellant to base any assessment of impact or benefit upon. However, in terms of air quality and noise, I agree with the appellant that it would be appropriate to assess whether it would be reasonable to set parameters by condition. If so, the details of how this could be complied with, in terms of specific technology or plant, would then be a matter for the operator. The approach taken here by the parties was to replicate the type of conditions that would have been applicable if the scheme fell within the ambit of EP. The resultant emission limits were then applied in a modelling exercise. I consider this to be a reasonable approach in the circumstances which apply here.
36. A widely used mathematical model, Atmospheric Dispersion Modelling System (ADMS 4.1), was used to predict how emissions would be dispersed having regard to pollutant concentrations and flow rate, efflux velocity and temperature, meteorological conditions, surface roughness and terrain. Predicted levels were compared to Air Quality Objectives and environmental quality standards. There is limited meteorological data available for the site, and so data from elsewhere was used. The appellant acknowledges that this is potentially a weakness in the assessment. Nevertheless, sensitivity analysis was undertaken, and reference to Numerical Weather Prediction (NWP) meteorological data for Bishop's Castle indicates that the data relied upon is likely to be pessimistic. I find that the model is, given that there are limitations and uncertainties inherent in any dispersion model, reasonably robust. Other minor errors or corrections were acknowledged at the Inquiry, but I do not consider that these, either individually or cumulatively, have a significant effect on the overall validity of the model.
37. No site specific atmospheric profile data is available about the boundary heights of temperature inversions, which occur in the area under certain conditions. I note also that the model does not consider calm conditions. However, it modelled dispersion under seven different stability conditions, with the worst case impacts occurring during unstable climatic conditions, where the plume is brought to ground near to the point of release due to convective turbulence, and the worst case in neutral conditions due mainly to the effects of nearby structures on mechanical turbulence. The predicted impact during stable atmospheric conditions is much lower close to the site. Some turbulence may occur as inversions break up, but for inversions with a low boundary layer it is likely that the high thermal and mechanical buoyancy of the plume would allow it to penetrate the layer, and for higher inversion layers there would be less risk of the plume returning to ground level. Notwithstanding local

¹⁰ This would accord with the advice in Planning Policy Statement 23: *Planning and Pollution Control* (PPS23) paragraph 1.48 that it may be appropriate to use planning conditions to control other aspects of the development, provided these are not covered by the pollution permit and that a land use planning consideration can be clearly distinguished.

- testimony about inversions, I find no compelling evidence that these would cause the proposed development to have an unacceptable adverse impact on air quality in the locality.
38. Criticism of the model included the absence of provision for terrain effects, but for the purposes of this local assessment I believe that the assumption that the area is flat in the vicinity of the appeal site is not unreasonable. The figures used in the model for surface roughness also seem to me to be appropriate. The sensitivity analysis indicates that no air quality problems of any real significance would arise. The model might not be perfect, but I do not consider it to be invalidated by any of the criticisms to its application in this case.
39. Emission limits could be set by planning condition, and I deal with these in more detail later, along with other detailed pollution control considerations, including discharge velocity and temperature. BCG is concerned that no specific analysis was undertaken for PM_{2.5} particulates. However, bag or fabric filtration was discussed at the Inquiry, and I have no reason to doubt the appellant's expert's view that such filtration is effective across a range of particle sizes, including PM_{2.5} particulates. I deal with conditions concerning filtration later. I consider that emissions during the construction phase, fugitive emissions and odours are matters that could be addressed by condition.
40. I accept that the proposed combustion in a secondary chamber for two seconds at above 850°C would ensure the effective destruction of organic compounds. Given the fuel and combustion proposed, I am satisfied that dioxins and furans would be an insignificant percentage of the advisory limits. This is something which could be verified once the plant was operational, and a matter I return to under possible conditions. There are many different dioxins, but this does not justify invoking the precautionary principle.¹¹ It seems to me that any level of scientific uncertainty about the consequences or risk of dioxins would fall far below that likely to justify the precautionary approach outlined in PPS23. The AEAT 2001 report does not provide an authoritative basis for considering emission factors in the circumstances which apply in this appeal, because the report was based on emissions to atmosphere from a wood-fired air-heater burning waste soft and hard wood from machining processes, with no secondary burner fitted and a cyclone installed to abate particulate emissions.¹² This is very different from what is proposed here.
41. BCG questions the basis for determining a stack height of 16 m and refers to a preliminary assessment indicating an initial stack height of 27 m using HMIP Technical Guidance Note (Dispersion) D1, *Guidelines on Discharge Stack Heights for Polluting Emissions* 1993.¹³ The appellant acknowledges that a 27 m high stack might halve ground level contaminants locally, but notes that deposition would occur somewhere, and that it would be preferable to halve emissions at source. The parties agree that the CAA does not include a power to control NO_x or particulates in the PM_{2.5} or PM₁₀ range.¹⁴ It is also agreed

¹¹ Some 419 types of dioxin-related compounds have been identified but only about 30 of these are considered to have significant toxicity. WHO Fact Sheet - Document 34.

¹² Document 11.

¹³ Dr Broomfield's Appendix 1.

¹⁴ Document 17 Addendum to SoCG concerning the relationship between the Clean Air Act and the planning regime.

that Guidance Note D1 is aimed at shortcutting the need for direct dispersal modelling for small plants, whereas ADMS4 dispersal modelling has been carried out by the appellant in this case. I do not consider that the advice in Guidance Note D1 should be decisive in assessing the use and development of land under the planning system. In any event, stack height would require local authority approval pursuant to the provisions of the CAA. I have had regard to BCG's concerns regarding the information available about existing and proposed ground levels, and the resultant implications for effective stack height. However, I am satisfied that this is a matter of detail, which could reasonably be left for approval under a planning condition because, with appropriate limits specified, it would not fundamentally alter the environmental impact of the proposal in terms of its planning merit.

42. PPS23 advises that planning authorities should work on the assumption that the relevant pollution control regime would be properly applied and enforced. The CAA provides that approval would not be granted unless the local authority is satisfied that the height would be sufficient to prevent, so far as practicable, smoke, grit, dust, gases or fumes emitted becoming prejudicial to health or a nuisance, having regard to, amongst other things, the position and description of nearby buildings, and the levels of neighbouring ground. I have determined the appeal before me, with a 16 m high stack, on its planning merits. However, stack height is a matter that would be the subject of separate and specific pollution controls. Furthermore, a decision under the planning regime would not fetter the relevant authority in exercising its discretion under another jurisdiction.
43. I turn next to noise and disturbance. A noise survey undertaken on the industrial/business estate some 30 m from the road, adjacent to the stream, indicated daytime background levels of between 35-40 dB L_{A90} . However, noise levels on calm nights fell below 25 dB L_{A90} . The noise experts reached agreement about a likely noise level within the turbine hall, and for the barrier attenuation provided by the building for noise from the cooling tower. However, they disagreed about likely fan speed at night, which gave rise to a difference in predicted noise levels at the nearest residential property. The appellant predicts levels of 31 dBA, whilst BCG's expert predicts a level of 36 dBA, on the basis that fans would run at 100% speed and not 75% at night.¹⁵ However, BCG's expert acknowledges that it would be possible to deal with this issue by condition. Nonetheless, BCG considers that if there is any reasonable doubt that such conditions could not be met then planning permission should not be granted.
44. Conditions suggested at the Inquiry provide for a daytime limit of noise from the proposed development at the nearest dwelling of 41 dB $L_{Aeq,1hr}$ and a night time limit of 33 dB $L_{Aeq,5min}$. There is a dispute about when the night time limit should apply, which I deal with later in the Conditions section of this decision. Conditions are also suggested to control potentially annoying frequencies and tones. The site is within an industrial/business estate where some activity and associated noise would be expected. Construction noise would be for a limited duration and methods could be covered by condition so as to minimise noise and disturbance. It seems to me that the proposed daytime limit would be consistent with existing noise levels in the locality. I have taken into account

¹⁵ Document 12.

- the low night time background levels on calm nights, but I am satisfied, having regard to the WHO guideline values for community noise, that the suggested limit of 33 dB $L_{Aeq,5min}$ would provide for a reasonable standard of amenity for the occupiers of nearby dwellings.¹⁶ BCG raised the possibility of noise from periodic steam 'blow down' from the boiler, but if this were to occur it would contribute to the overall noise level from the plant that would be the subject of the noise limits imposed by condition.
45. I note that the proposal includes acoustic measures within the building to achieve a specified Sound Reduction Index, and that noise abatement would include a silencer between the induced draft fan and the stack. BCG is critical of the lack of detail about the cooling system, but the Appellant's *Environmental report* states that the sound power level of the cooling plant was based on "typical industry standard equipment". I am not convinced that the disagreement about the speed fans would operate at during summer nights is a consideration which would justify a finding that the imposition of the suggested condition would be unreasonable. I am aware that there are various technical means to abate fan noise. In the circumstances which apply here, I consider that there is a reasonable prospect for the specification and design of plant to achieve the suggested noise limits. I do not, therefore, consider that the proposal would result in undue noise or disturbance.
46. Figure 11 indicates two proposed boreholes within the appeal site. The abstraction of water is the subject of specific controls.¹⁷ However, the Inquiry heard that an abstraction licence might not be required in this area. I consider, therefore, that it would be necessary to impose a planning condition to require details about the proposed boreholes, along with a hydrology assessment, to be submitted for prior approval to safeguard ground water. I heard evidence at the Inquiry about local flooding and poor drainage. However, there is no technical evidence about this, and no objection from the EA. In the absence of more specific information, there is nothing to indicate that appropriate conditions about ground levels and an approved drainage scheme would not suffice in this case. Subject to appropriate conditions, I find no conflict with LP Policy RE2 concerning the water environment.
47. There is local concern that NO_x emissions would add to the nitrate problem on agricultural land in the area, and affect local watercourses and wildlife.¹⁸ The locality falls within a Nitrate Vulnerable Zone (NVZ), as does almost 70% of England, where there are strict controls on nitrate pollution.¹⁹ However, there is evidence that NO is very insoluble and that the wet deposition rate would be zero, and that the deposition rate of NO₂ is also small.²⁰ This evidence was not disputed at the Inquiry. I do not, therefore, consider that NO_x emissions from the proposed plant would unduly affect the NVZ, nor would it have an unacceptable impact on nature conservation.
48. BCG referred to the way waste ash was stored at the Eccleshall plant, and

¹⁶ *Guidelines for Community Noise*, World Health Organisation (WHO) 1999.

¹⁷ PPS22CG at page 92 states that developers will need to secure an abstraction licence from the Environment Agency(EA) for the abstraction of water.

¹⁸ The nearest wildlife site, a flower rich grassland, is some 1.5 km from the appeal site. The nearest Site of Special Scientific Interest is about 6 km from the appeal site. [Evidence at Inquiry by Fiona Gomersall]

¹⁹ Document 37.

²⁰ Document 33 *ADMS 4 User Guide* page 71.

feared that similar storage in bags on site and open storage might result on the appeal site. I note that PPS22CG advises that the ash from most fuels can be safely returned to the soil as a fertiliser.²¹ In addition, conditions are proposed here concerning the way ash would be contained. I do not, therefore, consider that removing or disposing of ash would pose an insurmountable obstacle to an acceptable operation of the proposed plant.

49. Appendix A of PPS23 sets out matters for consideration in taking decisions on individual planning applications. These include; “- the objective perception of unacceptable risk to the health or safety of the public arising from the development”. Considerable evidence was adduced at the Inquiry by local medical practitioners, those involved in the education of children and representatives of the local community about health fears. These genuine concerns are understandable where a potentially polluting process is proposed near to dwellings, a school and outdoor recreation areas. In weighing the evidence before me, I fully appreciate local apprehensions about the long-term effects on children, and the implications of this for local schools. However, I do not consider that any objective perception of unacceptable risk is sufficient by itself to justify dismissing the appeal in the circumstances which apply here, where it seems to me that appropriate conditions could be imposed, not only to control potentially harmful emissions to an acceptable level, but also to demonstrate verification and enforcement through transparent monitoring, testing and recording of parameters relevant to the health and amenity of the local community.
50. The proposed buildings and stack would be substantial structures. Views of the proposed plant from nearby dwellings would not be screened by existing vegetation, nor would it be likely that additional planting would screen out such views. However, I consider that the structures would be a sufficient distance from the nearest dwellings so as not to have an overbearing or dominating effect on the outlook from these properties. External lighting could be controlled by condition. I was able to judge the relationship between the proposal and dwellings at my site inspection, and find no harm to the living conditions of the occupiers of nearby dwellings by reason of the visual impact of the proposed development.
51. I am satisfied that the potential air and water quality impacts of the proposal could be effectively controlled by the imposition of appropriate planning conditions. Similarly, I consider that noise and disturbance could be controlled to reasonable levels by planning conditions. The scheme would not conflict with the aims of RSS Policy QE6 with respect to tranquillity and the minimisation of noise and light pollution. On the second main issue, I do not consider that the proposed development would, subject to conditions, have an unacceptable adverse effect on the living conditions of nearby residents, or on other land uses and activities in the locality, by reason of pollution, noise or disturbance. I find no conflict with SP Policy P16, which deals with air quality. I am also satisfied that the proposal would not be contrary to the provisions of LP Policy ED5 regarding noisy activities, or Policy SD2 concerning pollution.

²¹ PPS22 Companion Guide page 87.

Renewable energy

52. BCG considers that there is uncertainty about a sufficient supply of fuel within sustainable delivery distances. It also has concerns about seasonal harvesting practices and resultant storage problems, along with the inability of large vehicles to access forestry sites. There are also local concerns that demand for fuel would have an adverse impact on nature conservation. PPS22 refers in this regard to possible increases in traffic, and that generation plants should be located as close as possible to the sources of fuel that have been identified. However, PPS22CG provides that information to accompany a planning application could usefully include the general location of fuel sources, and notes that it is preferable to locate such plants at the 'centre of gravity' of the proposed feedstock. I do not, therefore, consider that the appeal scheme should necessarily identify in detail its likely sources of fuel. It is sufficient that the site is central to a large rural area that contains substantial forests and woodland. The existence of a large sawmill nearby indicates to me that this location is a reasonable centre of gravity for wood chip feedstock. There are other controls on activities which would harm protected species or designated areas of wildlife importance. I am not convinced that providing wood chips for the proposed plant would necessarily result in a net loss of wildlife habitat, and much would depend on land management practices, which are not matters for the planning system.
53. A substantial part of BCG's case against the proposal concerns the likely energy efficiency of the plant, along with reservations about changing attitudes to the suitability of biomass as a renewable energy technology. I have taken into account the recent research for the Environment Agency (EA) on greenhouse gas emissions from biomass heat and power generation in *Biomass: Carbon sink or carbon sinner?*.²² This is not Government policy, but it raises a number of relevant questions. It states that; "Biomass is ultimately a limited resource with many competing uses in the heat, power, transport and materials sectors. This makes it even more important to ensure that each tonne of fuel produces the best return in terms of greenhouse gas emission savings." However, there are other mechanisms to encourage efficient use of resources, for example the quality CHP provisions of the Renewables Obligation are cited in the *UK Biomass Strategy*.²³ In addition, the EA suggests that the relevant support instruments – the Renewables Obligation and the Renewable Heat Incentive, need to be designed to favour low carbon biomass energy generation.²⁴
54. Little weight can be given to the references in the application to an off-site heat main, but the appeal scheme, by virtue of the suggested condition linking the proposed power plant with the pelletiser, would mean that the operation would be a CHP enterprise for the purposes of applying relevant policy. I was referred to the hierarchy of biomass options in the *UK Biomass Strategy*, which in terms of order of cost effectiveness, places electricity generation from power plant fired exclusively on biomass towards the bottom of this list.²⁵ However, this is not the correct category for the appeal scheme. I note that elsewhere in the *Strategy*, in considering how incentives support the cost-effective use of biomass to reduce carbon emissions from energy, it states that heat

²² Document 48.

²³ Document 39.

²⁴ Document 48 paragraph 3.1 .

²⁵ Document 39 paragraph 5.2.

applications represent the most cost effective way of exploiting the carbon reduction potential of biomass, followed by CHP for industrial intensive energy users, then co-firing with coal in electricity generation, other forms of electricity generation from biomass alone, and transport fuels.²⁶ On this basis, the appeal scheme would fall within the second most cost effective way of exploiting the carbon reduction potential of biomass. The Government has set a target for Good Quality CHP and has support mechanisms to secure this objective. It also notes that whilst the viability of CHP is affected by a number of economic factors, the best sites for CHP are industrial sites in continual operation.²⁷

55. The scheme would provide some benefits in terms of diversification of energy supply and the minimisation of long distance electrical transmission losses. In utilising a renewable fuel it would contribute to carbon mitigation, which PPS22CG advises is an issue in determining such applications. I find that the proposal would be consistent with the *UK Biomass Strategy*, which is intended to, amongst other things, realise a major expansion in the supply and use of biomass in the UK.²⁸ There is nothing to indicate from the BERR 2008 consultation about the *UK Renewable Energy Strategy* that this intention is likely to change.²⁹ It considers the issue of air quality in some depth given the potentially crucial role that biomass heat could play in delivering renewable heat, and goes on to state that Defra is undertaking further analysis to assess the impacts of realistic uptake scenarios, in order to facilitate the level of biomass uptake necessary to meet the UK's renewable energy obligations, while at the same time protecting air quality and public health. The weight which can be given to this document is limited because it has been published for consultation, but it does state that stringent emission controls on individual plant would mitigate significant impact on air quality.
56. I do not consider that efficiency considerations here should be paramount in determining whether the appeal proposal would be an appropriate use and development of land under the planning system. The proposal would gain some support from the underlying objectives of RSS Policies EN1 and CC1, which encourage proposals for the use of renewable energy resources, including biomass. It would also accord with the underlying aims of LP Policy SD1 concerning sustainable development.

Other matters

57. I have had regard to the advice in PPS22CG about HGV generation by biomass plants, along with the disputed calculations about trip generation from this proposal, depending on what assumptions are made about the moisture content of feedstock, and the likely service requirements of the proposed pelletiser. I accept that different assumptions might result in higher predictions of HGV generation than those cited by the appellant. Even if this proved to be so, I do not believe that this would be likely to be particularly significant in the circumstances which apply here. The access to the industrial/business estate is adequate to accommodate HGVs. The accident record does not indicate any specific problems with junction designs, road

²⁶ *Ibid* paragraph 3.8.

²⁷ *Ibid* paragraphs 5.10 and 5.11.

²⁸ *Ibid* Executive Summary.

²⁹ Document 29.

geometry or other technical difficulties on the immediate local network. I drove extensively in the area as part of my unaccompanied site visits. I acknowledge that parts of the B4385 are narrow and difficult for HGVs to negotiate. In the wider area, I was aware of some constraints to HGVs, along with areas where particular care would need to be exercised. However, it was evident that large vehicles do travel to, and through, this locality, servicing the many and varied businesses and premises in this rural area.

58. I do not believe that there is any compelling evidence that the local road network would be unable to cope with a scheme of this nature and scale. I note that there is no objection from the Highway Authority. I do not consider that the scheme would have an unacceptable adverse impact on traffic generation or highway safety. I find no conflict with SP Policy P31 concerning sustainable transport, or SP Policy P35, which provides that development should ensure that the impact of lorries on communities and the environment would be minimised by, amongst other things, encouraging heavy commercial vehicles to use the national primary road network and other designated routes.
59. The scheme was criticised for not providing many jobs given the size of the site it would occupy. I do not consider that this weighs against the proposal given the wide range of employment uses, and associated jobs/ha, which could potentially, in accordance with relevant policy, occupy this industrial/business employment land. There is no compelling evidence of any shortage of employment land, as is evident from the extent to which land within the allocated Bishop's Castle site remains to be developed. I find no conflict with LP Policy S3, which aims to retain employment sites to ensure that scarce employment land is protected and used effectively.
60. BCG argues that the proposed development would be incompatible with other users on the estate, suggesting that it would be detrimental to the viability of the veterinary practice and the hamper distribution business. I accept that the implementation of the permission for starter units lies in the hands of the existing owner, who opposes the appeal scheme. Nevertheless, subject to compliance with the stringent environmental conditions suggested, I do not believe that the proposal would be likely, in practice, to have a significantly greater detrimental effect on existing businesses than might some other acceptable industrial/business development of the appeal site. I do not believe that much weight can be given to arguments about the long-term viability of the proposal and what might become of the proposed buildings if the enterprise failed, because any future use of the site would be the subject of planning controls.
61. The Bishop's Castle Conservation Area encompasses the core of the town centre, but its nearest boundary is a considerable distance from the appeal site. It was apparent from my site visits, which included high vantage points within the conservation area, that the proposed development would not significantly affect either the character or appearance of, or views into or out of, the conservation area. The separation distance and intervening development would also mean that the proposal would not harm the setting of listed buildings within Bishop's Castle. I find no conflict with the guidance in PPG15: *Planning and the Historic Environment*.
62. Substantial evidence was adduced about the importance of tourism to the local

economy. I have no reason to doubt its significance. However, I am not convinced that the likely effects of the proposal on local tourism would justify dismissing the appeal. I have found that the appeal scheme would not have an unacceptable adverse effect on the character and appearance of the area, nor would it harm the AONB. The proposed plant would not diminish the area's rich cultural heritage. The Shropshire countryside and local features, which inspired writers such as Mary Webb, would not be adversely affected by this scheme. There is nothing to indicate that it would impact upon the four Mary Webb trails.³⁰ A former Chairman of the Mary Webb Society indicated that if the proposal were to go ahead the Society would not hold future events in Bishop's Castle.³¹ In the absence of further information about the programming of such events, I do not consider that much weight can be given to this evidence in assessing the overall likely impact of the proposal on local tourism. I acknowledge that there are strongly held opinions about how the proposed plant might be perceived by tourists and the consequences for the local economy. However, there is no specific evidence or research to confirm that such apprehensions are justified by experience elsewhere in comparable circumstances. It seems to me that those attributes which tourists now find attractive in the locality would be likely to retain their draw if a biomass combined heat and power plant and pelletiser were to be erected on this industrial/business area on the edge of Bishop's Castle.

63. Given the separation distance, I do not consider that the proposed development would be likely to adversely impact upon the historic buildings at Oakeley House, Stank Lane, nor is there any compelling reason why it might adversely affect the prospects for redevelopment and re-use of its historic outbuildings for tourist accommodation.³²
64. Given my findings about the likely effects on the AONB, I disagree with submissions that the proposal would impair community initiatives and comprehensive programmes to promote amenity, health and prosperity in the Shropshire Hills.³³
65. I have taken into account all other matters raised in evidence, but have found nothing to outweigh the main considerations that lead to my conclusions.

Conditions

66. Suggested conditions were discussed at length at the Inquiry based on various wording favoured by the parties.³⁴ I have considered the need for these conditions, and their wording, in the light of the advice contained in Circular 11/95 *The Use of Conditions in Planning Permissions*.
67. There is nothing to indicate that the standard commencement time period would not be appropriate here. The construction process would need to be approved in the interests of the amenity of the area, but the times suggested by BCG might unduly prolong the construction period, and specific restrictions during school examination times would be problematic to enforce. Samples of external materials would need to be approved in the interests of the

³⁰ Document 40.4.

³¹ Document 54.

³² Document 16.

³³ Document 40.6.

³⁴ Documents 18 and 42.

- appearance of the area. A negatively worded condition would be necessary to provide access between the appeal site and the internal estate road. The details in the application about ground levels are inadequate and final levels would need to be approved. The height of structures would need to be restricted because the environmental effects of the proposal were assessed on the basis of a building height not exceeding 12 m and a stack height of 16 m.
68. The restriction of permitted development rights would be justified, exceptionally, because such additions could result in changes to the acoustic environment or air quality effects, which would not have been assessed. Outside or open storage would need to be restricted to safeguard the appearance of the area. Figure 4 shows areas for hardstanding and parking that would be required to be kept available for such purposes. Landscaping would be required in the interests of the appearance of the area. However, there are significant differences between the landscaping shown on Figure 15L and the Landscape Proposals Plan LA3252/1. A scheme would, therefore, need to be approved. This could incorporate hard landscape works, protection for retained trees, boundary treatment and maintenance/inspection provisions, which were suggested as separate conditions by the parties. I consider that some off-site landscaping would be necessary to soften the visual impact of the proposed structures, as insufficient land is available to do so within the site edged red.
69. Drainage details would need to be approved and implemented in the interests of the amenity of the area. For the reasons set out above, prior approval would be necessary for the proposed boreholes, although any consultation with the EA would be a matter for the local planning authority.
70. There was considerable discussion at the Inquiry about whether a condition should require provision of off-site heat and power mains. Maximising the advantages of CHP by such means would be beneficial but not, in my view, necessary here to enable the development to go ahead. The scheme incorporates a pelletiser that would utilise heat from the power plant, and so the proposal would benefit from policy support for CHP initiatives. However, to ensure that such benefits were achieved, it would be necessary to impose a condition precluding independent operation of the power plant and pelletiser.
71. The *Description of project* states that deliveries would be restricted to 0700-1700 Monday to Friday, but I am not aware of any reason why this would be necessary, given the location of the appeal site within an industrial/business estate. The appellant does not dispute the imposition of a condition that the pelletiser should not be used between the hours of 2300-0700. However, I am not convinced that this would be necessary. Provided that the pelletiser was subject to the same environmental controls as the power plant, I see no reason for the imposition of different operating hours.
72. Severn Trent Water requested a condition to safeguard the public sewer, which traverses the site. The proposed buildings are set back from the alignment shown for the sewer, and a condition which would require planning permission for other buildings or structures has been suggested. Subject to the inclusion of safeguarding for the sewer in the landscaping scheme, I do not consider that a separate condition for the sewer would be necessary. Separate conditions specifying impermeable hardstanding, a sealed drainage system and oil

interceptors were suggested, but these could be addressed by other landscaping and drainage conditions.

73. Control of noise would be necessary to safeguard the amenity of those living, working and studying nearby. External doors would need to be closed when not in use for noise controls to be effective. The parties reached a measure of agreement about appropriate parameters for control noise.³⁵ I have no reason to disagree with these, except as indicated above concerning the hours of operation of the pelletiser plant, and that an index (L_{eq}) would need to be included for the Noise Rating.³⁶ BCG also preferred that night time hours be from 2200 to 0700. PPG24: *Planning and Noise* refers to noise at night, especially during the hours when people are normally sleeping (23.00 to 07.00). However, it is evident from the noise survey that background levels fall sharply in the late evening in calm conditions. I do not consider that a noise limit of 41 dB $L_{Aeq,1hr}$ would be appropriate here in the late evening when children would most likely be sleeping. This would significantly exceed background levels. I agree with BCG that in the circumstances which apply here the night time limit should apply at 2200 hours. A third party at the Inquiry suggested 2000 hours, but I do not think that the background levels would support this view.
74. Project assessment has been undertaken on the basis of the plant combusting only clean wood chip, and so a condition to this effect would be necessary. A requirement for all combustion materials to be purchased would ensure transparency in this regard. Conditions were also suggested by BCG to require details of fuel specification, and for any changes to it, to be approved, along with the location from which it came, to be recorded. The reason for this was suggested to be that any changes to combustion material would require assessment in accordance with the criteria in PPS22 and PPS23. PPS22CG does state that any effects on health, local ecology or conservation from airborne and water borne emissions might be planning issues. However, I am not convinced that this reference would justify the onerous requirements suggested. It seems to me that, with fuel restricted to clean wood chip, the emphasis in terms of planning controls should be directed towards emissions. BCG argued a need for this information so as to be able to trace, by historic record, the source of pollution incidents, were they to occur. I do not consider that such conditions would be relevant to planning, insofar as it is concerned with the use and development of land. Planning permission would not have to be refused if they were not imposed. A condition was also suggested to require all fuels to be thoroughly inspected, but it is not clear how a breach of such a condition would be detected. It would lack precision. However, I concur with the parties that provision for a quarantine area for unsuitable combustion material, and its removal from the site, would be required.
75. Dust controls would be necessary to safeguard air quality, but rather than refer to preferred methods, I consider that a dust control scheme should be approved. For similar reasons, fuel processing activities should only take place

³⁵ Documents 18, 58 and 59.

³⁶ This was confirmed in post-Inquiry correspondence with the parties dated 10 August 2009. Provided the period assessed was representative, the time period over which the L_{eq} was averaged would not be critical, however, it would be necessary to specify a period to ensure that the condition was not imprecise. I agree with BCG that a period of 5 minutes would be reasonable and would be consistent with the period for other night time measurements.

- inside buildings under negative air pressure conditions. It would not be necessary to impose a condition concerning prior authorisation for disposal of wood ash, as this is a matter covered under other legislation. External lighting would need to be approved so as to minimise light pollution.
76. Conditions concerning emissions would be necessary in the interests of the health and amenity of those living, working and studying nearby. The parties suggested a condition for a scheme to be submitted, which included 25 parts, but for clarity this would be better set out as separate conditions.
77. There is a dispute between the parties about suggested emission concentration limits for PM₁₀ and NO_x. The appellant argued that emissions would not be constant and that the plant would be designed to perform better than the set requirement advocated by the appellant of 100 mg/Nm³ (expressed as a 15 minute mean) and 50 mg/Nm³ (expressed as a 24 hour mean) for PM₁₀, and 300 mg/Nm³ (as NO₂ expressed as a 15 minute mean) and 200 mg/Nm³ (expressed as a 24 hour mean) for NO_x. On this basis, the appellant sought some 'headroom' for the plant to operate within the limit. I am not convinced about this, particularly where PPS22 provides that development proposals should demonstrate benefits as well as how any environmental impacts have been minimised.³⁷ It seems to me that this has a similar objective in the planning regime to Best Available Techniques (BAT) in pollution control, in that it seeks to balance environmental benefits with costs incurred by the operator. With respect to PM₁₀ particulates, it was indicated at the Inquiry that fabric filters would reduce particulate emissions to less than 50 mg/Nm³. I note also that the appellant's witness considered that with a specification of 50 mg/Nm³ suppliers would provide plant which could achieve less than 30 mg/Nm³, which is a standard applied in Europe, from where the Inquiry was informed that the plant would be likely to be purchased. I therefore prefer the 50 mg/Nm³ (expressed as a 15 minute mean) limit suggested by BCG as the most appropriate balance here between minimising pollution and operational costs.
78. I consider that the same logic applies to NO_x. The appellant's expert stated that the process had been selected to produce low NO_x emissions and would be expected to produce less than 150 mg/Nm³ NO_x under steady state conditions. An emission limit of 200 mg/Nm³ NO_x was also used in the 'plausible worst case' scenario modelled by the appellant. I find that the limit suggested by BCG again represents the most appropriate balance here.
79. I do not accept the appellant's view that the PM₁₀ and NO_x limits advocated by BCG would be acceptable if they were to be expressed as a 24 hour mean, because this might permit short periods of high emission levels that would harm local amenity. The appellant did not object to BCG's suggested limit of 75 mg/Nm³ for CO. I have no reason to disagree. The parties were agreed about suggested emission limits for oxides of sulphur, heavy metals (as Lead) and organic compounds. I concur with the appellant and the Council that continuous SO_x monitoring would not be necessary, and that continuous monitoring of heavy metals would be impractical. Sampling technique would need to be approved. BCG considers that sampling should take place at 100% of maximum continuous loading, but I agree with the appellant and the Council that 80% would better reflect representative conditions because it is within,

³⁷ PPS22 para 1(viii).

rather than at the end, of the scale. It would not be reasonable to require that the results of monitoring be available in real time on the internet as suggested by BCG. It would suffice that the results be forwarded to the local planning authority within one month of the testing taking place.

80. I have no reason to disagree with the minimum efflux velocity of 15 m/s for exhaust gases agreed by the main parties. There is a dispute about the required exhaust gas temperature, with BCG preferring 180°C, but the appellant considers a minimum value of 150°C would suffice. The appellant's modelling tested different temperatures and the lower temperature did not result in any substantial increase in the concentration of pollutants in the locality. Furthermore, a condition requiring the higher exhaust temperature might impose an unnecessary restriction on the efficiency of the plant.
81. BCG suggested that the combustion temperature range be restricted to between 850°C and 950°C, because higher temperatures increase production of NO_x. BCG also thought that operation outside this range should trigger automatic shutdown. A minimum temperature and residence time would be necessary to minimise dioxins and furans. However, a shutdown might increase the risk of dioxins being produced by incomplete combustion. I am not satisfied that a 950°C limit for the alarm, as opposed to a 1050°C limit suggested by the appellant, would be very useful, given that NO_x emissions would be limited by condition. It seems to me that it would be more important that the plant was operated in accordance with the manufacturers' instructions. Given local concerns about dioxins and furans (which were discussed together at the Inquiry and so should be considered together in any condition), I agree with the appellant's expert that it would be necessary to include testing for these as part of the commissioning procedure. The results could inform a decision about any further measurements or the frequency of testing.
82. Exhaust gases would need to be discharged at a minimum height of 16 m above ground because this is the height at which the evidence about dispersal has been modelled. BCG suggested that fabric air filtration should be required. The evidence indicates that it would be likely that bag filtration would be necessary to comply with the suggested emission limits, but I do not consider that it would be reasonable for a planning condition to require a specific type of technology, when other forms of filtration might in future appropriately comply with relevant emissions controls. Ceramic filters were mentioned at the Inquiry in this regard. However, I consider that it would be necessary for details of the exhaust air filtration system to be approved. Controls on de-ashing and fly ash containment would be necessary to safeguard against fugitive emissions.
83. I agree with the parties that an environmental log would be required to assist verification of compliance with emission conditions, and some minor additions to this were agreed at the Inquiry. BCG suggested that records should be retained for the life of the plant plus 7 years, but it seems to me that provision for records to be available for inspection for at least 2 years would be sufficient for the local planning authority to monitor and record any incidents which might warrant a longer term perspective. In addition, I consider that it would be necessary to record occurrences of unsuitable fuel material being quarantined and removed from the site in the interests of transparency in enforcing environmental controls.

84. It would be necessary for the detailed design of the plant proposed for the combustion unit and stack to disperse pollutants, the cooling plant, shown on Figures 4, 9A and 10A, and the pelletiser to be approved, to demonstrate that the plant could comply with the limits imposed. I concur with the parties that the other provisions suggested for emission controls and monitoring would be necessary and reasonable.
85. The parties have suggested a condition for a financial contribution to a trust or not for profit organisation to promote local energy conservation and efficiency, and public health. The appellant indicated that the voluntary offer to the local community has been part of the scheme since its inception. Reference was also made to such a 'voluntary condition' in Case study 2B, and to 'community benefits packages' in PPS22CG.³⁸ Such matters are normally addressed by a planning obligation. In answer to my question, the appellant indicated that this offer had not been included in an obligation because the parties believe that this would not have been possible because the Council owned the land, and so could not enforce an obligation against itself. Notwithstanding that neither the appellant or the Council considers that, technically, the condition would be necessary in terms of the Circular, I consider that there are particular and exceptional circumstances here, concerning the basis on which the scheme has been promoted from the outset, which, in fairness, mean that it would be both necessary and reasonable to impose a condition concerning a voluntary contribution. However, I do not accept BCG's submission that this should be based on a protocol for voluntary community benefits from wind energy development in Powys, which as a policy document has no traction here.³⁹ BCG sought other inclusions, such as a lifetime provision and inflation proofing, but these were rejected by the appellant. Their imposition in a voluntary contribution would be unreasonable.
86. Notwithstanding BCG's concerns about any future increase in the capacity of the plant resulting in more vehicle movements, I am satisfied that it would not be necessary to impose a specific condition limiting the scale of the operation. I concur with the appellant and the Council that the size of the permitted buildings would give the operation a limited capacity. Furthermore, if the plant had a rated thermal input above 20 MW its operation would be regulated under the Environmental Permitting Regulations.
87. BCG is not confident that the local planning authority would properly enforce conditions necessary to enable the proposed development to proceed. I have no doubt that the level of local interest in the scheme would be likely to encourage vigilance by the regulatory authorities.
88. Where necessary the suggested conditions would need to be altered in accordance with the advice in Circular 11/95 in the interests of precision and enforceability, and I have made minor changes to this effect.

Conclusions

89. I have had regard to the substantial and sustained local opposition to the proposed development. The weight of local opinion is both well informed and has been clearly articulated. Local concerns about possible pollution are

³⁸ *Companion Guide to PPS22* pages 13 and 180.

³⁹ Documents 60.1 and 60.2.

understandable. However, controls on emissions could, in the circumstances which apply here, be reasonably imposed by means of planning conditions. It is also reasonable to rely on the relevant pollution control regime being properly applied and enforced. This would apply to stack height and waste management. I have found that the proposal, with appropriate environmental controls and mitigation measures, would not have an unacceptable impact. In my judgement, the benefits of the proposal to carbon mitigation would be more than sufficient to outweigh any resultant harm to the local environment. I am satisfied that the proposed technology is viable and that the environmental, economic and social impact of the proposal could be addressed satisfactorily, and so the scheme would accord with a key principle of PPS22.

90. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

John Woolcock
Inspector

Schedule of Conditions 1-37

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) No development shall take place until details of the construction process have been submitted to and approved in writing by the local planning authority. All construction shall be carried out in accordance with the approved details. Construction shall not take place on Sundays, Bank Holidays or outside the hours of 0800 to 1800 on Monday to Saturday.
- 3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings 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.
- 4) No development shall take place until access has been constructed in accordance with planning permission that has been granted for vehicular and pedestrian access between the site and Bishop's Castle Business Park's internal estate road.
- 5) Notwithstanding the levels shown on the application plans, no development shall take place until details of existing and proposed ground levels, along with finished floor levels for buildings and the stack, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details. The stack height shall not exceed 16 m above the approved proposed ground level. The height of buildings shall not exceed 12 m above the approved proposed ground level.
- 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting or modifying that Order), no building, structure, plant or machinery, other than that permitted in accordance with this decision, shall be erected on the site.
- 7) No process or storage of materials, or installation or storage of machinery or plant, shall take place outside the buildings hereby permitted.
- 8) The area indicated on Figure 4 for 'hardstanding' and 'car park' shall be kept available at all times for the manoeuvring, parking and loading/unloading of vehicles.
- 9) The power plant and pelletiser shall be constructed and operated together. The power plant shall not operate independently from the pelletiser, and vice versa, except during periods of testing, commissioning or other circumstances approved in advance by the local planning authority in writing. The duration of any such periods shall have been approved in writing by the local planning authority prior to the commencement of any independent operation of either the power plant or pelletiser, and shall not be exceeded.
- 10) All external doors to the power plant and pelletiser shall at all times remain closed when not in use.

- 11) Notwithstanding the details shown on the application plans, no development shall take place until a landscaping scheme has been submitted to and approved in writing by the local planning authority. The scheme shall include details of both on-site and off-site works, and shall specify:
- (i) Hard surfacing and soft landscape works.
 - (ii) Measures to protect existing trees to be retained during construction.
 - (iii) Measures to safeguard the public sewers which traverse the site.
 - (iv) All screen, retaining and boundary walls and fences.
 - (v) A timetable of works.
 - (vi) A landscape management plan, including long-term design objectives, management responsibilities, maintenance schedules and provision for the replacement of any trees or plants which die, are removed or become seriously damaged or diseased, along with provision for subsequent inspection and monitoring, for all landscape areas.

Landscaping shall be carried out in accordance with the approved details and timetable of works. The landscape management plan shall be carried out as approved.

- 12) No development shall take place until;
- (i) drainage details, incorporating sustainable drainage principles and pollution controls, including details of impermeable surfacing for hardstanding, with oil interceptors, along with provisions to ensure that roof water shall not pass through oil interceptors, and
 - (ii) details of the proposed boreholes, along with a hydrology assessment,

have been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved details before the power plant and/or pelletiser is brought into operation and the drainage infrastructure provided shall thereafter be retained.

- 13) Between the hours of 0700 to 2200 noise levels from the power plant and/or pelletiser, along with any associated fans or other equipment, shall not exceed 41 dB $L_{Aeq, 1hr}$. Between the hours of 2200 to 0700 noise levels from the power plant and/or pelletiser, along with any associated fans or other equipment, shall not exceed 33 dB $L_{Aeq, 5min}$. The noise measurements shall be taken in a free field situation representative of the most exposed sensitive façade of the nearest dwelling, or closer to the power plant and pelletiser if corrected by calculation to be representative of the noise levels at the nearest dwelling. Free field shall be defined as at least 3.5 m from any reflective surface other than the ground. If it is not possible to measure in a free field condition then 3 dB shall be subtracted from the measured noise levels.

- 14) Between the hours of 2200 to 0700 noise from the power plant and/or pelletiser, along with any associated fans or other equipment, shall not result in external noise levels at the nearest noise sensitive property which would not comply with the NR30 ($L_{eq, 5min}$) as set out in British Standard 8233:1999 *Sound insulation and noise reduction for buildings – Code of Practice*.
- 15) There shall be no tonal noise from the power plant and/or pelletiser, or any associated fans or other equipment. Noise shall be defined as tonal if the noise level in any third octave band is 5 dB higher than each of its neighbours.
- 16) No development shall take place until a noise attenuation scheme, including a timetable of works, has been submitted to and approved in writing by the local planning authority. The scheme shall demonstrate that the power plant and pelletiser are capable, in terms of the equipment used and building construction, of complying with Conditions 13, 14 and 15 above. Development shall be carried out in accordance with the approved details and before the power plant and/or pelletiser are brought into operation and the noise attenuation measures so provided shall thereafter be retained.
- 17) Only biomass fuel consisting of clean wood chip shall be combusted. No waste material or plastic wrapping shall be combusted at any time. Wood that has been treated after harvesting with preservative, coatings or other chemicals shall not be combusted. All combustion materials shall be purchased.
- 18) Any material delivered to the site which could not be combusted because it would not comply with Condition 17 shall be quarantined and removed from the site in accordance with a scheme that has been submitted to and approved in writing by the local planning authority before the power plant is brought into operation.
- 19) No development shall take place until a dust control scheme, including measures to clean up any spillages outside buildings which may give rise to dust emissions, along with a timetable of works, has been submitted to and approved in writing by the local planning authority. The dust control scheme shall be carried out as approved.
- 20) All on-site fuel or feedstock processing activities, including chipping, shredding, pulverising or screening shall only take place inside the buildings hereby permitted for the power plant and pelletiser under negative air pressure conditions which prevent the release of dust to air.
- 21) No development shall take place until details of external lighting have been submitted to and approved in writing by the local planning authority. External lighting shall be installed in accordance with the approved details before the power plant and/or pelletiser is brought into operation and shall thereafter be retained.
- 22) No development shall take place until an emissions scheme has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme and the plant shall thereafter be operated in accordance with the approved emissions scheme. The scheme shall include details about an

exhaust air filtration system. The approved exhaust air filtration system shall be installed and thereafter retained unless a replacement system is approved in advance by the local planning authority in writing. The emissions scheme shall set out the operating parameters to be measured and the minimum values that shall be adhered to in order that a minimum extrapolated efflux velocity of 15 m/s for exhaust gases from the stack is achieved (with air speed extrapolated from the volume of moving air and the internal diameter of the stack). The operating parameters for the plant control equipment, as approved, shall be continuously monitored. An alarm shall be activated if operating parameters are not met. The plant shall not be operated unless the minimum efflux velocity is met, except during a maximum period of 15 minutes from start up or shutdown.

- 23) The scheme to be approved in Condition 22 shall set out the operating parameters to be measured and the minimum values that shall be adhered to in order that a minimum extrapolated exhaust gas temperature at the exit of the stack of 150°C is achieved (with air speed extrapolated from the volume of moving air and the internal diameter of the stack). The scheme shall provide that the stack exit gas temperature shall be maintained above a minimum value of 150°C except during a maximum period of 15 minutes from start up or shutdown. The operating parameters for the plant control equipment, as approved, shall be continuously monitored. An alarm shall be activated if this minimum temperature is not met.
- 24) If any malfunction or breakdown leading to emissions of particulates, NO_x or CO in breach of Condition 29 occurs then the following shall take place:
- (i) The process shall be halted immediately.
 - (ii) The process shall not be restarted until the fault has been remedied.
 - (iii) The local planning authority shall be notified within 24 hours by telephone.
 - (iv) All actions carried out in relation to the fault shall be entered into the log book that is required by Condition 35 together with the following: date of the malfunction; cause and location of the fault and any emissions; details of work undertaken; subsequent restart date; name of the person supervising the works; the operator's views as to the impact (if any) on the environment; and remediation measures taken (if any).
- 25) All emissions to air from the stack, other than steam or condensed water vapour, shall be free from droplets, persistent mist and persistent fume.
- 26) The process shall be halted if emissions from combustion result in smoke darker than Ringlemann shade 1, except for a maximum of 15 minutes from start up or shut down when smoke shall not be darker than Ringlemann shade 2 (BS 2742:1969).

- 27) All emissions to air from the power plant and pelletiser shall be free from offensive odours capable of perception by a duly authorised officer of the local planning authority beyond the boundary of the site.
- 28) All pollutant concentrations in Condition 29 shall be expressed at reference conditions for a normal cubic metre (Nm³) at 273K, 101.3kPa and 11% oxygen without correction for water vapour content.
- 29) Emission concentrations in respect of releases from the stack to air from the combustion process shall not exceed the following maximum levels, expressed as a 15 minute mean:
 - (i) PM₁₀ particulates 50 mg/Nm³.
 - (ii) Nitrogen oxides NO_x (as NO₂) 200 mg/Nm³.
 - (iii) Oxides of sulphur SO_x 350 mg/Nm³.
 - (iv) Heavy metals (as Lead) 5 mg/Nm³.
 - (v) Carbon monoxide CO 75 mg/Nm³.
 - (vi) Organic compounds (as total Carbon, excluding PM₁₀ particulates) 20 mg/Nm³.
- 30) The introduction of dilution air to achieve emissions limits shall not be permitted. Any emergency shutdowns necessitating the introduction of dilution air shall be entered into the log book that is required by Condition 35.
- 31) The scheme to be approved in Condition 22 shall include provisions for the monitoring of emissions from the stack to air, testing and regular inspections of the process, including the following:
 - (i) The local planning authority shall be notified in writing not less than 14 days in advance of any annual monitoring exercise being undertaken, with details of the times monitoring will take place, the pollutants to be measured and the sampling technique to be used. An officer from the local planning authority shall be permitted to attend and witness the monitoring.
 - (ii) The emission concentrations in Condition 29 for PM₁₀, NO_x and CO shall be monitored with indicative monitors maintained in accordance with the manufacturer's instructions and checked daily. The scheme shall identify those monitors to be fitted with audible and visible alarms which shall be set to activate at both 75% and 100% of emission limits. All instances when alarms are activated shall be entered into the log book that is required by Condition 35.
 - (iii) Every 12 months the emissions of particulates shall be quantitatively sampled, measured and the results used to check the correct functioning of the indicative monitor. The reference test method shall accord with BS 3405:1973 (or as revised) or other methodology approved in writing by the local planning authority.

- (iv) Every 12 months emissions of carbon monoxide, oxides of sulphur, nitrogen oxides, organic compounds and lead from the stack to air shall be quantitatively sampled and measured.
 - (v) The commissioning of the plant shall include the measurement of emissions from the stack to air which shall demonstrate compliance with the specified limits and calibration of indicative monitors. This testing shall include measurement of dioxins and furans in accordance with a procedure approved in writing by the local planning authority prior to the testing taking place. The scheme to be approved shall include a protocol for determining the frequency of any further testing for dioxins and furans.
 - (vi) The results of monitoring and testing required by (iii) to (v) above shall be submitted in writing to the local planning authority within one month of the completion of the monitoring or testing.
 - (vii) The operator of the plant shall provide facilities for the sampling of emissions and all sampling shall take place under representative conditions and not less than 80% maximum continuous loading.
 - (viii) Visual and olfactory assessments of combustion emissions shall be made daily and upon process start up.
 - (ix) The scheme shall include a protocol in the event that any monitoring equipment malfunctions.
- 32) All emissions from combustion shall be discharged at a height of 16 m above the ground level and there shall be no leakage of combustion gases to air from combustion chambers, secondary chambers, casings, ductwork or ancillary equipment. Combustion of fuels shall only take place when the approved air filtration system and any other emissions abatement equipment is operating in accordance with the manufacturer's instructions.
- 33) Fuelling and de-ashing shall only take place by automatic mechanical means and fly ash shall be placed in sealed containers prior to removal from the building.
- 34) Except for a maximum of 15 minutes from start up or shut down the operating temperature of the combustion chamber shall exceed at all times 850°C and the minimum residence time shall be 2 seconds. A continuous monitor shall indicate and record the combustion chamber temperature. An audible and visible alarm shall sound if the temperature falls below 850°C or rises above 1050°C. Combustion of fuels shall only take place when the combustion chamber is operating in accordance with the manufacturer's instructions.
- 35) The operator of the power plant and pelletiser hereby permitted shall compile an environmental log book and all records made in it shall be retained on site for at least 2 years and be made available for inspection and copying by the local planning authority between the hours of 0900 to

1700 on any working day. Entries shall be legible and any corrections made shall be done so in a manner which retains the original entry. Each entry in the log book shall be signed by the recording person to verify that the entry is a true record. The following matters shall be recorded in the log book at the intervals given:

- (i) The date, time and name of the person making the entry.
 - (ii) A record of fuel purchase receipts.
 - (iii) The results of annual emission tests.
 - (iv) The results of daily inspections.
 - (v) Occasions when material was quarantined and removed from the site in accordance with Condition 18.
 - (vi) Occasions when particulate matter, NO_x or CO alarms were activated.
 - (vii) Records of spillages.
 - (viii) Occasions when the temperature alarm was activated.
 - (ix) Occasions of abnormal emissions or offensive odours and any remedial actions.
 - (x) Occasions when the efflux velocity alarm was activated.
 - (xi) Occasions of emergency shutdowns.
 - (xii) Date and details of any complaints made to the operator about emissions, odour, noise or other issues, along with any remedial actions taken.
- 36) No development shall take place until detailed designs for the combustion unit and stack; the cooling plant shown on Figures 4, 9A and 10A; and the pelletiser plant; have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and shall thereafter be retained and operated in accordance with the manufacturers' instructions, unless otherwise approved in advance by the local planning authority in writing.
- 37) The operator of the power plant hereby permitted shall establish a trust or not for profit organisation with objectives to promote energy conservation, energy efficiency, public health and fitness in the Bishop's Castle area. The power plant shall not be brought into operation until this trust/organisation has been established and a copy of its governing instrument has been submitted to and approved in writing by the local planning authority. The governing instrument shall include the following:
- (i) The trustees or body responsible for the not for profit organisation shall include a representative of the plant operator, a representative nominated by Bishop's Castle Town Council, and a representative nominated by Shropshire Council.
 - (ii) The operator of the power plant shall be obliged to pay an annual endowment to the trust or not for profit organisation

- of £8,000 per annum during the first 15 years of the operation of the plant.
- (iii) The trustees or body responsible for the not for profit organisation shall apply the income and property of the trust or organisation towards the objectives of the trust or organisation and may make grants to community organisations or projects, householders living, and businesses having premises, within a radius of 5 miles of Bishop's Castle who demonstrate to the trustees or body responsible for the not for profit organisation that they have incurred or are committed to expenditure consistent with the objectives of the trust or organisation.
 - (iv) That the trustees or body responsible for the not for profit organisation shall make distributions every calendar year, until the income and property of the trust or organisation is exhausted.
 - (v) Such other provisions as are appropriate to the working of the trust or not for profit organisation.

APPEARANCES

FOR THE APPELLANT:

Niall Blackie LLB LARTPI
Solicitor-Advocate

Instructed by
Bishop's Castle Biomass Power Ltd.

He called

Dr Geraint Evans

Technology Transfer Manager, The National
Non-Food Crops Centre.
University of Leeds.

Professor Gordon Andrews BSc
PhD(Leeds) CEng MIMechE
MASME FInstE

Highway & Transportation Consultant.

GD Acton CEng MICE DipMunE
DMS

Stephen Ellis MIOA MIHIE

Senior Consultant, Industrial Noise and
Vibration Centre.
The Airshed.

Steve Fraser Dip Env Health BSc
MPhil MIOA MIWM CEnv

Jonathan King BSc MLD MLI
Tony Kernon BSc(Hons) MRICS
FBIAC

Technical Director, Wardell Armstrong LLP.
Kernon Countryside Consultants.

FOR THE RULE 6(6) PARTY Bishop's Castle Group (BCG):

Michael Dawes
Advocate and witness

Representing BCG.

He called

Dr Mark Broomfield BA PhD

Environmental Consultant, Enviros Consulting
Ltd.

Ian Holmes BSc Dip Acoustics and
Noise Control MIOA

Technical Manager, Enviros Consulting Ltd.

Cllr James Collin

Senior Engineer, Peak Engineering.
Architect.

Jonathan Greig

Local GP.

Dr Antony Lempert MBBS MRCPGP

Hugh Band

Local resident and developer of Plot E on
Bishop's Castle Business Park.

Simon Atherton BSc(Hons)

Practice Manager.

Countryside Management

Karen Bavastock NVQ

Management and Training

Chairman of the BCG, local resident and
Director of Union Street Garage.

FOR THE LOCAL PLANNING AUTHORITY:

James Caird BA BArch RIBA MRTPI
IHBC
Advocate and witness

Instructed by
South Shropshire District Council/Shropshire
Council.

Continued -

INTERESTED PERSONS:

| | |
|---------------------------------|--|
| Jacqueline Morrish | Local resident. |
| Bernard Edwards | Local resident. |
| Dr Anne Maclachlan | On behalf of Bishop's Castle Community College Governing Body. |
| David Gomersall MA (RCA) EN Des | Architect. |
| Mike Say | Local resident. |
| Andrew Cunningham | Local resident. |
| Steve Williams | Local farmer. |
| Jim Gaffney | Bishop's Castle Town Mayor. |
| Cllr Peter Phillips | Councillor. |
| Kate Evans | Bishop's Castle Community Energy. |
| Fiona Gomersall MSc | Conservation Officer, Shropshire Wildlife Trust. |
| Keith Wood BSc(Hons) MSc | Local resident. |
| Robert Gwyther | Local resident and Chairman of Civic Society. |
| Drusilla Cole | Local resident and representing the allotment group. |
| Harry Round | Local resident. |
| Cllr George Ellis | Councillor. |
| Gill Lawler | Local resident. |
| Neil Hird | Local resident. |
| John Lloyd | Member of Green Party. |
| D Hughes | Local resident. |
| Paula Middleton | Local resident. |
| Cllr Dr St John Penney | Local resident, retired GP and former Mayor. |
| Gavin Watson | Local resident, retired civil servant and architectural historian. |
| Cllr Mary Holton | Councillor. |
| Cllr Miranda Stanley | Councillor. |
| Bill Wright | Local resident. |
| Richard Beaumont | Local resident. |
| Wynford Wyke | Waste Consultant. |
| Belinda Penney | Local resident. |

DOCUMENTS SUBMITTED AT THE INQUIRY

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|----------|-----|--|
| Document | 1 | Statement of Common Ground (SoCG). Including matters not agreed by BCG and extract from LP Proposals Map. |
| Document | 2 | Suggested conditions. [not agreed by all parties and superseded by Document 18]. |
| Document | 3.1 | Figure 7A. |
| | 3.2 | Figure 8A. |
| Document | 4 | Proof of evidence of Dr Mark Broomfield - appendices 1 and 2. |
| Document | 5 | BCG P1-P4 photographs and maps. |
| Document | 6 | Opening for appellant. |
| Document | 7 | Notification letter about Inquiry and list of those notified. |
| Document | 8 | Structure Plan Policies P16, P31 and P35. |

- Document 9 Emails between appellant, BCG and the Council dated 29 November 2007 and 15 May 2008 concerning air quality.
- Document 10 ADMS4 – Orange UK Search.
- Document 11 Extract from *Determination of Atmospheric Pollutant Emission Factors at a Small Industrial Wood-Burning Furnace*, AEA Technology Environment, March 2001.
- Document 12 Statement of position: Noise by Ian Holmes and Stephen Ellis.
- Document 13 Proof of evidence of Ian Holmes and appendices 1 and 2.
- Document 14 Photographs from housing estate.

Submitted during first adjournment

- Document 15 Bundle of emails concerning suggested conditions.
- Document 16 Letter from Paula Middleton, Oakeley House, Stank Lane, Bishop's Castle, dated 31 March 2009, and associated plans.
- Document 17 Addendum to SoCG dated 25 March 2009 statement on Clean Air Act [requested by Inspector].
- Document 18 Draft conditions with areas of disagreement highlighted.
- Document 19 Emails dated April 2009 concerning description of proposed development, including addendum to SoCG.

Submitted during second sitting

- Document 20 BCG's Highways: Photographic Evidence.
- Document 21 Statement by Mike Say.
- Document 22 Statement by David Gomersall MA (RCA) En Des Architect.
- Document 23 Bishop's Castle Biomass Power Project, Sustainable fuel sources, May 2007.
- Document 24 Statement by Fiona Gomersall MSc Environmental Pollution Science, Conservation Officer, Shropshire Wildlife Trust.
- Document 25 Statement by Keith Wood BSc (Hons) MSc.
- Document 26 Statement by Drusilla Cole.
- Document 27 Leaflet showing Shropshire Hills AONB boundary.
- Document 28 Drawing schedule, levels, revised Fig 7A and plan showing buildings as existing and proposed, submitted by Jonathan Greig.
- Document 29 Extracts from *UK Renewable Energy Strategy Consultation*, BERR June 2008.
- Document 30 Email from Severn Trent Water, dated 6 April 2009.
- Document 31 Email from Town Clerk, Bishop's Castle to appellant, dated 19 November 2007 regarding meetings.
- Document 32 Addendum to SoCG dated 8 April 2009 concerning Figures 15L and 16L.
- Document 33 Extracts from *ADMS 4 User guide*.
- Document 34 *Dioxins and their effects on human health*, Fact Sheet No.225, World Health Organisation, November 2007.
[Referred to by Dr Lempert and requested by Inspector]
- Document 35 Statement by Harry Round.
- Document 36 Statement by Gill Lawler.
- Document 37 *Nitrate Pollution Prevention Regulations: Help available for farmers to prepare for the new nitrates regulations*, Information Bulletin Ref:330/08, Defra 15 October 2008.

- Document 38.1 Statement by Gavin Watson.
38.2 Emails dated April 2009 City of Edinburgh Council/Hull University concerning biomass plants.
- Document 39 *UK Biomass Strategy*, Defra, May 2007.
- Document 40.1 Statement by Paula Middleton.
40.2 Photographs.
40.3 Extract from Shropshire Wildlife Trust's website.
40.4 Mary Webb Trail, Shropshire Tourism: The Official Tourism Website for Shropshire.
40.5 Extract from Shropshire Hills Area of Outstanding Natural Beauty (AONB) Management Plan.
40.6 Extract from LEADER in the Shropshire Hills.
40.7 Extracts from various internet sites concerning Dioxins, Biomass-burning, Wood chips, Biomass proposals in Wales and Air pollution.

Submitted during third sitting

- Document 41 Statement by Cllr Georgie Ellis.
Document 42 Appellant's comments on questions about suggested conditions raised by Inspector.
- Document 43 Written statement by Nick Burton.
Document 44 Website extracts concerning funding for Eccleshall Biomass Power Generation Plant.
- Document 45 Reform of the Renewables Obligation & Statutory Consultation on the Renewables Obligation Order 2007 – Response by Eccleshall Biomass Ltd.
- Document 46 Business Council for Sustainable Development UK Update December 2008 concerning visit to Eccleshall Biomass Power Generation Plant.
- Document 47 Extract from Ofgen website concerning repayment of grants.
Document 48 Executive Summary *Biomass: Carbon sink or carbon sinner?* Environment Agency, April 2009.
- Document 49.1 Eccleshall Biomass Plant PPC Permit.
49.2 Planning permission for Biomass Fuel Power Plant, Application No:05/05475/FUL.
- Document 50 Leaflet concerning Energy from Waste incinerator at Battlefield Enterprise Park.
- Document 51 Statement by Miranda Stanley.
Document 52 Article about climate change in the Ludlow Advertiser, Thursday 9 April 2009.
- Document 53 Statement by Richard Beaumont.
Document 54 Statement by Wynford Wyke.
Document 55 Agreed plan showing undeveloped land within the business/industrial estate [but it was agreed at site visit that site 4 was used for open storage].
- Document 56.1 Letters from John Edwards Eccleshall Biomass Ltd concerning storage, dated 12 January,
56.2 and 9 January 2006.
- Document 57 Minutes of Development Control Committee, 10 December 2008.
Document 58 Proposed new conditions: 31 8B and 16A/16B [appellant].
Document 59 Suggested text for noise condition [BCG].

- Document 60.1 Condition 29 for Bishop’s Castle Biomass Plant – Community Chest [BCG].
60.2 *A protocol for the delivery of Community Benefits from Wind Energy Developments*, Powys.
- Document 61 Final submissions on behalf of the Council.
Document 62 Closing submissions on behalf of the Bishop’s Castle Group.
Document 63 Closing submissions by appellant.

PLANS

- Plan A-P Figures 1-16.
Plan Q and R Landscape Proposals Plan Drawing Nos.LA3252/1 and SD1A.
Plan S and T Figures 9A and 10A. [submitted prior to Inquiry]
Plan U and V Figures 7A and 8A [submitted at Inquiry – Document 3]
Plan W and X Figures 15L and 16L [landscaping and landscaping sections Addendum to SoCG].