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Our Ref: APP/X0605/V/05/1176656

22 January 2007

Dear Sir/Madam,

**TOWN AND COUNTRY PLANNING ACT 1990 (SECTION 77)
APPLICATIONS BY QUINN GLASS LIMITED
APPLICATION Nos: 04/01402/FUL AND P2004/673
QUINN GLASS BUSINESS PARK (former Ince B Power Station), ASH ROAD,
ELTON, CHESHIRE, CH2**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, J S Nixon BSc(Hons) DipTE CEng MICE MRTPI MIHT, who held a public local inquiry which opened on 22 November 2005, into your client's applications to Chester City Council (CCC) and Ellesmere Port and Neston Borough Council (EPNBC) for planning permission for the construction of a glass container manufacturing, filling and distribution facility and associated works on land at Quinn Glass Business Park (former Ince B Power Station), Ash Road, Elton, Cheshire, CH2.

2. It was directed on 2 March 2005, in pursuance of section 77 of the Town and Country Planning Act 1990, that the applications be referred to the Secretary of State instead of being dealt with by the relevant local planning authorities (LPAs), CCC and EPNBC.

3. The Inspector, whose conclusions are reproduced in the annex to this letter, recommended that planning permission be refused. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where indicated, and with his recommendation. A copy of the original Inspector's Report (IR) is enclosed.

4. After consideration of the IR, the Secretary of State requested, by letter dated 23 October 2006 to the Planning Inspectorate, clarification of certain matters by way of an addendum report (AIR). On 1 December 2006, the Inspector submitted the requested addendum report, which is enclosed at Annex B, along with a copy of the Secretary of State's letter of 23 October which commissioned the report. The Secretary of State's reasons for asking for clarification by way of the AIR are set out in that letter. The Secretary of State has determined the application on the basis of both the IR and the AIR.

Procedural Matters

5. In line with the published DCLG propriety guidance, neither the Secretary of State nor the Minister for Housing and Planning were involved in taking this decision, as in the case of the former it involved an application in the region in which her constituency is based, and in the latter she made a representation in her capacity as constituency MP on behalf of a business in her constituency (see paragraph 6 below). The decision was taken on the Secretary of State's behalf by another Planning Minister in the Department.

6. After the inquiry closed the Secretary of State received written representations from; Yvette Cooper MP dated 9 June and 1 December 2006, enclosing letters from David Currie of Rockware Glass; the Rt Hon Rosie Winterton MP dated 15 August 2006, enclosing a letter from David Currie of Rockware Glass; the Rt Hon Denis MacShane MP dated 17 August 2006, enclosing a letter from Mike Frizelle of AMICUS; John Healey MP dated 24 August 2006, enclosing a letter from Mike Frizelle of AMICUS; Brian H Donohoe MP dated 5 September 2006; Jim Fitzpatrick MP, Minister for Employment Relations and Postal Services, DTI, dated 31 August 2006; Stephen Broomhead dated 24 July 2006; Neville Chamberlain, CBE, dated 13 July 2006; DLA Piper Rudnick Gray Cary LLP dated 4 July and 8 August 2006; C M S Cameron McKenna dated 13 September 2006; Ed Balls MP dated 16 September 2006, enclosing a letter from Mike Frizelle of AMICUS; Eric Illsley MP dated 7 September 2006, enclosing a letter from David Currie of Rockware Glass; and, Mary Creagh MP dated 15 December 2006, enclosing a letter from Mohan de Silva of First Wakefield District Development Agency. This correspondence has been carefully considered, but the Secretary of State does not consider that it raises any new issues relevant to this application that either affect her decision or require her to refer back to the parties for further representations before reaching her decision. Concerns raised in this correspondence regarding the economic impact of the development are addressed by the Secretary of State in paragraphs 29 and 47 below. Following a specific request from the applicant's agents, copies of this correspondence were copied for information to those who appeared at the inquiry on 4 October 2006. They can be made available upon written request to the above address.

7. Since the inquiry closed, the Court of Appeal gave judgement, dated Thursday 15 June 2006, on the validity of the Integrated Pollution Prevention and Control (IPPC) permit issued by CCC. Whilst this judgement quashed the IPPC permit issued by CCC, it allows Quinn Glass to operate until such time as a decision is made on this application. The Secretary of State does not consider that the IPPC judgement raises any new issues relevant to the application that either affect her decision or require her to refer back to the parties for further representations before reaching her decision.

8. On a related matter, since the inquiry closed planning permission has been granted by EPNBC on 14 June 2006 for a secondary abatement plant. This is considered further below.

9. In reaching her decision the Secretary of State has taken into account the Environmental Statement which was submitted under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations

1999 (“the 1999 Regulations”). Paragraphs 1.4 and 1.5 of the IR set out the procedural details relating to the Environmental Statement and revised Environmental Statement (RES).

10. One of the main reasons the Secretary of State sought clarification by way of an addendum report was that she was concerned that the Inspector in the IR appeared to give considerable weight to the fact that the RES itself was judged to be inadequate. The Secretary of State considers that the RES itself was adequate in that it met the relevant requirements of the 1999 Regulations. She is of the view that provided an Environmental Statement meets the requirements of 1999 Regulations, it is not necessary for that statement to have addressed each and every aspect of the environmental impact in full detail, provided that satisfactory environmental information has been provided subsequently. She considers that it is acceptable for additional material provided on a particular environmental matter raised at an inquiry to be considered alongside the original environmental information provided in the Environmental Statement.

11. The Inspector in the AIR (AIR 5) explains that he gave no weight to any inadequacy in the RES itself (see also in this regard AIR 3 and 4). Having received the AIR the Secretary of State notes that the Inspector’s concern was as to the adequacy of the “aggregated environmental information delivered before or during the Inquiry” (AIR 5) and not as to the adequacy of the RES itself. The Inspector’s concern as to the adequacy of the aggregated environmental information is a matter to which weight must be accorded since it was the Inspector who heard all the evidence at the inquiry.

12. However, the Secretary of State notes that the Inspector’s recommendation is that planning permission be refused “even if the totality of the environmental information is judged acceptable” because the aggregate level of objection outweighs the benefits (see AIR 39).

13. The Secretary of State notes that changes have been made to the details contained in the application plans as set out in IR 1.7. She has determined the application as amended, and considers that no party has been prejudiced by doing so.

Policy Considerations

14. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan comprises the Regional Spatial Strategy for the North West 13 (RSS13), the Structure Plan Alteration: Cheshire 2016 (Cheshire SPA), the Ellesmere Port and Neston Borough Local Plan (EPNBLP) and the Chester District Local Plan (CDLP). The CDLP was adopted after the close of the inquiry and replaced the outdated Mersey Marshes Local Plan, the Greater Chester Local Plan and the Chester Rural Area Local Plan. The Secretary of State has determined the application on the basis of the up-to-date development plan, that is, the RSS, Structure Plan, EPNBLP and the CDLP adopted in May 2006.

15. The Secretary of State has considered the statement of common ground (doc 8) in identifying relevant development plan policies. She agrees that the main policies include: RSS13 – SD1, SD2, SD3, EC1, EC2, EC7, ER5, ER6, ER7, ER8, EQ2, T2, T4, T6, T7; Cheshire SPA – GEN1, GEN2, GEN3, GEN6, GEN7, R4, IND1a, IND3a, T6a; EPNBLP – EMP7, GEN1, GEN4, HAZ4, TRANS1, TRANS3, TRANS4; CDLP – EC5, EC8, GE1, GE3, GE5, GE6, ENV1, ENV21, ENV22, ENV28, ENV29, ENV59, ENV61, TR1, TR13, TR19.

16. Material considerations that the Secretary of State has taken into account include Planning Policy Statement PPS 1 *“Delivering Sustainable Development”*, Planning Policy Guidance Note PPG 2 *“Green Belts”*, PPG4 *“Industrial and Commercial Development and Small Firms”*, PPS7 *“Sustainable Development in Rural Areas”*, PPS9 *“Biodiversity and Geological Conservation”*, PPG13 *“Transport”*, PPS22 *“Renewable Energy”*, PPS23 *“Planning and Pollution Control”*, PPG24 *“Planning and Noise”*, PPG25 *“Development and Flood Risk”*, Circular 11/95 *“The use of Conditions in Planning Permission”*, Circular 05/05 *“Planning Obligations”*, Circular 06/05 *“Biodiversity and Geological Conservation”*, the Strategic Development Brief for Ince Marshes/Former Ince Power Station/Kemira (SDB), and Parking Provision within Developments in Chester.

17. Some reference was also made at the inquiry to PPG 3 *“Housing”* (see IR 1.8 and 9.15). Since the close of the inquiry, PPS3: *Housing*, has been published and PPG3 revoked. However, the Secretary of State does not consider PPS3 is material to her decision because it does not affect her conclusions on the main issues. Since the inquiry closed PPS25: *Development and Flood Risk* has been published. It is therefore a material consideration and the Secretary of State has considered the proposals against the policies in this document. However, she does not consider that the policies raise any new issues that would affect either her decision or require her to refer back to the parties for further representations prior to reaching her decision on the application.

Main Issues

18. Those issues on which the Secretary of State wished to be informed are set out in IR 1.2.

Overview

The extant planning permission

19. The Secretary of State agrees with the Inspector at IR 9.3 that the 2003 planning permission and subsequent events are material to the recent planning history of the site. Like the Inspector, the Secretary of State considers that the extant planning permission is not a fallback position, in that there would be physical difficulties in reverting to the approved development (IR 9.4) as the new development has been built, because Quinn Glass indicate that they would relocate to France if planning permission were refused (IR 9.4), and that they would not demolish the existing building and revert to the extant permission (IR 9.5). The Secretary of State agrees with the Inspector that in terms of weighing up all relevant issues, the application development should be treated as if it were yet to be built, on a cleared brownfield site (IR 9.6). However, the Secretary of State gives some weight to the

fact that during the consideration of the 2003 planning permission, environmental impacts of the smaller factory were taken into account by the relevant local planning authorities.

The application process

20. Like the Inspector, and for the reasons given in IR 9.7-9.9, the Secretary of State has not weighed in the planning decision the fact that Quinn Glass have constructed the development without first securing planning permission, or an IPPC permit.

Rockware

21. The Secretary of State agrees with the Inspector at IR 9.10, for the reasons in that paragraph, that it is the Quinn development which is under scrutiny here, and that Rockware's actions are not material considerations in the planning merits of the case.

Relationship of the proposals to the Development Plan

22. The Secretary of State agrees with the Inspector at IR 9.15 that re-use of this brownfield site for employment accords with relevant policies in the development plan and with national policy. The Secretary of State observes that Policy EMP7 in the EPNBLP specifically allocates the application site for employment. However, the Secretary of State also observes that Policy HAZ3 in the EPNBLP requires that all new potentially polluting development (PPD) should be located within the Stanlow Special Protection Area (SPA) as defined under Policy EMP2, and that there is no dispute that the Quinn development is PPD as defined in the local plan (IR 9.21). She agrees with the Inspector (IR 9.29) that policy HAZ3 applies to all sites, including those designated under Policy EMP7.

23. The Secretary of State agrees with the Inspector at IR 9.24 that the Quinn Glass development runs contrary to a strict application of the land use and allocation policies in the EPNBLP, although it does not breach the CDLP, and is therefore not fully compliant with the development plan (see further IR 9.25 – 9.29). In reaching this conclusion, she has taken into account EPNBC's views at IR 4.19 to IR 4.24. The Secretary of State agrees with the Inspector that the fact that the greater part of the application site falls within the CCC area is not decisive. The Secretary of State is in general agreement with the comments of the Inspector in IR 9.31 – 9.32 and does not consider the fact that the CDLP has now been adopted changes the position to any material extent.

24. The proposals thus fail to comply fully with the development plan. However, the Secretary of State considers that there are other material factors which could outweigh this lack of compliance in the event that any future application adequately addressed the concerns set out in this decision letter (see also paragraphs 65 and 66 below)

25. The Secretary of State agrees with the Inspector at IR 9.30 that B2 or energy generating uses are acceptable on the Policy EMP7 site, provided that such uses are not PPD. She also agrees with the Inspector at IR 9.31, for the reasons given in

that paragraph, that the Stanlow SPA is the first area of choice as a location for PPD, and that locating the Quinn Glass development outside the SPA could weaken the economic position of the SPA.

26. She agrees with the Inspector at IR 9.35 for the reasons in IR 9.33-9.34 that the Strategic Development Brief (SDB) does not attract much weight, apart from in respect of the definition of the site area and the modal transport split.

The need for the development and benefits

27. The Secretary of State agrees with the Inspector that the scheme generates a relatively high level of employment with spin offs to the local and wider economy, and that a fair number of the jobs are of the skills level needed in this part of Cheshire (IR 9.36). She has taken into account (see IR 9.36 and 9.37) support for the development from the North West Regional Development Agency (NWRDA) and the Department of Trade and Industry (DTI).

28. She agrees with the Inspector at IR 9.38, for the reasons in that paragraph, that through the addition of the filling hall to the bottling plant, the Quinn operation is of benefit to the UK glass industry, and provides sustainability benefits in terms of transport savings, and glass recycling. She considers that it is very likely that Rockware and other UK glass manufacturers will need to become more competitive, or lose market share, though she does not agree with the Inspector that it is necessarily “inevitable” (IR 9.39). She is broadly in agreement with the Inspector (IR 9.40) that the competition which Quinn would introduce into the market would benefit the UK economy as a whole, but cannot reach a firm conclusion on this point based on the evidence available. She does not consider that it is necessary to reach such a conclusion, however, in order to determine this application.

29. The Secretary of State agrees with the Inspector at IR 9.46, for the reasons in IR 9.41 to 9.45 that there are significant advantages in the Quinn operation at Elton, if an acceptable development in planning and environmental terms can be secured. She accepts that there may be negative effects on employment prospects in the Yorkshire glass industry, but considers that these would come about by way of improvements to working practices which the planning system should not be used to inhibit and are not relevant to land use planning (see also paragraph 47 below).

The extent to which the development accords with PPG13: Transport.

Overview

30. The Secretary of State agrees with the Inspector’s reasoning and conclusions in his overview of PPG13 issues set out in IR 9.47-9.51. She agrees that key matters for consideration are the adequacy of any Transport Assessment (IR 9.47) including targets for modal split. She also agrees that it is appropriate to review the proposal against PPG13 on the basis of the updated position (IR 9.51).

Travel to Work and Travel Plan

31. The Secretary of State agrees with the Inspector's reasoning and conclusions on matters relating to travel to work and the draft travel plan as set out in IR 9.52-9.60 and 9.202-9.206. Accordingly, she agrees that the development does not accord with PPG13 and the Development Plan policies in respect of travel to work trips (IR 9.60).

32. The Secretary of State agrees that the final travel plan proposed as part of the Section 106 agreement is inadequate. She also agrees that though the final travel plan moves somewhat towards the SDB targets, more could be done to plan and secure alternative forms of travel to and from the site for employees and both raw materials in and finished product out (IR 9.206).

Servicing

33. The Secretary of State generally agrees with the Inspector's reasoning and conclusions on the servicing of the site as set out in IR 9.61-9.67 and as clarified in AIR 8 - 18. In particular she agrees that the development falls very far short of what one should expect of a major site located alongside a working rail freight line in terms of using rail as a mode of transport (IR 9.64 and 9.65). She also agrees with the Inspector that the figures for reduced HGV traffic and transfer to rail at some 6% do not reflect today's position (IR 9.63 and AIR 8). The Secretary of State agrees that the extent of the proposed modal shift is minimal for a location such as this and the section 106 agreement delivers no certainty, long term commitments or guarantees (AIR 18).

Helicopter

34. The Secretary of State notes the Inspector's observations with regard to the helipad in IR 9.69-9.70. She agrees that in the absence of any ecological assessment of the impact of helicopter usage, then a condition precluding access by such means would have been appropriate.

Summary

35. The Secretary of State agrees generally with the Inspector's summary on the extent to which the proposed development accords with PPG13, as set out in IR 9.71-9.73 having regard to the clarification of these matters in the AIR. Leaving aside issues related to the adequacy of the RES itself for the reasons given, she agrees that the development does not sufficiently accord with or respect the aims and objectives of PPG13, policies in the Development Plan and supporting planning statements in this regard (IR 9.73).

The impact of traffic on roads in the area generally

36. The Secretary of State agrees with the Inspector's reasoning and conclusions on the impact of the proposals on roads in the area generally, as set out in IR 9.74 - 9.91 and 9.101 - 9.105 and AIR 22 - 23. In particular the Secretary of State agrees that for the reasons identified by the Inspector the proposed access via Ince Lane and Ash Road is neither safe nor adequate.

37. Notwithstanding the difficulties identified by the Inspector, the Secretary of State still considers that there may be at least some prospect of improvement to the Ash Road access.

38. The Secretary of State notes the concerns of the Inspector as regards the lack of assessment of Kemira Road as an alternative access (IR 9.91 – 9.97 and AIR 20 – 21 and 24). However, the Secretary of State does not agree with the Inspector that it was a requirement of the 1999 Regulations that this be considered. The requirement under the 1999 Regulations is for an Environmental Statement to consider the main alternatives studied, not to consider “reasonable alternatives”. Accordingly, the Secretary of State does not have any regard to the lack of assessment of Kemira Road as an alternative access.

39. At IR 9.98 the Inspector states that he “firmly believes that it is necessary to look at the development of the entire allocation in terms of the environmental effects of traffic and noise.” The Secretary of State does not agree. The 1999 Regulations only require that the effects on the environment of the proposed development and possible cumulative effects are assessed. In terms of the latter, the Secretary of State considers that an Environmental Statement need only assess the likely cumulative effects of the proposed development, and any other development that has planning permission on neighbouring lands. She does not consider that it requires an assessment of the effects of an unknown future development.

The extent to which the development accords with PPS23 and the effect of likely emissions on air quality

40. The Secretary of State notes the concerns of the Inspector as regards the adequacy of the evidence on air quality (and NO_x emissions in particular) in terms of establishing background levels (IR9.110 – 9.122) which led him to be unsure about the implications for the Mersey Estuary in particular.

41. Despite these concerns, the Secretary of State observes that the Inspector was aware that planning permission was being sought for a secondary abatement plant during the inquiry and that this would be by way of selective catalytic reduction (SCR) (IR 9.121 and 9.132) and she notes his view that if this were installed it “should reduce levels of NO_x emissions, such that...the thresholds would not be breached under any conceivable scenario” (IR 9.121 and AIR 27).

42. As referred to above, since the inquiry closed planning permission has been granted by EPNBC on 14 June 2006 for such a plant.

43. Had she otherwise been minded to grant permission the Secretary of State would have been likely to have reverted to the parties for submissions as to whether a condition requiring the implementation of the SCR permission might have been imposed in order to overcome any residual concerns identified by the Inspector in relation to air quality issues. However, even assuming (which seems likely) that this matter could have been dealt with by way of a condition the Secretary of State is of the view that for the reasons given in this decision letter planning permission should be refused.

The extent to which the development accords with PPG24 and the effect of noise from the development on local amenity

44. The Secretary of State agrees with the Inspector's reasoning and conclusions on the extent to which the development accords with PPG24 and the effect of noise from the development on local amenity, as set out in IR 9.134-9.169, except in respect of the matter addressed in paragraph 46 below. The Secretary of State agrees that the noise from operation of the plant and - cullet deliveries and rail access apart - vehicles within the site, can be accommodated without any marked impact. She also agrees that during the day-time, noise from traffic on Ash Road could be attenuated to a large degree. She further agrees that at night-time, the implications are somewhat worse, and that as there would be increases in perceived noise levels for some occupiers, this counts as a moderate negative factor when balancing the advantages and disadvantages of the proposal (IR 9.168). She agrees, for the reasons given that the attenuation should have formed part of the application (IR 9.162).

45. In assessing this aspect of the proposal the Secretary of State also agrees with the Inspector's reasoning and conclusions at paragraphs 30-33 of the AIR. She agrees that attenuation is the best that could be achieved, but does not overcome the moderate level of objection on noise grounds (AIR 33).

46. With regard to potential noise increases as a result of the development of the balance of the power stations site (IR 9.166 and 9.169), the Secretary of State does not consider that it is necessary to assess such matters as part of the proposal before her, for the reasons she has already given in paragraph 39.

The economic effects of the development

47. The Secretary of State has carefully considered the possible adverse economic impacts of the Quinn plant in other areas of the country where there are high levels of employment in glass manufacturing. However, she agrees with the Inspector's conclusions at IR 9.176, for all the reasons in IR 9.170 to 9.174, that direct competition could lead to adverse effects on the economy of towns with existing glass manufacturing plants, but that the planning system should not be used to inhibit competition.

The physical suitability of the site for development

48. The Secretary of State agrees with the Inspector at IR 9.177 that there is no objection in principle to the redevelopment of the site for employment use. She also agrees that the site is in an ideal location to secure multi modal access for both journeys to work and goods servicing, but that reasonable prospects for transport conversion and modal shift must be shown for this to be taken into account in the planning balance.

49. The Secretary of State agrees with the Inspector that the Quinn development should be appraised in the context of how the site looked following closure and demolition of a substantial part of the Ince A and B Power Stations, rather than in comparison to how the site looked before this (IR 9.179 to 9.180). She shares the Inspector's surprise that for a project of this scale, there is no Design Statement to

accompany the application (IR 9.180). She agrees with the Inspector at IR 9.182, for the reasons in IR 9.181-9.182, that there was a series of missed opportunities in terms of considering how design could have accommodated flood risks on the site, and at IR 9.183 that a Design Statement is needed to show how the buildings could respect the landscape context of the surrounding area.

50. The Secretary of State agrees with the Inspector at IR 9.184 that the Quinn Glass project has created buildings which are extremely large and prominent from a number of public vantage points, and that from some viewpoints they appear as huge, monolithic structures, with opportunities to screen or encourage views away from the structures not being taken.

51. The Secretary of State agrees with the Inspector at IR 9.186, for the reasons in that paragraph, that the Quinn stack and buildings introduce a degree of visual intrusion into the gap between the Stanlow and Kemira structures, which is unlikely to be mitigated by planting for many years to come. She agrees with the Inspector at IR 9.188, for the reasons in that paragraph, that the Quinn buildings have a pronounced impact even from more distant vantage points such as the M56 motorway.

52. The Secretary of State shares the Inspector's concern at IR9.189 that the design of the built structures is poor and solely based on functionality, and that with no Design Statement, there is no specific support for the design. She also agrees that the design lacks sustainability credentials, an environmental audit and Sustainable Urban Drainage System (IR9.192). She agrees with the Inspector at IR 9.194 that the willow wall is desirable to separate residential from industrial uses. In this context, she agrees that if the wall is needed and has harmful consequences then the Quinn project does not rest well with its setting. However, in the circumstances of this case and on the basis that some noise attenuation could be achieved by constructing the wall, she considers that this represents only a moderate negative factor against the proposal.

53. For all these reasons, the Secretary of State agrees with the Inspector at IR9.195 that the design and appearance of the Quinn structure as built constitute a reason to resist the project. However, the Secretary of State considers that this only constitutes a moderate objection to the proposal, as a similarly large structure would have been allowed under the extant permission.

Alternative sites

54. The Secretary of State disagrees with the Inspector's reasoning and conclusions on alternative sites, as set out in IR 9.196 – 9.201 and AIR 35 – 36. She considers that the RES adequately considered the alternatives studied. Having regard to the evidence before the inquiry, it is clear that when Quinn were considering the strategic location of the new plant, northern France was considered, but for the reasons given by Quinn, the north of England was preferred. The RES considers the eight likely suitable sites in the north of England which Quinn considered. Accordingly, the Secretary of State takes the view that the RES did include an outline of the main alternatives considered and the reasons for choosing the appeal site. The RES did not require the consideration of France by reason of it being a reasonable alternative.

Sustainable Urban Drainage System (SuDS)

55. The Secretary of State agrees with the Inspector at IR 9.207 that a site such as this offers opportunities for rain water harvesting or employing green roof technology, and other forms of sustainable drainage, and that as far as attempts at SuDS are concerned, little is achieved by these proposals.

Renewable energy/recycling

56. The Secretary of State agrees with the Inspector at IR 9.210 that the failure to consider renewable energy is a significant shortcoming in the development, which leaves it at odds with PPS22 and development plan policies. She notes (IR 9.211) that the PPC regulations require the environmental assessment of options to take account of energy. The Secretary of State acknowledges the benefits from the use of recycled glass on the Quinn site, and the combined manufacturing and bottling on site, with its consequent transport savings. However, the Secretary of State shares the Inspector's concerns at IR 9.215 that the proposal does not rest comfortably with Government aims and the objectives in both the extant and emerging development plan policies for renewable energy and recycling.

57. In assessing this aspect of the proposal the Secretary of State also agrees with the Inspector's reasoning and conclusions at paragraph 34 of the AIR. She agrees that any benefits would necessarily be small scale claw back and that this aspect of the proposal is a negative factor weighing against the proposal (AIR 34).

The balance of the Power Stations site

58. The Secretary of State disagrees with the Inspector at IR 9.216, that the consequences for development of the balance of the land should have featured in the RES. The 1999 Regulations only require an assessment of the impact of the application proposal and any other development that has planning permission on neighbouring lands (see paragraph 39 above). However, she agrees with the Inspector that the present situation is a poor example of piecemeal planning of a Strategic Employment Site (IR 9.217) where a significant element of the Development Plan allocation for employment could become sterilised. But, in the circumstances of this case, and given that there is no adopted strategic brief, she does not afford this any weight in reaching a decision.

59. The Secretary of State agrees with the Inspector that this situation has largely come about as a direct consequence of not preparing and adopting the new and updated strategic brief heralded by the Local Plans (IR 9.219). The realisation of CCC and EPNBC's employment allocations would be compromised by allocating potentially polluting development on this site (IR 9.219), though the Secretary of State considers that there is potential for allocations of a non-polluting nature, and for alternative access capacity.

Ecology

60. The Secretary of State agrees with the Inspector at IR 9.226 that with the potential exception of air quality, which is considered above, there are no other ecological considerations that cannot be overcome satisfactorily.

Section 106 agreement and conditions

61. The Secretary of State has considered the Inspector's comments on the S106 obligations at IR 10.1 to 10.7. On the S106 agreements, she agrees with the Inspector at IR 10.4 and 10.7 that the sections dealing with alternative modes of travel and embracing road access are insufficiently robust for this location. However, for the reasons already explained she disagrees with the Inspector at IR 10.6 that the option of using Kemira Road as an alternative access to the Quinn Glass site should have been examined in the RES. Had she been otherwise minded to grant planning permission she would not have had any difficulty with this part of the Agreement.

62. The Secretary of State has also considered the conditions proposed at IR 10.8 to 10.39. She considers that the concerns she has identified in this decision letter cannot be fully rectified through conditions.

Conclusion

63. The Secretary of State considers that the proposal has a number of benefits, including that it regenerates a contaminated brownfield site and would generate a relatively high level of employment in the wider and local area. Whilst she has carefully considered the potential impact of the proposal on jobs elsewhere in the glass industry, she does not consider that it is part of Government planning policy to inhibit fair competition and has therefore evaluated the development on its own merits.

64. However, she considers that the development as built and for which planning permission is sought is not fully compliant with the development plan. She also has concerns about access arrangements to the site and does not consider that the Travel Plan and servicing arrangements are satisfactory. She also considers that there is a moderate objection on noise grounds as well as on grounds of design and appearance, and significant shortcomings in the approaches to sustainable drainage and energy generation.

65. The Secretary of State concludes, therefore, that the proposal is not in accordance with the development plan or national planning policies, and that other material considerations are of insufficient weight to indicate that she should determine the application other than in accordance with the development plan and these policies.

66. The Secretary of State agrees with the Inspector (IR 9.225) that submitting a fresh planning application with a comprehensive approach may be an appropriate way forward in the circumstances of this case. This decision letter sets out where the Secretary of State has particular concerns, and it appears to her that overcoming those deficiencies might enable the material considerations in a fresh application to be weighed favourably enough so that planning permission may be granted.

67. The Secretary of State agrees with the Inspector's overall recommendation that planning permission should be refused.

Formal Decision

68. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. She hereby refuses planning permission for application refs: 04/01402/FUL and P2004/673 (as amended) both dated 21 July 2004, for the construction of a glass container manufacturing, filling and distribution facility and associated works on land at Quinn Glass Business Park (former Ince B Power Station), Ash Road, Elton, Cheshire, CH2.

Right to challenge the decision

69. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court.

70. A copy of this letter has been sent to Chester City Council, Ellesmere Port and Neston Borough Council and all those who appeared at the Inquiry.

Yours faithfully,

Paul Hudson
Chief Planner
Authorised by the Secretary of State to sign in that behalf