



## **Appeal Statement**

### **Erection of biomass-based anaerobic digestion facility and associated works at land parcels 7946 and 9067 Ashchurch Gloucestershire GL20 7BJ**

**Planning Inspectorate reference: 3174163**

**Local Planning Authority reference: 16/00241/OUT**

## **Introduction**

This statement has been prepared by CPRE to follow up its letter of objection to the proposed development dated 30 May 2016 submitted at the planning application stage.

This statement mainly takes account of documents drafted since then, including:

- The Committee report and minutes of the Planning Committee of 25 October 2016
- The reasons for refusal
- The Committee report and minutes of the Planning Committee of 14 April 2017 relating to planning application 17/00072/FUL, and the reasons for refusal, and
- Other responses to consultation, and
- The appellant's Statement of Case.

CPRE reaffirms the reasons for its objection to the proposed development, and to its objection to 17/00072/FUL, and does not repeat them here except to make brief cross reference. Instead, this statement primarily addresses the appellant's Statement of Case.

## **The Site**

Representatives of CPRE have visited the site on three occasions: in spring 2016, in respect of this application, in early spring 2017 in relation to 17/00072/FUL, and in July in relation to the appeal.

## **Background**

Following the refusal of 16/00241/OUT on 25 October 2016, a planning application for a smaller scale proposal (17/00072/FUL) was submitted in January 2017. CPRE also objected to this proposal, which was refused on 14 April 2017. Our letter of objection is appended to this statement.

Although planning applications and appeals are assessed on their merits, CPRE considers it significant that notwithstanding its smaller scale, 17/00072/FUL was refused in line with the officer recommendation rather than against, as in the case of the larger proposal which is the subject of this appeal.

The reasons for refusal for the appeal proposal are examined in detail below. Here, it is simply noted that the reasons for refusal were very similar if not identical. The key point however is that officers thought it appropriate earlier this year to recommend refusal for 17/00072, a scheme which involved output of about 55% of the original proposal now the subject of this appeal, with commensurate reductions in site area, footprint and traffic movements. To the extent that the change in the officer recommendation can be explained, it may arise from a more detailed scrutiny of potential impacts. The fact that refusal was recommended for 17/00072 itself lends weight to the argument that this appeal for a proposal nearly twice the size should be dismissed.

### **The Nature of the Development**

The term anaerobic digestion describes a process which does not specify or rely on a particular feedstock - other than it be suitable. CPRE has examined some of the relevant guidance and other documents on the subject.

The Friends of the Earth Briefing Note (September 2007) supports the principle of anaerobic digestion as a source of non-polluting renewable energy. However, it refers in its introduction to biodegradable waste such as food and garden waste, card and paper. It makes no mention of crops grown specifically for the purpose.

The Note also states that *“plants can be small and low rise so may be situated in towns, reducing haulage distances and associated traffic pollutants”*.

This reinforces what the introduction says about the nature of the feedstock – it is waste which mainly arises in towns, where (for example) a plant on an industrial estate or in another suitable location would indeed help in reducing haulage distances. The sources of the feedstock for the proposed development are in contrast spread widely across an extensive rural area, thereby increasing haulage distances and associated traffic pollutants. The issue is therefore not so much whether an urban location for a development such as the appeal proposal would be better (although in landscape terms it almost certainly would) but whether such development should be permitted at all.

The Government’s Anaerobic Digestion Strategy and Action Plan was published under the auspices of DECC and DEFRA in 2011. Its subtitle is *“A Commitment to Increasing Energy from Waste through Anaerobic Digestion”* [CPRE emphasis]. Crops grown specifically for the purpose are however referred to, but after a discussion of potential applications: part of paragraph 55 appears crucial to CPRE: *“it is not the Government’s policy to encourage solely purpose-grown crop-based AD systems, particularly when these are grown to the exclusion*

*of food-producing crops, or where growth of these crops might adversely affect biodiversity or deter optimal use of waste materials”.*

Table 1 refers to the output of the (then) 54 operational plants in the UK as 35MWe. This is equivalent to 0.65 MWe per plant, a very small output compared not only with nuclear and gas fired power stations but also with typical energy from waste (EfW) plants; for example the facility at Great Blakenham in Suffolk, which handles all the County’s residual municipal waste, has an output of 20MWe.

Paragraph 128 refers to the need for progress towards *“clarity on the sustainability and use of crops grown as feedstocks for AD...”* Although paragraph 140 refers to the widespread use of purpose grown crops for AD in Europe and the USA, it does not follow that this should also be the case in the UK.

This document is one of those referred to in the appellant’s Statement of Case, and is discussed under that heading below.

The website [anaerobic-digestion.com](http://anaerobic-digestion.com) lists 100 plants operating, under construction or with planning permission in the UK by 2013, while acknowledging that many more such proposals will have come forward since then. Almost all of those listed are described as taking “waste feedstock” or “farm feedstock only”. In this context, to the extent that the available information is clear, farm feedstock generally appears to mean manures or slurries.

These documents are considered to be more directly relevant than most of the international policy relied on to support the proposed development in the Planning Statement which accompanied the application, and in the appellant’s Statement of Case.

A more general debate on these issues has taken place under the broad title “food vs fuel”. On balance, there appear to be strong arguments in favour of the growth of crops for fuel, but these do not take account of the fact that the UK, and England in particular, are very densely populated by the standards of most other parts of the world, or of the existence of the British planning system.

### **The Development Plan**

The development plan consists solely of the Tewkesbury Borough Local Plan adopted in 2006.

The emerging development plan consists of the Joint Core Strategy (JCS) being prepared by Gloucester City, Tewkesbury Borough and Cheltenham Borough Councils, and the Tewkesbury Local Plan. At the time of writing (late July 2017) the hearings into the Proposed Main Modifications to the JCS have just been completed. The JCS has therefore taken another significant step towards adoption. Its relevant policies are considered below.

The Tewkesbury Local Plan which will flow from the JCS is still at an early stage and has yet to take account of public consultation.

### **Other Objections**

The submission from Gloucester Land Company Ltd (GLC) dated 21 October 2016 draws attention to the extent of land needed to produce sufficient feedstock for the design capacity of the proposed development. The note is based partly on information GLC obtained from DEFRA, including a map showing the classification of agricultural land within a 15km radius of the site.

However, a comparison of GLC's figures and those of the appellant reveal a difference in the amount of land required by a factor of ten: GLC think 20,000 hectares are needed; the applicants 2,000. Independent figures suggest that the appellants are correct. Although this does not support CPRE's case against the proposed development, the information is offered in the interests of clarity.

### **The Committee Report and Minutes**

The Committee report refers at paragraph 5.42 to the mitigation measures which the County Highway Authority considers would be required to make the proposed development acceptable. CPRE believes that these are likely to be disproportionately costly in relation to the claimed benefits of the proposed development.

CPRE notes the reference in Minute 44.3 to the number of traffic movements. In particular, at the end of this paragraph an aggregate distance for the transport of feedstock of 21,000 km is referred to. Most if not all of the vehicles involved are likely to use diesel rather than petrol. Given the recent concern about the extent to which emissions from diesel engines are significantly more harmful than those from petrol engines, any benefits from the proposed development are likely to be significantly reduced by the adverse effects of transporting the feedstock. The appellants do not appear have attempted to assess the balance in this respect.

### **The Reasons for Refusal**

CPRE has examined the reasons for refusal. They refer to a number of policies in the emerging Joint Core Strategy.

Bearing in mind the stage that the JCS has now reached, we consider that its policies, to the extent that they are relevant, can be given weight in this appeal.

### **The Appellant's Statement of Case**

CPRE has reviewed this document. For the most part it appears to cover the same ground as the Planning Supporting Statement which accompanied the application.

CPRE accepts the description of the site and its surroundings at paragraphs 2.1 to 2.13 as accurate.

#### *Section 4: Planning Policy Framework*

Paragraph 4.1 makes it clear that the main purpose of Section 4 (although consisting of more than 100 paragraphs) is to identify rather than evaluate relevant policy – this is carried out in Section 5. Nevertheless, some aspects of Section 4 require comment at this point.

Under the heading “Other Material Considerations”, paragraphs 4.27 to 4.58 refer to the same kind of international and national policies as the Planning Supporting Statement. CPRE’s response is the same as in the letter of objection: that is, that although such policies lend support to developments of this kind in principle, they do not necessarily lend support to specific proposals in general or to this one in particular. Cases such as this should be decided on the basis of local policy, with reference to national policy where appropriate, in accordance with the provisions of paragraph 2 of the NPPF. We say more about the balance between local and national elements below.

In particular, paragraphs 4.48 to 4.50 not only themselves demonstrate the marginal relevance of the Government’s Anaerobic Digestion Strategy and Action Plan referred to above, but also draw attention to some of the potential drawbacks of crops grown specifically for this purpose. At the same time, this subsection fails to acknowledge some of the other issues raised earlier.

#### *Section 5: Reasons for Refusal and Grounds for Appeal*

##### *Landscape Matters*

We consider it wholly inappropriate that the LVIA should have described the site (see paragraph 5.6) as having “urban fringe qualities”. Leaving aside the pejorative connotations of this term, we consider it inaccurate both in terms of the site’s location and the characteristics of land uses in the vicinity. The site is at some distance from any solid urban development. The closest is to the west consisting of the relatively recent housing development of the Wheatpieces, at a distance of 1 km and moreover separated from the site by the M5 motorway. The Newtown area lies 1.5 km to the northwest, again on the far side of the motorway. The Ashchurch Industrial Estate is located nearly 2 km to the north, and the settlement of Ashchurch with the MoD Depot beyond, 2 km to the north east. Nor do land uses in the vicinity display any of the characteristics often associated with the “urban fringe”, for example paddocks, and vacant and underused land. Land uses and topography in the vicinity of the site between the M5 and the Bristol to Birmingham railway running roughly parallel about a kilometre to the east are not significantly different from those around Rudgeway Farm to the west of the motorway or around Claydon Farm to the east of the railway.

Paragraph 5.8 refers to the JCS analysis of landscape capacity. In our view major development in this area would only be justified on the basis of a need for an urban extension or strategic allocation, to be identified by due process in a development plan – not a speculative development such as this.

Paragraph 5.9 fails to draw the necessary distinction between landscape impact on the one hand and visual impact on the other. We agree with the Council's view as summarised at paragraph 5.10. In this context, we consider it more helpful to interpret "openness" as it is in the context of Green Belt policy, meaning the absence of built development; and it is less significant, or not at all, that some of the field boundaries include substantial trees or consist mostly of uncut hedges of considerable height.

In respect of paragraph 5.22, we consider that the proposed landscaping and bunding would themselves be intrusive elements in the landscape.

At 5.25, the appellants refer to what they regard as a lack of specificity in the Council's concerns about landscape impact. For our part, we consider *"unacceptably intrusive industrial character, scale and prominence"* to be a succinct summary, and it is difficult to see how, as the following paragraph claims, *"some visual interest"* is created by the proposed structures.

In summary, we consider that the appellants have not made a persuasive case that the impact on the landscape of the proposed development will not be harmful.

### *Transport*

We do not disagree with parts of paragraph 5.48. Further away from the site, traffic volumes will indeed be "dissipated". We think the trunk road referred to here should be the A46; not the A40. Whichever is correct, both are in our view far enough away from the site for there to be no adverse impact. What concerns CPRE is the impact on the roads in the vicinity of the site.

Paragraphs 5.49 and following refer to the type of traffic involved – tractors and trailers. They miss part of the point about such transport – it is slow and has poor fuel economy, and in the wider context relating to the overall sustainability of the development, unnecessary.

At 5.56 the appellants refer to no additional physical impact *"distinguishable from any other lawful use"*. This again misses the point – the point is that there would be significant numbers of additional traffic movements. CPRE's experience of such developments elsewhere in the South West region makes us sceptical about the effectiveness of even the most carefully drafted conditions: to be effective, they are likely to require a level of monitoring and enforcement beyond the limited resources of this already hard-pressed planning authority.

Notwithstanding the response of Gloucestershire County Council as highways authority, CPRE is not persuaded that the traffic impacts of great numbers of large and slow-moving vehicles on what are in places very narrow lanes will not give rise to adverse effects.

#### *Noise, odour, air pollution and light*

CPRE does not wish to make any detailed comment on the issues of noise, odour, air pollution and light but wishes to point out in respect of the last matter and paragraph 5.81 in particular, that the main carriageway of the M5 motorway is not lit in the vicinity, and indeed is not lit between junction 8, well to the north of the proposed development, and junction 15 on the northern fringes of Bristol.

#### *Perception of Safety*

In the light of the last paragraph in the subsection on transport above, we consider that the Borough Council was entirely justified in including reference to the perception of safety in its reasons for refusal. This is borne out by the experience of representatives of CPRE both as drivers and pedestrians on each of their three site visits. It is quite clear from the evidence on the ground that even two cars, let alone a car and a large vehicle, or two large vehicles, have difficulty passing without resort to the verges on each side of the road in the vicinity of the site. There was, on each occasion, evidence of damage to verges by large vehicles. All this confirms CPRE's view that the site is a wholly inappropriate location for the development proposed. Rigorous attention would be paid to the suitability of a proposed access to land allocated in a local plan for B2 and B8 uses to be served by a comparable number of equally large vehicles. Planning permission even in outline would almost certainly be refused if access were as poor as in the present case.

#### *Benefits*

We disagree strongly with the appellant's account of benefits set out in the final ten paragraphs of this Section. Paragraph 5.146 quotes part of the reason for refusal which states that the development "*would not represent appropriate sustainable development*". We agree with the Council, for reasons elaborated on below.

At 5.149, the alleged multiplier effects are not quantified. None of the benefits claimed in paragraph 5.154 are within the control of the appellant. Finally, we disagree with the claims in this section and in paragraph 5.155 in particular that the proposal is "inherently" sustainable. On the contrary, if this adjective can legitimately be employed at all, it should be used to describe the development as inherently unsustainable.

#### *Section 6: Conclusions*

Finally, CPRE disagrees strongly with paragraph 6.6 which concludes that the proposed development complies with the development plan and constitutes sustainable development. For reasons expanded on below, we take the opposite view – that the

proposals do not comply with the development plan, and do not constitute sustainable development.

### **The Main Issues**

Having set the context for the appeal, CPRE considers the main issues to be:

- The extent to which the proposed development complies with national and local policy and guidance
- The degree of landscape and visual impact
- The extent of transport impact
- Whether or not the proposed development constitutes sustainable development.

### **National and Local Policy and Guidance**

The Tewkesbury Borough Local Plan was adopted in 2006. Anaerobic digestion plants were not unknown at the time, but were not then predicted to make a significant contribution to meeting Britain's energy needs. Indeed, they are unlikely to do so. The one component of the development plan cannot be criticised for failing to anticipate the possibility of such proposals becoming widespread, even though if they were to make a significant contribution to energy needs, they would have to be widespread because the output of an individual plant is small compared to that (say) of a nuclear or gas fired power station.

CPRE acknowledges the fact that there is still no up to date policy framework for the Borough at strategic or local level which provides appropriate guidance to deal more directly with a development of this kind. It would be expected that such plants would be covered by general, probably criteria based, policies rather than an allocation specifically for the purpose; at the same time, this is the kind of development, if justified at all, which could be accommodated on an existing or proposed industrial estate.

Nevertheless, to the extent that emerging policies have acquired weight, it is worth emphasising that the site is not allocated in any emerging development plan.

It is therefore the general policies of the Tewkesbury Borough Local Plan, on environment and transport in particular, which are relevant to the proposed development. It cannot reasonably be said that the development plan is wholly absent, silent or out of date in the terms of paragraph 14 of the NPPF. We support the Council in its reference in the reasons for refusal to the policies it considers relevant.

We consider that in particular the proposed development does not comply with criteria (c) and (d) of Policy TPT1. Nor does it comply with part A of Policy EVT1, and it is not consistent with the provisions of Policy EVT2.



Turning to the policies of the JCS, Policy SD7 was not the subject of any proposed modification. We consider that the proposed development is contrary to all three elements of part 1 of the policy: it will be inimical to social and environmental well-being. To the limited extent that might be argued to contribute to economic well-being, any benefits are likely to be considerably outweighed by the other two factors. The drafting of this policy clearly reflects the three dimensions of sustainable development set out at paragraph 7 of the NPPF.

CPRE considers that the NPPF as a material consideration carries significant weight in this particular case. When issued in its final form, the NPPF was widely perceived as being more encouraging to development than the policy and guidance it replaced. However, it also gave greater emphasis to sustainability than any guidance issued in the previous twenty-five years following the Brundtland Commission's definition of the term. We return to this issue later in respect of the planning balance.

### **Landscape and Visual Impact**

The further site visits on 7 March 2017 (in respect of 17/00072/FUL) and on 24 July (in respect of this appeal) reinforce CPRE's view that the landscape impact of the proposed development would be adverse to the extent which warranted refusal at the planning application stage on this ground alone.

### **Transport Impact**

Our letter of objection referred to the question of whether the proposal constituted waste development. CPRE was fairly certain of the answer; but it was helpful to have confirmation from both Tewkesbury Borough Council and Gloucestershire County Council that it was not.

A comparison with an energy from waste (EfW) plant is nonetheless useful. Both EfW and the proposed development involve the transport of material of considerable bulk and low value over sometimes long distances to a site where operations usually need to be on a certain scale to be economically viable.

Applications for EfW developments have to be supported by substantial evidence on the sources of waste, including its security and reliability. One of the main arguments deployed by the objectors to the (then) proposed EfW plant at Javelin Park, south of Gloucester, was that sufficient residual municipal waste from within the County could not be guaranteed, partly because of anticipated increases in recycling rates; some of the rest of the feedstock to enable the plant to operate efficiently, from whatever source, might have to be brought in from outside Gloucestershire. Arrangements for the transport of feedstock, for example

whether direct using refuse collection vehicles (RCVs) or in greater bulk via waste transfer stations, must also be clearly set out and justified.

Any applications for such development are subject (as they should be) to a great degree of scrutiny. In the case of Javelin Park, these two issues (and others) were examined in detail at a lengthy public inquiry. The outcome was that the Secretary of State allowed the appeal in line with the Inspector's recommendation; but the key point is that the examination of the issues took place.

In contrast, such scrutiny was not in this case even possible because the application documents were remarkably vague, notwithstanding the assertions to the contrary in the appellant's Statement of Case about the sources of the feedstock and the aggregate distances involved in its transport. CPRE would expect an even greater degree of scrutiny of such issues in the present context than in a situation where residual waste, notwithstanding higher recycling rates, is unavoidable; in contrast, as our objection stated, there is a serious question about the need at all for the present proposal.

### **Sustainable Development and the Planning Balance**

We consider that the question of whether the proposal constitutes sustainable development, bearing in mind the relatively limited extent to which development plan policies are engaged by it, is perhaps the most important of all. The three dimensions of sustainable development are therefore addressed in turn.

In CPRE's view, the benefits in the economic domain are far from clear. As acknowledged above, this proposal was not a waste application to be determined by the County Council as waste planning authority. The feedstock is grown for the purpose; it is not a by-product or a residue. There are therefore in CPRE's opinion significant opportunity costs involved here. Crops could be grown in the same fields for direct human consumption or for animal feed, or the land used for grazing. The *i* newspaper recently carried a report which referred to a decline in the extent of Britain's self-sufficiency in food from about 80% in 1995 to 60% now. This is not a new issue. For example, the Daily Telegraph reported on 25 September 2010 that the level of Britain's food self-sufficiency had fallen below 60%, the worst figure since 1968. On 7 August 2014, the Guardian newspaper reported that the level of self-sufficiency had declined from 78% to 60% in 30 years. The figures may not be entirely consistent; but the trend is clear. As the world's population increases, food security is becoming a correspondingly important issue. Britain's level of self-sufficiency in food will need to rise again, and the proposed development will be inimical to that.

It is not clear what prompted the submission of 17/00072/FUL, other than the refusal of 16/00241/OUT; but it can reasonably be inferred that the applicants believed that a proposal on a smaller scale, where any potential adverse impacts would on the whole be

commensurately less, might stand a better chance of being approved. It is therefore significant that it is the larger proposal now brought to appeal.

For these reasons, it is considered that any net economic benefits are likely to be small.

In the social domain, benefits are likely to be negligible.

In the environmental domain, the feedstock has to be transported considerable distances, and involves a disproportionately large number of vehicle movements owing to the relatively low weight to volume ratio. Transport of the feedstock is unlikely to be fuel efficient. We consider the proposed development to be unsustainable in this respect.

The landscape impacts constitute another environmental disbenefit. The fact that much development related to agriculture which lies outside the scope of the planning system may have some impact on the landscape makes no difference to the fact that development which does fall within the scope of the planning system should be rigorously evaluated.

We consider that the adverse impacts of the proposed development, in the terms of paragraph 14 of the NPPF, do indeed significantly and demonstrably outweigh the benefits.

### **Summary and Conclusions**

In respect of the main issues, CPRE finds the following:

- That to the extent that the policies of the development plan continue to apply, the proposed development is contrary to them
- That the proposed development is contrary to emerging development plan policy
- That the proposed development is contrary to national policy
- That the proposed development will have an adverse impact on the landscape
- That the proposed development will have adverse traffic impacts
- That in the terms of the three dimensions of sustainable development, the proposed development cannot be considered to be sustainable

The balance of planning considerations in CPRE's opinion therefore weighs against the proposed development. For this reason, the Inspector is respectfully requested to dismiss the appeal.

*David Crofts MRTPI*

*Director*

*Estcourt Planning*

*31 July 2017*