



Adroddiad

Report

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**Arolygydd penodwyd gan Cynulliad
Cenedlaethol Cymru**

**an Inspector appointed by the
National Assembly for Wales**

Town and Country Planning Act 1990

Section 77

Planning Application made by Castle Cement Limited

For

**The Construction of a New Kiln Line and Associated Plant, Limestone
Store, Fuel Storage Buildings, Re-Profiling of Former Licensed Waste Site,
and Ancillary Works**

at

Padeswood Cement Works

Padeswood, Mold, Flintshire, CH7 4HB

INSPECTOR'S REPORT

Ymchwiliad a agorwyd ar : 11/10/2000

Inquiry opened on: 11/10/2000

Cyf. Ffeil/File Ref : APP A6835/X/00/513778

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Padeswood Cement Works, Padeswood, Mold, Flintshire, CH7 4HB.

- The application is made under section 62 of the Town and Country Planning Act 1990.
- The application is made by Castle Cement Limited
- The application ref. M99/0/0024 is dated January 1999.
- The development proposed is the construction of a new kiln line and associated plant, limestone store, fuel storage buildings, re-profiling of former licensed waste site, and ancillary works.
- The application was called in for decision by the National Assembly for Wales by a direction made under section 77 of the 1990 Act on 15 February 2000.
- The reason given for making the direction was that it was considered that the proposed development raised planning issues of more than local importance.
- On the information available at the time of making the direction, the following were the matters on which the National Assembly for Wales particularly wished to be informed for the purpose of its consideration of the application:-

- (i) **The effect of the proposed development on public health in view of possible emissions,**
- (ii) **The effect of the proposed development on the landscape, including the visual impact,**
- (iii) **The effect on employment,**
- (iv) **The relevant national planning and development plan policies.**

Summary of Recommendation: That conditional planning permission be granted for the Kiln 4 project at Padeswood.

This report contains the gist of the representations made both at the Inquiry and in written submissions. The evidence was extensive and many parties relied on similar points in their submissions. In the interests of clarity not all the individual material points raised by each party are recorded. However, the report in its entirety is representative of the case in support, against, or a neutral perspective.

1. PROCEDURAL MATTERS

- 1.1 The Inquiry opened on 11 October 2000 and sat at various times during the following weeks, through 25 sitting days and one evening session, with the last witness giving evidence on the 20 December 2000. The last day of the Inquiry was on the 10 January 2001 when closing submissions were heard.
- 1.2 At the Inquiry I was ably assisted by W y Assessor Mr David Tester CChem MRSC FCIWEM who was appointed to advise me on matters concerning pollution. His brief and his report to me are appended to this Inquiry report. I am indebted to Mr Tester for his advice during the Inquiry and his guidance in this detailed technical field.
- 1.3 The inquiry programme and library were managed by Ms Jacqui Dale. She performed these difficult tasks with both tact and diplomacy. I am grateful to her for the efficient way in which the sitting periods were managed thereby aiding the smooth running of the Inquiry. The document schedules and attendance sheets were prepared by her and they are included as appendices to this report (Appendices 4 & 5). These lists have been agreed with those who

participated in the Inquiry. The original document library is submitted to the NAW with this report together with the relevant document schedule.

- 1.4 Allegations were made during the Inquiry concerning an Inspector/Environment Agency Conspiracy leading to the suppression of evidence. It was brought to my attention when I saw copies of electronic mail (Email) between the Flintshire Green Party and CANK, one of the main objector groups. I specifically asked the parties alleged to be involved to present replies to the Inquiry. These replies are recorded in the opening paragraphs of chapters 15; 19 and 22, and my conclusions are set out in chapter 34. Specifically in p34.5 I say that the allegation that is made by Flintshire Green Party regarding an Inspector/EA conspiracy is without foundation. In my view, it seeks to undermine and discredit the way in which the Inquiry was managed, and the allegation is reprehensible.

2. SITE INSPECTIONS

- 2.1 Throughout the period of the Inquiry several site inspections were made. Both the Inspector and the Assessor made unaccompanied inspections to assess the appearance and topography of the area. On the 1 November 2000 an accompanied inspection was made in the area to the east of the works near Dodleston. On the 8 November 2000 an accompanied inspection was made at the Padeswood Cement Works which included the existing landfill site and the limestone quarry at Cefn Mawr. On the following day an accompanied inspection was made at the Ketton Cement Works, near Stamford, Rutland, and later on the same day an unaccompanied visit to view the Rugby Cement Works from its surroundings. On the 6 December 2000 an accompanied inspection was made in the Padeswood area and the countryside and villages surrounding Mold from where there are views of the present cement works. On the 13 February 2001 an inspection was made at the Applicant's Ribblesdale Cement Works, at Clitheroe, including the sites of the monitoring stations at Chatburn and LMands. On the 16 February 2001 visited the Aberthaw area to view both the power station and cement works from the surrounding areas.

3. THE APPLICATION SITE AND ITS SURROUNDINGS

(Also see agreed Statement of Description of Landscape Context Doc CC/63 - Clos Sub)

- 3.1 The site of the proposed Kiln 4 project is at the Castle Cement works at Padeswood, near Mold, in Flintshire. The current works is in a site of approximately 73 hectares, in a mainly rural location near the town of Buckley and the villages of Penyffordd and Penymynydd. At Padeswood there is a small scattering of farms and houses, and some of these closest to the works are owned by the Cement Company. The site is designated as a Development Zone in the Local Plan, and it is surrounded by undulating agricultural land. In the wider context this gives way to higher ground in the south, whereas the Clwydian Range (AONB) lies to the west. The heavy industrial area of the Dee Estuary is towards the north and north-west and some 7km distant.
- 3.2 The A5118, running in a fairly wide and straight alignment, fronts the application site and provides the main vehicular access route. To the east the A5118 links with the A550 at the Penyffordd roundabout, just a short distance from the A55 dual carriageway trunk road. Westwards the A5118 joins with the A541 Wrexham to Mold road. A rail link enters the works from the Wrexham-Bidston line.
- 3.3 The existing cement works is a sizeable and prominent industrial complex within the landscape. It comprises a low-level matrix of kilns, storage areas, crushers, conveyors, packing plant, offices, and stockpiled materials. Within the main working zone there are many light coloured buildings and two tall circular section chimneys; the taller of which rises to 67 metres above ground level. There is landfill site within the works boundary.

- 3.4 A tributary of The Black Brook skirts the eastern perimeter of the site. In parts it has been re-sectioned into a well defined trapezoidal channel, but other parts display normal bank side vegetation. There are discharges from the works into this watercourse and sampling points are present. Near the south-eastern corner of the site, and alongside the brook, there is a Butyl lined lagoon which collects leachate from the on-site landfill zone. Where the brook passes the lagoon surface oil interceptors have been placed in the fluvial flow.

4. AN OVERVIEW OF THE PROPOSALS

- 4.1 The E48 million project would comprise the modernisation of a cement works that is now over 50 years old. A new dry process kiln (K4) would be built to replace existing kilns. Together with the new kiln, on site infrastructure is proposed for fuel and raw material storage. The project includes a pre-heater tower about 110 metres tall and several covered manufacturing and storage zones. The planning application includes the treatment and recovery of an existing waste tip on the Padeswood site. Parts of the existing works, including the stacks, would be demolished and removed.
- 4.2 Without modernisation the works would close. It would be run down over a five year period and the workforce of about 200 made redundant.
- 4.3 The new kiln would burn alternative fuels as a part substitute for primary fossil fuels that are burnt in the present kilns. The alternative fuel types would include: chipped tyres; *Cemfuel*, a type of recovered liquid waste; and *Profuel*, derived from shredded and baled waste plastics and similar materials. The operation of the proposed kiln, and its emission standards, would be subject to authorisation by the Environment Agency (EA) acting as the pollution control authority under IPPC regulations. The new kiln would not be able to operate without these authorisations in place. Breach of an authorisation under IPPC is a criminal offence.
- 4.4 It is the intention that production of cement at the new works would increase from current levels of about 500,000 tonnes a year to around 750,000 tonnes per year. The employment profile at the works would reduce from the present 218 persons down to 200, should the project proceed.
- 4.5 In addition to the demolition of the existing kilns at Padeswood the Applicant claims that the project would permit the mothballing and eventual closure of two less efficient kilns at the Company's works at Ribblesdale, near Clitheroe.

5. AN OUTLINE OF THE CEMENT MANUFACTURING PROCESS

- 5.1 Ordinary Portland Cement (OPC) is made to a set specification from raw materials that contain the elements necessary to produce the principal active components, calcium silicates. The primary raw materials used in cement manufacture are:
- limestone or chalk (calcium carbonate, the main source of calcium oxide or lime)
 - clay or shale and sand (the main sources of aluminium, iron oxide and silica) (pulverised fuel ash is now also used).

These components are ground together and heated to about 1450°C to create cement. Various different technologies exist but most make use of a rotary kiln to contain the final high temperature element of the process, where chemical reactions take place and the active ingredients, calcium silicates, are produced.

- 5.2 In the basic process the raw materials are fed into the top of a rotating kiln. At Padeswood the existing Kilns 1 and 2 utilise a wet process, where the limestone, shale and sand raw materials are ground in water and fed to a (98m) long rotating kiln as slurry. The slurry takes about 3 hours to move down the kiln and be converted to clinker by heating with hot air that facilitates the clinker reactions. Hot gases from the kiln flame, travel up the kiln, heating the raw materials which are successively dried, pre-heated to 800°C, calcined (calcium carbonate breaks down to calcium oxide and carbon dioxide is released) and further heated to about 1450°C, as they pass down. This is the hottest part of the kiln where the fuel is burnt in the kiln flame. At this temperature many of the raw materials become molten, complex chemical reactions take place and the calcium, silicon, iron and aluminium oxides are combined to form the clinker minerals such as calcium silicates. ((CaO)₃. SiO₂ and (CaO)₂ SiO₂) Once the molten clinker passes the flame the temperature is reduced rapidly to below 1200°C by drawing cold air into the kiln through a cooler. The clinker is then further cooled before being ground with about 5% gypsum (calcium sulphate) to make the grey powder that is Ordinary Portland Cement (OPC).
- 5.3 Kiln No.3 at Padeswood is a long dry kiln. The process is essentially the same as the wet process, but the raw materials are in a dry powder form, reducing energy consumption by about 20%. However, this is still less energy efficient than the more modern shorter dry kilns used at Ketton (No.7 and 8) and Ribblesdale (No.7), where the raw materials are first heated to about 900°C in pre-heater towers. The Ribblesdale site also still operates older technology wet process kilns.
- 5.4 The proposed Kiln 4 at Padeswood would utilise a dry process where the raw meal would be pre-heated in a 5 stage cyclone pre-heater tower, calcined in a calciner (pre-calciner) and then fed into the kiln to complete the formation of the silicates and the clinker process. There is an agreed statement of the process description (Doc CC/59).

6. PLANNING POLICY

- 6.1 For the purposes of s54(A) of the Town and Country Planning Act of 1990 the Development Plan is the adopted Clwyd Structure Plan First Alteration (CSPFA). The Structure Plan Second Alteration (SPSA) and the Alyn and Deeside Local Plan (ADLP), although not formally approved and adopted, are more up to date and have reached advanced stages. They have been adopted by the Council for development control purposes. The policies of the SPSA reflect the intent of the approved CSPFA policies, but are expanded to include other relevant issues and safeguards taking into account planning guidance at the time of preparation. The following policies are set out in Document FCC 22.

Clwyd Structure Plan First Alteration (CSPFA)

- 6.2 The relevant policies refer to employment (A3), the expansion of industry (AS), landscape and natural environment (H3), and general impact on the environment (HI 1).

Policy A3

Employment development should take, place on land which satisfies *the* following requirements:

- A** It should, whenever possible, be located on land in or on *the* edge of main settlements.
- B** It should use derelict or under-used land in preference to agricultural land of Grades 1, 2 or 3a.
- C** It should not increase air, noise, water pollution or hazard to unacceptable levels, nor have an undue detrimental effect on the surrounding - landscape or environment
- D** It should have good road access, adequate parking and not generate sufficient traffic to cause nuisance or danger.
- E** It should be readily developable:
 - i. To ensure that new employment development is well located in relation to the main centres of population, is economic to develop and does not have an unacceptable effect on the environment. 'Land' includes both individual sites and buildings.
 - ii. In rural areas or in exceptional circumstances in connection with the provision of strategic and high quality sites specified in Policy A2, it may not be possible to locate sites in or on the edge of main settlements.

Policy A5

The expansion of existing industry on land adjacent to existing industrial premises will be permitted subject to appropriate safeguarding of amenity, public safety and the environment.

- i. To safeguard the amenity, safety and environment of adjoining land uses but at the same time to recognise that the expansion of existing industry on site is cheaper than relocation.

Policy H3

The landscape and natural environment of the countryside will be protected and enhanced throughout the County. The impact of new development will be minimised by control of the scale, siting, design and external treatment of new buildings and other developments and by encouraging sensitive landscaping and planting where appropriate.

- i. Policies H4 to H10 protect particular defined areas of the countryside. This policy provides a clear statement regarding the protection of the remainder of the countryside not covered by these specific policies. It also reflects the increasing importance being attached to nature conservation and wildlife. The policy applies to all forms of development, including improvements to transport facilities, such as highway schemes.

Policy H1

Proposals for development should not have an unacceptable effect on public health, on the natural environment or on general amenity by emissions to water, land or the atmosphere, or by noise or vibration.

- i. Whilst it is not possible to eliminate completely all emissions of noise, dust, fumes and effluent, new developments will be expected to limit such emissions to acceptable levels. In deciding on the acceptability of a proposal the local planning authority will, where appropriate, require the submission of an environmental statement and have regard to available scientific and medical evidence and the advice of the relevant authorities for controlling pollution.

Structure Plan Second Alteration - Flintshire Edition

Policy GENT

New development should seek to achieve a high quality of design and to minimise any adverse impact on the environment.

Policy CONS 14

Planning permission will only be granted for new development which will not have an unacceptable effect on public health, on the natural environment or on general amenity by virtue of emissions to water, land or the atmosphere, or by noise or vibration. Where permission is granted it will be subject to appropriate safeguards for neighbouring uses.

Policy CONS 16

Schemes for the disposal, handling or treatment of waste will only be permitted where the proposal will have no significant adverse effects on amenity, nature conservation interests, water resources and the aquatic environment, the local landscape, the local highway network, public health and safety, and the local community. In addition, proposals for waste disposal sites must also be able to demonstrate that:-

- A. Options for waste minimisation and recycling at the source of the waste production have been explored first;
- B. There is no reasonable existing alternative site or facility;
- C. The proposal will satisfy a need for such a facility;
- D. Restoration provisions are adequate.

Policy EMP3

Land to be allocated or given planning permission for employment development should normally satisfy the following criteria:

- A. It should, wherever possible, be located on land in or on the edge of main settlements, unless the development is so large that it is best suited to a free standing location.
- B. It should use derelict or under-used land in preference to agricultural land.
- C. It should not use agricultural land of Grades 1, 2 or 3a unless there is an especially strong case which over-rides the special importance given to protecting such land.
- D. It should not increase air, noise, water pollution or hazard to unacceptable levels, nor be in conflict with Structure Plan policies which protect the environment.

- E. It should be sited and designed to avoid flood risk, or be protected from ii, and to avoid creating or increasing flood risk elsewhere.
- F. It should have good road and, where possible, rail access, adequate parking and not generate sufficient traffic to cause nuisance or danger.
- G. It should be accessible by public transport.
- H. It should be readily developable.

Policy EMP6

The expansion of existing industry on land adjacent to existing industrial premises will be permitted subject to appropriate safeguarding of amenity, public safety and the environment.

Policy EMP8

Industrial developments which are potentially polluting will only be permitted on land either allocated or with planning permission for employment development and where:-

- A. The proposal complies with the requirements of Criteria B to H of Policy EMP3.
- B. The industry does not cause unacceptable loss of amenity or have an adverse impact on the operations of neighbouring firms or compromise the future development of the site.

The industry does not cause unavoidable nuisance, hazard or damage to neighbouring areas. .

Alyn and Deeside Local Plan (.AMP)

6.3 The area to which the planning application relates is defined in the ADLP as the Castle Cement Development Zone. In this case the relevant policies are EM1 and EM3 together with Policy G 1 (general requirements for development) and D7 (development involving hazardous substances) may also apply.

Policy GI

Development needing planning permission should be sited on land, or within suitable buildings, which will satisfy where applicable the following requirements:-

- A. The development should harmonise with the surroundings by suitable siting, design, scale and external appearance.
- B. The development should not have an unduly detrimental effect on the amenities of people living nearby.
- C. The development should have, if appropriate, good access by road and on foot, with adequate and suitably located parking spaces and manoeuvring space for the number and type of vehicles using the site and should have suitable access for disabled people in buildings to which the public have access.

- D. The development should not have an unacceptably harmful effect on recognised wildlife habitats, ancient and semi-natural woodlands, other landscape features, significant features of archaeological interest and the general environment.
- E. The development should not generate sufficient traffic to cause unacceptable danger or nuisance and should not require any improvement of the access roads at unacceptable public expense.
- F. The development should have, if appropriate, access to public transport.
- G. If utility services such as sewerage/sewage treatment facilities, gas and water are required, they should be available or be capable of being provided at acceptable cost, within a reasonable time and without detriment to the water environment or existing land uses/users.
- H. If on-site or off-site land drainage is required it should be available or be capable of being provided at acceptable cost and within acceptable time.
- I. The development should neither cause nor be susceptible to unacceptable flooding from rivers or the sea and should not adversely affect flood defences, flood management or maintenance schemes or cause/exacerbate flooding offsite.
- J. The development should not adversely affect the quality of controlled waters i.e. relevant territorial waters, coastal waters, inland waters and groundwater as defined in the Water Resources Act, 1991.
- K. The development should not infringe safeguarding regulations for the airports, major hazards or other special installations.
- L. The development should be compatible with other relevant planning policies for the area in which it would be situated and with requirements of design and layout as may be issued by the Local Planning Authority.
- M. The development should not result in the loss of hi-quality agricultural land where land of a lower agricultural grade can be used.
- N. It should not increase air and/or noise pollution to unacceptable levels.

Policy EMI

Industrial development will mainly be located in the settlements and development zones and it will be related in scale and type to the size and character of the settlements and the development zones.

Policy EM3

Proposals in the settlements and development zones for general industry on sites with planning permission for such uses or allocated for such uses will be allowed if the development complies with Policy GI.

Policy D7

The storage of hazardous substances will be allowed only if there is no appreciable risk or danger to either the occupants of properties or damage to properties in the surrounding area and the proposals to comply with Policy G1.

Policy WM 1

Proposals for handling, treatment or disposal of waste will be allowed only if they will comply with Policy G1 and all the following criteria will be met:-

- A. The development should be needed bearing in mind the type; quantity and source of the waste material.
- B. No suitable alternative site or facility should exist.
- C. The development should have, if appropriate, long term benefits such as restoration of the site, or other environmental improvements.
- D. The development should not lead to any unacceptable contamination of the site or elsewhere.

Policy WM2

When a proposal for the handling, treatment or disposal of waste complies with Policy WM1, planning permission will be given only if all the following are agreed by the local planning authority:-

- A. The design and layout of the development.
- B. Types and quantities of wastes to be handled, treated or disposed.
- C. Measures to avoid, reduce or remedy, as far as practicable, pollution from noise, dust, odours, windblown waste, fumes and vibration.
- D. Measures to avoid, reduce or remedy, as far as practicable, pollution from effluent, leachate or landfill gas.
- E. A landscaping scheme, including screening proposals, to reduce the visual impact of the development.
- F. The method of operation, hours of operation and site security measures.
- G. If appropriate, the phasing and duration of the development.
- H. If appropriate, a restoration scheme, including an aftercare programme and after-uses of the land when restoration is completed.

Policy E8

Proposals which would damage or destroy a scheduled ancient monument will normally be refused. It may be granted, however, on sites for which scheduled monument consent has been given by the Secretary of State for Wales. The following sites or features have been scheduled as ancient monuments and are identified on the proposals map.

(A) to (N) - not relevant.

(O) - Wat's Dyke: Section east of Dyke Farm, Penyffordd.

(P) to (Z) - not relevant.

Policy E10

Any development or redevelopment in close proximity to a scheduled or unscheduled Ancient Monument and having a bearing on its setting and character will be carefully controlled.

Policy E20

The conservation of gardens, parks and designated landscapes of historic, cultural or aesthetic interest together with associated structures of merit and setting will be secured wherever possible.

National Policies

- 6.4 Amongst other documents, there is Planning Guidance (Wales) Planning Policy - First Review (PGWPP), which sets out the Government's land use planning policies as they apply in Wales and Minerals Policy Guidance Note 10: Provision of Raw Materials for the Cement Industry (MPG10). The publication of a Technical Advice Note (Wales) on Waste is imminent.
- 6.5 National strategies for air quality and waste are to be found in the Air Quality Strategy for England, Scotland, Wales and Northern Ireland (Cm4548 January 2000) and Waste Strategy 2000 (Cm4693 May 2000). The National Air Quality Strategy (NAQS) originated as a requirement of part IV of the Environment Act 1995 (which also set up the EA). The NAQS 2000 sets out health based air quality standards and objectives which the Government intends to achieve by 2005-2008 and the process by which those objectives will be achieved. Waste Strategy 2000 sets targets to reduce the amount of waste sent to landfill and the changes needed to deliver more sustainable development. Where waste is created the strategy says that it must be put to good use - through re-cycling, composting or using it as a fuel.
- 6.6 PGWPP says that 'the planning system should determine whether a development is an acceptable use of land used in any particular development. Planning authorities should operate on the basis that the relevant control regimes would be properly applied and enforced by other agencies'. This echoes previous advice in PPG23.
- 6.7 In November 2000 the NAW introduced its Sustainable Development Scheme, *Learning to Live Differently*'. The scheme supports the objectives set out in the UK Government's Sustainable Development Strategy and commits the Assembly to, amongst other things, respecting environmental limits, including contributing to the protection of the planet's climate and minimising harmful emissions, applying the precautionary principle and preventing pollution as far as possible.
- 6.8 Since the close of the Inquiry a Public Consultation document entitled Draft Planning Policy Wales has been issued, and also Minerals Planning Policy Wales. In line with normal procedure the parties have not been asked for their comments on these documents.

7. POLLUTION CONTROL REGULATION AND THE CEMENT INDUSTRY

- 7.1 Cement making is a prescribed process under the Integrated Pollution Control (IPC) regime. As such it is subject to authorisation under Part I of the Environmental Protection Act (1990) and the Environmental Protection (Prescribed Processes and Substances) Regulations 1991, as amended. Amongst other things, the Regulations empower the EA to impose conditions that the best available techniques, not entailing excessive cost (BATNEEC), are used for preventing the release of prescribed substances, or where that is not practicable, for minimising and rendering harmless such releases; and for rendering harmless releases of other substances which may cause harm. Detailed information on the implementation of the Regulations in the cement industry is to be found in IPC Guidance Note S2 3.01 'Cement Manufacture, Lime Manufacture and Associated Processes' (Doc EA/8).
- 7.2 The 1999 Pollution Prevention and Control Act paved the way for the Pollution Prevention and Control (PPC) Regulations 2000, which implement Directive 96/61/EC (The IPPC Directive) in England and Wales. Part A of the Act will eventually replace the IPC regime and apply a similar integrated approach to the regulation of certain industrial activities, including cement production. Regulators must set permit conditions so as to achieve a high level of protection for the environment as a whole. These conditions are based on the use of the Best Available Techniques. (BAT). Where an environmental quality standard (EQS) as set out in community legislation requires stricter emission limit values than those achievable under BAT, the regulator must impose those stricter limits. In addition, it extends the issues that regulators must consider alongside emissions into such areas as energy use, noise, and site restoration and waste management.
- 7.3 New installations, which the EA will regulate, became subject to the regime in October 2000 and existing cement industry activities will be phased in between June and August 2001. Domestic guidance on the required standards and BAT for industrial sectors will be made available drawing on information contained within BAT Reference documents (BREF notes) produced by the European Commission. A BREF note of Best Available Techniques in the Cement and Lime Manufacturing Industries was produced in March 2000 (Doc EA/23).

8. THE ENVIRONMENTAL STATEMENT

- 8.1 An Environmental Statement (ES) was produced by the Applicant for the development proposal in January 1999 (Doc CD/2) with non-technical summaries and a supplementary statement in June 1999 (Doc CD/3), followed by an addendum in December 1999 (Doc ECD/5). Further information was supplied on 9 October 2000 as a result of a request by the NAW. As the planning application was made before 14 March 1999 the 1988 Town and Country Planning (Assessment of Environmental Effects) Regulations, as amended, apply in this case. Some of the essential facts and data about the project and emissions are covered in outline only in the ES, having been set out in detail in the Applicant's application to the EA for its IPC authorisation. The information provided by the ES and the additional statements, together with the comments received on these documents has been noted. Much of the information has since been further updated as part of this Inquiry.
- 8.2 Consideration has been given to the alleged deficiencies of the ES and the various additions to the original document against the 6 July House of Lords decision (*Berkeley v Secretary of State and others* and subsequent cases. The Berkeley case concerned the complete absence of an ES. In the current case a lengthy document was produced by the Applicant together with a supplementary statement. Although the original document was deficient in some respects, FCC has accepted that sufficient information has been provided to enable a

decision to be taken. Furthermore, further information requested by the NAW was produced before the Inquiry opened.

- 8.3 A similar situation arose in *R v Derbyshire County Council ex pane Murray* (High Court, Queen's Bench Division, 6 October 2000) when it was held that the documents supplied by the developer complied or substantially complied with the EIA Regulations and therefore the decision should not be quashed.

9. LEGAL AGREEMENTS

- 9.1 The Applicant has offered two unilateral undertakings under the provisions of s106 of the Town and County Planning Act 1990. These relate to an offsite landscaping fund of £150,000 and the surrender of a mineral planning permission to extract limestone from Colomendy Quarry. Copies of these completed undertakings are recorded as part of Document CC16A.

10. THE CASE FOR THE APPLICANT

(Also see full closing submission Doc CC/63)

The material points are:

Introduction

- 10.1 The principal issues are considered under the same headings as those identified by the NAW in its letter of 24 March 2000. The issue of public concern is addressed separately.
- 10.2 As to evidential matters, the Inquiry has heard oral evidence from a number of witnesses and been provided with many documents. Caution is required in evaluating those documentary references and any extracts from them. Some are from unqualified sources; often the authors are not independent; the content may not have been peer reviewed; most are not of an official nature; and sometimes not even the final version of the document. It is important to distinguish such documents from those which have an official status and which can be considered properly authoritative and reliable. ,
- 10.3 Similarly caution is required in respect of the criteria of some of the witnesses, especially those who profess on an expertise that they do not possess. The ability to produce vast quantities of documents and quote selectively from them is not a substitute for the appropriate professional qualification. .Specific comment is made in respect of the two principal independent witnesses: Dr Roberts for the-NWHA and Mr Jim Morris for the EA, because of their respective positions and the sometimes extremely hostile and personal criticism to which they were subjected. Dr Roberts and Mr Jim Moms were witnesses of the highest calibre, exhibiting great knowledge and sound professional expertise in their field. As independent witnesses, with public responsibility, their evidence is particularly important. Its quality is such that it can be relied upon without any material qualification.

The Application

- 10.4 The application is for a new kiln and associated plant at an existing cement works. It is intended to operate that kiln using alternative fuels as part of the combustion process. Some of those fuels could be hazardous waste, as defined by other legislation. The process for which pennission is sought is for the manufacture of cement.

- 10.5 As suggested by the Inspector, Castle are content that a condition be imposed which ensures that the kiln is used only for cement manufacture and/or that alternative fuels can only be burnt as part of that manufacturing process.

Relevant Legislation

- 10.6 The application is made under the Town and Country Planning Act and not any other legislation.
- 10.7 There should not be any duplication with the duties and rights under other but related legislation or of the roles of any other authorities, agencies and bodies with statutory obligations and rights under different legislation. The Inquiry is concerned with land use implications as per PGWPP p16. However, the fact of the EPA overlap and its similar concerns; the HWID and the Waste Framework Directive; the IPPC controls and the regulatory duties and powers of the EA are highly important material considerations. These have been the subject of evidence and fully debated, especially in the context of certain issues, such as health, environmental, and amenity matters.

Overview

- 10.8 It is instructive to stand back from the details of the issues and consider the nature of the application in its wider context. That exercise demonstrates that the general principle of the application is entirely consistent with government policy and that it should, save for particular and strong reasons to the contrary, be granted planning permission. The following points are of importance in this regard:
- a) The NAW seeks to ensure that manufacturing industries in Wales continue to thrive; to modernise; and to improve their environmental standards.
 - b) There are up-to-date and important criteria in respect of air quality, the NAQS having been set as recently as 2000. These objectives are intended to protect public health, including the most vulnerable individuals. In addition, there is a body of other official standards reflecting the accumulated knowledge and expertise of those advising government on health and environmental related issues.
 - c) It is implicit in policy and legislation that cement kilns are capable of operating at the appropriate standards and within the relevant limits. It is also implicit that their operation can be effectively and appropriately regulated by the powers and duties available to the EA, especially in the context of the new IPPC authorisation procedures.
 - d) The NAW's policies in respect of waste favours its use as a fuel, with cement kilns being highlighted as one of the processes where such use is seen to be beneficial and to be promoted - see Waste Strategy 2000.
- 10.9 It would be a very curious state of affairs if, against that waste policy position, the proposal for K4 was not deemed to fall four square within these policies, especially since:
- a) A manufacturer should be confident that his reasonable proposals for modernisation of existing plant would be considered favourably. He should also be confident that proposals to introduce modern state of the art processes, with their relevant structures, would be permitted - especially on a longstanding existing site.

- b) K4 is on -an existing site. The proposal is to replace outmoded equipment and processes. It would result in an environmental improvement, reducing both the mass and the concentration of any concerning emissions.
- c) K4 would also be likely to met all known regulatory standards and criteria, and the only proper approach in this regard is to assess whether a proposed plant meets those standards set by government.
- d) The EA would ensure that the plant does not operate until it achieves IPPC authorisation. That would not be given until the EA is satisfied that the plant is both BAT and safe.

Health Issue

- 10.10 The material issue is whether the operation of K4 and the burning of alternative fuels would be materially detrimental to the health of the public. It is helpful that the assessment can be made against a background where a cement works has been operating at the site for over 50 years, and during a time when the environmental controls were far less stringent than at present. It is important to have established that both air quality and soil samples in the locality demonstrate no adverse effects from the cement works, conditions being as good as those which might be expected in a rural location in Wales, Le. as if the works were not present.
- 10.11 K4 would represent the most modern and state-of-the-art pre-calciner dry kiln process. If K4 burnt conventional fuels, then compared to the existing Kilns 1, 2 and 3, it would substantially reduce emissions, both in terms of mass and concentration. The use of alternative fuels in K4 would result in even greater reduction in mass and concentration, and also significantly lessen the production of bypass dust. The benefits are summarised in Tables 11.1(u) - (d) of Doc. CG"7F. Recent but extensive data from other cement works, particularly Ketton and Ribblesdale, demonstrate the benefits achieved by the use of alternative fuels. These have been monitored by the EA, who have given full IPC authorisation for the use of alternative fuels in two kilns at the Ketton works. The data also establishes that the burning of alternative fuels results in little operational variability in terms of the emissions.
- 10.12 Modelled calculations demonstrate that the relevant maximum concentrations from the emissions at those areas frequented by the public would be substantially less than the emissions of Kilns 1, 2 and 3; also significantly less than the current ambient concentrations; and well within any recognised official criteria. This applies to both average and annual mean values, as well as to maximum short-term concentrations. Importantly, this is by reference to the most modern standards: the NAQS 2000.
- 10.13 Objectors have failed to make out the claims that the burning of alternative fuels would result in considerable variations in the emissions levels. Similarly, they have failed to make out their claim that maximum worst case short term values of NO_x and SO_x might exceed NAQS criteria. These are, in any event, relatively modest criticisms in the overall scheme of things and the wide ranging operational issues. These having gone, it is to be noted that in all other respects, the objectors' professional witnesses had accepted that emission values would not exceed long term or short term NAQS values or any relevant EAL's.
- 10.14 Particulate matter released from the stack would be limited by the bag filters and other aspects of the process. The particulate emission levels would be substantially less than for Kilns 1, 2 and 3; significantly less than current ambient concentrations; and well within NAQS criteria limits. Those limits are set by reference to PM₁₀. The objectors do not contend that the limits would be exceeded, but simply assert that there are no "safe" levels for ultrafine particulate

matter (less than PM_{2.5}). This assertion does not reflect government advice, standards or practice. The COMEAP position is that the criteria for PM₁₀ would itself result in a sufficient and appropriate reduction of the ultrafine particles.

- 10.15 Modelled calculations of predicted maximum ground level concentrations of metals and dioxins demonstrate that all would be substantially less than any EAL or WHO criteria. The emissions from K4 would not result in any adverse effects for the air, vegetation, soil or water regimes within the sphere of influence of the works. Conversely, K4 would be likely to improve the position over that which applies at present = and that is one currently typical of a rural location in Wales.
- 10.16 A detailed multi-pathway risk assessment shows that making "worst case" assumptions, the theoretically most exposed member of the public would only be subject to very low orders of risks, substantially below any identified threshold of concern for any type of health risk-
- 10.17 Several references and objections have been made as to the risks said to be associated with dioxins and furans from K4. Results of extensive sampling in the locality show that dioxin levels are not elevated compared to other rural areas. K4 would result in a substantial reduction of the emissions of those substances as compared with Kilns 1,2 and 3. The dioxin levels associated with K4 would be approximately 18,000 times less than the most stringent level identified in the WHO advice.
- 10.18 In the analysis, K4 would make for environmentally cleaner and safer conditions, and substantially better than even the most stringent of recognised limit values.

Landscape and Visual Amenity

- 10.19 The site is not visually sensitive. It is a Development Zone for the purpose of local policies and is deemed appropriate for industry and industrial expansion. The immediately adjoining areas are not designated as being of particular value in terms of their landscape or visual aspect. There is no nearby Habitat Directive site.
- 10.20 The element of the proposal which causes the greatest concern is the height of the tower and chimney - at about 110 metres. Yet the design of the Kiln and its mass and height is consistent with that of other industrial structures, and no higher than existing kilns found at some cement works. Compared to some other industrial processes, such as power stations, K4 is substantially less in height and mass. Additionally, as cement works need to modernise and achieve the increasingly more demanding performance required under IPPC, then it can only do so by the introduction of processes that require the construction of structures similar to K4. The EA confirmed the K4 proposal to be both BPEO & BAT.
- 10.21 K4 would be situated well within the cement works boundaries and its large site, and well away from any settlement. Also, the location is generally rural, despite the presence and continued growth of the closest settlements. To this extent the site enjoys a significant advantage in visual terms compared to those works which are to be found in much closer proximity to towns and villages.
- 10.22 The principal objectors agree that the proposal would not have any adverse effects on the landscape. The visual effect of K4 is acceptable. It represents the modernisation and improvement of an existing and well-established cement works, which itself already has high chimneys. It is set in a rural area, consistent with the type of location generally considered appropriate and necessary for cement works. The height and design of the structure are not unusual, being in accord with industry practice and yet substantially less in height and mass

than chimneys and towers associated with some other industrial processes. It is situated away from settlements and in a location zoned for industrial development. The nature of the adjoining topography and vegetation, with frequent undulations and a considerable number of trees and shrubs, serves to filter and interrupt views. No locations are identified by the principal objectors from which K4 would be seen where the existing works are also not in view:

- 10.23 The evidence of the professional expert for the objectors is helpful to the proposal and tends to confirm the acceptability. On the analytical technique used, the scores and evaluation of the existing cement works is essentially the same as those for K4. On that evidence, K4 could not be said to be "unduly" detrimental as compared to the existing position. The objectors also place some reliance on the assessment by the FCC landscape officer. Unfortunately, that analysis was based upon an evaluation which contained mistakes of fact, a misapprehension as to the nature of the development, and without any assessment whatsoever of the additional impact that might result from K4 as compared to the present - the key requirement in this case.
- 10.24 To the extent that there may be any justified concern as to the visual effects of K4, then these are more than outweighed by the other material considerations that favour the approval of the proposal.

Employment Issues

- 10.25 It is not economically viable or feasible to try and refurbish and renovate the existing works, given the age of the kilns, their condition and the outdated technology. If the investment planned for K4 can not take place, because of the refusal of a planning permission, then the works are likely to close within the next few years. Conversely, if K4 is granted planning permission, then the future of the works is safeguarded.
- 10.26 The works provides direct employment for 218 persons. Many others are employed by third parties who either service, or supply Castle, or enjoy the benefits of spin-off from Castle's needs and economic influence. The combination of Castle's wage bill and expenditure in the locality exceeds E10 million per annum. It is considered to be a large employer, in County terms, and a much prized asset as a stable manufacturing industry. All those benefits would be lost if the Castle works close.
- 10.27 If K4 proceeds, then Castle would employ some 200 persons. Additionally, the likely job provision from third parties may well exceed the present total, given that cement production would increase, necessitating a greater input of raw materials/fuel and resulting in a larger output of finished product.
- 10.28 The Castle jobs are of high quality, well paid, and offer opportunities for a range of skills, with appropriate training and security of employment. Castle is also well integrated socially into the fabric of the community, and has a tradition of loyalty to its workers and their families.
- 10.29 FCC consider it extremely important to the economic well being of the County that Castle continues in business in Padeswood. In addition to the importance of the jobs provided, there is also the need to signal to manufacturers (particularly to overseas investors) that Ffntshire is a County that wishes to retain its manufacturing base and to encourage modernisation and the introduction of the latest technology.
- 10.30 If Castle were to close at Padeswood, then the particular skills would be lost and there is no cement alternative manufacturer in North Wales or the wider region. The great difficulties, if not impossibility, of finding alternative employment for over 200 persons in work of like quality and enjoying comparable wages, is self evident. Despite the relatively healthy nature of

the County's economy, its loss of assisted area status and of other previously available financial incentives, make it now less competitive than other regions in Wales - especially those enjoying Objective One status. The County is absolutely right to try and safeguard its existing jobs.

- 10.31 The great concern and interest of the employees in their jobs and future has been demonstrated by their continued and loyal attendance at the Inquiry. The personal tragedy, which would befall them and their families in the event of the works closing, represents a highly material consideration in the proper determination of this application.

traffic

- 10.32 The existing traffic is acceptable in terms of highway safety and movements. The highway authority raises no objection to the proposal. The predicted increase in traffic is insufficient to alter that position. (Doc CC/23 E - Tables)
- 10.33 Any increases in the peak hour, even at the most congested locations, would not be material. Compared to other locations, the length of queues and queuing times at the Penymynydd roundabout are extremely modest, and well within that which is acceptable. The objection based on annual increases is not relevant to the key issues of safety and the capacity of the roads at peak times.
- 10.34 Castle has the benefit of on-site rail facilities. Where appropriate and possible, it would continue to make use of those facilities. In the wider context of transport policy the long-term objective currently identified in the new Transport Bill, may have considerable relevance to this site.
- 10.35 As to sustainability, the use of wastes as fuels in a manufacturing process accords with the NAW's policies and Castle has the advantage of being able to accommodate increased rail usage.

Policy Issues

- 10.36 The proposal is entirely consistent with national policy as identified in PGWPP. It would protect employment in the manufacturing sector; improve environmental conditions; make prudent use of resources, and help to retain cement manufacture as part of the Welsh economic profile.
- 10.37 The proposal is also in accord with MPG10, which considers cement manufacture as being of "major importance to the national economy" and that it is in the "national interest to maintain and increase cement production and counter any rising import trend".
- 10.38 The use of waste as a fuel is a practical implementation of the policy promoted in Waste Strategy 2000. The reduction of use of fossil fuels would help deliver the government's promise to lessen harmful emissions and the greenhouse effect.
- 10.39 The Development Plan policies are generally out of date. However, there are recent and relevant policies in unadopted plans which provide the local policy framework for decision making in respect of the proposal. The principal applicable policies are EMP3 of the SPSA and EM3, incorporating Policy G1, of the ADLP. These policies are criteria based and detail the relevant considerations for assessing the acceptability of an application for industrial development on an existing or allocated industrial site. When assessed against the criteria in

these policies, the proposal performs extremely well. The detailed assessment supports the conclusion that planning permission should be granted.

- 10.40 While the question of need for the proposal and the availability of alternative sites are material considerations, neither is a pre-requisite of a grant of planning permission. Nor is it necessary that such has to be demonstrated by Castle. The objectors' claim in this respect is mistaken. As to need, then clearly there are the most obvious needs satisfied by the proposal, such as the benefits of retaining existing employment; modernising the plant; improving environmental conditions, and retaining a healthy manufacturing base for the County. In the context of alternative sites, MPG10 makes it clear that cement works are highly capital intensive and costly operations necessitating significant front-end outlay. A location close to the main source of raw materials is a fundamental requirement. Castle has investigated and rightly rejected the possibility of moving the works to the Cefn Mawr quarry. There are no other alternatives that satisfy the requirements of a cement manufacturer wishing to continue his business in North Wales. This is an extremely difficult industry to place and it would be unrealistic to expect that, both for economic and locational reasons, Castle could move elsewhere.

Public Concern

- 10.41 It is agreed that public concern as to a number of issues, including the adverse effects of the loss of the works and the claims of harm to health, are material considerations for the purposes of the decision. In this particular case, public concern on the issues relied upon by the objectors do not represent an appropriate or sufficient reason for refusing the grant of planning permission. It would be quite wrong to afford such weight to this aspect in circumstances where:

- The substantive evidence demonstrates that K4 would not only operate without harmful effects, but would actually improve current conditions, and continue to do so .for the foreseeable future.
- Much of the public concern has been generated by the wide dissemination of inaccurate, untruthful, misleading and emotive claims as to the ill effects of using alternative fuels.
- The proposal is entirely in accord with all government policy objectives; represents the state of the art in the particular industry; and would meet internationally recognised air quality and environmental standards and objectives.
- The NWHHA considers that the proposal would not represent a threat to health, but actually provide a benefit.
- The EA would ensure, through the IPPC process, that the Kiln would not operate until all health related concerns have been properly addressed.
- The proposal is in accord with policy and there are substantial material considerations, which favour the grant of planning permission. These, taken together, outweigh the public concern consideration, especially in circumstances where that concern is demonstrated to be without proper foundation.

Planning Conditions

- 10.42 Without prejudice to any determination which will be made on the application for planning permission, comments are made on the draft planning conditions submitted by FCC. These comments have been set out in Doc CC/61.

11. THE CASE FOR FLINTSHIRE COUNTY COUNCIL IN SUPPORT OF THE PROJECT

(Also see full closing submission Doc FCC24)

The material points are:

- 11.1 It was resolved on the 23 May 2000 to support the case for the Applicant at this Inquiry. It was not considered appropriate to incur public expense in adducing evidence, (and thereby duplicating evidence), on matters to be dealt with by the Applicant, the EA and Dr Richard Roberts, consultant in public health medicine for the NWA.
- 11.2 The Council adheres to the support on which it previously resolved. At the conclusion of the Inquiry, the evidence for the Applicant is relied upon, together with the Environment Agency and Dr Roberts.
- 11.3 The resolution to grant planning permission was an entirely proper one, and to the extent that any relevance may attach to any question mark put against this during the course of the Inquiry, the following points are referred to:
- (i) It has from the outset been acknowledged that the resolution of the 23. May 2000 was by a majority of the members of the Planning Committee. The earlier resolution of the 2 February 2000 to approve the application in principle subject to a further report was also for that matter by a majority. A resolution so passed binds the Council, whatever the precise numbers of members who voted one way or the other.
 - (ii) The report of the 2 February 2000, by the Director of Transportation and Planning (Doc FCC 2), was detailed, thorough, and addressed properly the principal planning issues as then identified. Its degree of detail was commensurate with the importance of the application, it being fanciful to suppose that the report could have been so lengthy as to embrace every single point which has surfaced in this Inquiry.
 - (iii) The report recorded extensive consultation responses. It is to be noted that, as recorded at Page 517 of the minutes of Planning Committee of the 2 February 2000, (Doc FCC 3), opportunities were afforded to the CANK and TCC groups to address the members of the Committee before the Committee passed its resolution to approve the application in principle.
- 11.4 Members of the Planning Committee took the opportunity to view the site from a number of locations before they resolved as they did on the 2 February 2000.
- 11.5 It is patent that, as indicated at the outset of the Inquiry, there has had to be performed a balancing exercise in the assessment of the application. The Director of Transportation and Planning is recorded by the minutes of the 2 February 2000 as having, for his part, commented that the arguments for and against the application were finely balanced.
- 11.6 It remains the case that a balancing exercise indeed falls to be performed. To the extent that the Applicant is seeking to modernise its plant and improve emission standards, then to the extent that these aims can indeed be met, the principal matters to weigh against each other are seen to

be the preservation of jobs on the one hand and the visual impact of the development on the other.

- 11.7 It has been proper to present planning evidence by Mr Christopher Thomas, the Chief Planning Officer. There is nothing unusual about either members of a local authority making a determination or resolution not in accordance with the recommendation of an officer, or in an officer giving evidence for an authority at a public Inquiry where a recommendation has been departed from. Where a planning authority has had to assess a number of material considerations, and has attached greater weight to some factors than to others, it has come to a view which is defensible in planning terms. In these circumstances, no useful purpose would be served by the unconventional course of calling individual members of an authority to give evidence for the authority.
- 11.8 In terms of highway use, having assessed the impact of the project upon the highway network, there are no grounds for an objection.
- 11.9 There have been concerns in relation to employment. Mr Heggarty, the Head of Economic Development and Tourism of the Council, has referred to the vulnerability of Flintshire to job losses in the context of its dependence upon manufacturing. He has referred in particular to the loss of 2000 jobs in the manufacturing sector in Flintshire in the last two years, and to the dependency of the County on a relatively small number of employers, of which the Applicant is one. In like vein, Mr Salt for the Applicant, (when he referred to the Unitary Development Plan Pre-Deposit Consultation Draft), has highlighted a range of factors which indicate uncertainty in maintaining economic growth. Document FCC 18 shows some of the most deprived Electoral Divisions in Wales to be within the county. The cement works were fairly and accurately described by the Director of Transportation and Planning in his report as representing a major economic investment in the region. These concerns have been reinforced by evidence given at the Inquiry.
- 11.10 The statement of clarification (Doc CC/1A) of Mr Weller, the Applicant's production director, has proved to be clear as to the likely consequence of a refusal of planning permission. It is the assessment of the Applicant that in such an eventuality, it is unlikely that Padeswood could remain financially viable. Closure of the works would then be inevitable. The reasoning is that inherent inefficiencies in existing processes are assessed as making necessary investment extremely unlikely. Moreover, the evidence of Mr Weller is that the process of closure could be relatively short if it were chosen to substitute imported cement for that produced at Padeswood. Mr Weller has given evidence that the statement of clarification has not been made lightly, and indeed with reluctance given the unsettling impact on those who work at the Padeswood plant. The Applicant has, in the words of Mr Weller, been faced with the options of either modernising or closing.
- 11.11 Mr Allan of Castle Cement has addressed the breakdown of the 200 jobs, which are liable to be lost. It is plain that the closure of the Padeswood plant would have an adverse economic impact which goes beyond the loss of some 200 jobs at the plant itself. Of particular note in this connection has been the evidence of the managing director and owner of Alan Morris Transport. This company has been said to have 10 employees directly engaged in transporting local quarry products to the works, and spending almost 100 per cent of their time on this. Reference was also made to some owner drivers, i.e. independent contractors, 6 in number, engaged primarily in moving shale from Llay to the works, and to 3 further drivers bringing products from outside the area. It has been said that it would be very difficult to source alternative employment.

- 11.12 There is not any serious prospect that the plant will be economically vulnerable in the event that the application is granted and the development proceeds. The scale of investment would not be undertaken without a belief in and commitment to its viability. This is in any event a matter for the commercial judgement of the Applicant. When Mr Salt gave evidence for the Applicant, he referred to his understanding both that the cement produced is an excellent product, and that the output can all be sold.
- 11.13 There is no satisfactory evidence that the re-siting elsewhere of cement manufacture is a practical or realistic option for the company.
- 11.14 As to any alleged impact on tourism, Mr Heggarty cited the instance of a development in a much more traditional holiday location, namely Talacre, where it was not possible to say that in the event the development had led to any major difficulties. It is also to be noted that the immediate vicinity of the works does not identify itself specifically as a tourist attraction area. Consideration has been given by Mr Thomas to properties included in the CADW Register of Historic Parks and Gardens within a limited (5 km) radius of the works. Reliance is placed on his conclusion that the impact of the development if permitted will not be significantly detrimental in relation to these properties.
- 11.15 Attention has been drawn, on behalf of objectors, to the local plan policies said in the report of Director of Transportation and Planning of the 2 February 2000 to be contravened, should there not be a refusal. The point to be made here is that the sole reason suggested for refusal in the report was unacceptable visual intrusion, and ultimately this is a matter of subjective assessment. Thus a differing view on the acceptability of visual impact inevitably translates into a correspondingly different assessment in relation to some relevant policies, ie. in particular those which address landscape and impact on the natural environment, as referred to in paragraph 4.6(ii) of the proof of the evidence of Mr Thomas, but also employment policies insofar as they address the visual impact of development. An example is Policy GENT of the Structure Plan Second Alteration: Flintshire edition, which addresses the quality of design of development and refers to seeking to minimise adverse impact.
- 11.16 Evidence has been given for both the Council and the Applicant as to compliance with a number of plan policies. Of particular note are the employment policies EMI of the Alyn and Deeside Local Plan and EMP3 of the Structure Plan Second Alteration. Policy EM 1 expressly contemplates that industrial development will mainly be located in 'settlements and development zones, and Padeswood is already identified as a designated development zone. As to EMP3, there is compatibility with particular reference to not making use of agricultural land, good road and rail access to the site, and the availability of the site for ready development. The Council has found support for its case on planning policies in the evidence of Mr Salt for the Applicant.
- 11.17 It is accepted that health concerns may, at least in certain circumstances, amount to a material consideration in the determination of a planning application. This has been recognised in two Court of Appeal cases: *Gateshead MBC v SSE and Northumbrian Water (1996) 71 P. & C R 35* and *Newport County Borough Council v. Secretary of State for Wales and Browning Ferns Environmental Services Limited [1998] 1 All E.R. 377*. In the former case, it was suggested that public concern could not be conclusive where it is not justified. In the latter case, it was suggested that public fears albeit not justified could be given direct effect as an exceptional or special circumstance.
- 11.18 Reliance is placed on the views of Dr Roberts. His standpoint is entirely independent from that of any party, and he has a distinguished curriculum vitae. He has specifically been concerned to assess the development for its impact on local residents. Fundamental to his assessment has

been an understanding of risk in terms of the probability of adverse events actually occurring, as well as the proposition that the quantification of emissions is critical to the question of whether they can be objected to on health grounds. Dr Roberts has assessed the proposal as bringing about improvement in local air quality. The summaries of emission reductions now set out in Doc CCf7F are noted, and the substantial improvement yielded by the operation of the new kiln. Attention is drawn to the detailed work undertaken by Dr Roberts to negate expressed concerns about existing levels of cancer (Doc PH/6).

- 11.19 Since resolving to support the case for the Applicant, there has been the decision of Mr Justice Gibbs in R v. Durham County Council ex parte Lowther on the 21 June 2000. An attempt to overturn the decision of a local planning authority that planning permission was not needed for the burning of waste derived fuel was unsuccessful. (Gibbs J. did state in his judgement that the use of a waste substance as fuel was capable of being material in planning terms both in deciding whether there has been a change of use and also if a change of use has been established in deciding whether or not to grant planning permission).
- 11.20 Concerning planning controls for hazardous substances the authority for this mechanism would usually be the local authority and this obligation is accepted. An application has not yet been received but it would be dealt with in the appropriate way.
- 11.21 The Council has not altered its standpoint that the control of emissions-falls within the responsibility of the Environment Agency, so as to limit the planning relevance of such pollution issues as have been raised (PGWPP p3.6). The Council finds irrefutable the evidence for the Agency that the proposal presents an opportunity to overcome some problems in current operations. It is proper for reliance to be placed on the process of the staged IPC application and any prospective IPPC application. On further matters, the Council in supporting the Applicant adopts its submission to the Inquiry.

12. THE CASE FOR COUNCILLOR MESSHAM IN SUPPORT OF THE PROJECT

The material points are:

- 12.1 There have been many improvements at the factory over the years. In the past there was a dust problem but improvement had been made. The latest scheme is another piece in the jigsaw of improvement.
- 12.2 This is not an attractive industry, but it does provide employment There is a need for constant environmental improvement with a works of this type. It would be easy to join the "NO" lobby. It is a hard option to accept, but now there is an opportunity to get it done on the best environmental terms possible with the potential for continued employment.

13. THE CASE FOR MR BRIAN LEE OF ALAN MORRIS TRANSPORT IN SUPPORT OF THE PROJECT

The material points are:

- 13.1 The company transports raw material to the cement works, which is a major user of bulk transport and local services in the locality. Castle Cement spends over £850,000 with this transport company each year. The materials are transported as sensitively as possible on new vehicles with air suspension, and rarely are complaints made about the methods used.
- 13.2 A solid manufacturing base is needed in Flintshire and Castle Cement is a component of this fabric in support of the local economy. There is a need to retain this industry in the area. It is easier to keep a thriving industry than to try and attract new business.

14. THE CASE FOR OTHER INTERESTED PERSONS IN SUPPORT OF THE PROJECT

The material points are:

14.1 Many of the letters and Inquiry submissions from interested persons as supporters cover similar topics. They are summarised as follows:

- The objectors have not provided any evidence to support their case
- There is a need for long term security on employment
- With investment comes improvement and the works needs modernisation
- Support for the company's efforts to secure high paid employment in the region
- This positive contribution to sustainable development should be supported
- Wales needs a sound manufacturing base
- Castle Cement is an excellent employer with staff development programmes
- Workers at the Castle Cement Plant are well paid
- A new kiln would be better than the existing kilns
- The environmental and economic benefits far outweigh the arguments against the project
- K4 would be more energy efficient than the existing kilns
- There would be reduced emissions from the proposed plant
- The information supplied by objectors is nothing less than scaremongering
- The new kiln would burn waste material that would otherwise be directed to landfill

15. THE CASE FOR THE ENVIRONMENT AGENCY AS A NEUTRAL PARTY

(Also see full closing submission Doc EA/43)

The material points are:

Alleged Environment Agency/Inspector Conspiracy

- 15.1 There is concern that these allegations have been made, whatever their source. Nevertheless, the matter has been thoroughly investigated. There is no evidence of any discussions between the EA and the Inspector, or between the EA and the NAW, which supports the allegations that agreements have been reached about the suppression of relevant evidence at the Inquiry.

Stance of the Environment Agency Wales (EAW)

- 15.2 The EAW has sought to be represented in order to assist the Inquiry and to answer relevant questions put by any party to the Inquiry. A great deal of evidence has been given which might objectively be thought to relate rather more to the pending IPC application and the likely IPPC applications. The EAW is nonetheless confident that the Inspector and the NAW will bear carefully in mind the guidance given at p6.1 of PGWPP that the planning system should operate on the basis that the relevant control regimes would be applied.
- 15.3 The process operated by CCL at their Padeswood works is subject to an Authorization issued in 1993 under the Environmental Protection Act 1990 and the Environmental Protection (Prescribed Processes and Substances) Regulations 1991. The Company have made a new application to operate the proposed new kiln and this is currently being considered by EAW (Doc CD/30-32). The proposal would also be defined as a new installation under the new IPPC Regulations. If permission is granted then CCL would still need to successfully progress an IPPC application in order to implement its proposals. Indeed CCL would need to obtain IPPC approval in the immediate future whatever the outcome of this Inquiry.
- 15.4 The EAW would of course be informed in those decisions by matters that have been raised at this Inquiry, together with all representations made to it during the consultation processes of the IPC/IPPC applications. The NAW can be re-assured that where debate at the Inquiry has covered issues that normally the EAW would consider, then it would have been nonetheless worthwhile.
- 15.5 However, the Inquiry must approach the application before it upon the basis that the EAW would perform its statutory responsibilities diligently and properly and that the pollution control regime of Part I of the Environmental Protection Act 1990 would operate properly insofar as it relates to this application. If the NAW were in doubt as to the EAW's ability to deal with the application fairly then it would be fully aware of its powers to recover determination of the IPC/IPPC applications itself.
- 15.6 The EAW in accordance with national and European guidance fully recognizes that the proposed process is one that in principle is capable of being authorised. That does not mean that any indication can be given as to the likely outcome of this proposed process. That is not because the EAW is reticent at that stage, but rather because the determination process is far from complete.
- 15.7 Firstly, the IPC application would be overtaken in due course by an IPPC application (Doc EA/3). Secondly, even though a very considerable amount of work and information has been done and provided by CCL, it is the view of the EAW that is not yet in a position to determine the IPC application and additional detailed information is to be requested in the near future. A further element is that in the present form of the information its content is somewhat opaque to

even an informed member of the public, such that the EAW sees considerable merit in creating a comprehensive document together with a non-technical summary which should be more digestible to the public.

- 15.8 Thirdly, before any decision is reached there will be a further opportunity for public comment upon the application that will be taken into account by the EAW. Once a decision has been arrived at by the EAW that decision will be set out in a Decision Document that will also explain its rationale.

Enforcement and monitoring

- 15.9 There can be no doubt that the site has not operated as the EAW would have wished it to operate in recent years. As detailed in the evidence there have, been a number of inspections that have resulted in requests for action to be taken. There has also been formal enforcement action taken, as well as two successful prosecutions (Doc EA/3 and CC/33).
- 15.10 The EAW continues to regulate the site and monitor emissions in the surrounding area. It claims its monitoring of the premises has been effective and that both as a result of its actions and CCL's improvements, the operation of the site has altered for the better over recent years. Indeed, whilst some significant problems remain, such as fugitive dust emissions, the site and the process overall have shown a marked improvement since the formation of the EAW.
- 15.11 For example, there has been a dramatic reduction in the number of 'trips' - from the electrostatic precipitators (ESP's), as a result of CCL working together with the EAW. Accordingly, when considering what the Applicant refers to as 'unauthorised releases' it is important to note that a significant number of those releases are as a result of the operation of the ESP's which has now been largely addressed (Doc EA/3).
- 15.12 Whilst it is true that there are only 5 inspectors in North Wales to monitor around 80 authorised processes in the Region, the EAW have considered it proper to direct significant resources to CCL's site. For most of the last year Mr Morris has worked exclusively upon the site and is likely to continue to do so during the application process.
- 15.13 The site, in common with most other authorised processes in the UK, relies greatly upon 'self reporting' of breaches of the Authorisation. But that should not be viewed of *itself* as a weakness in the system of monitoring. To fail to report matters properly is considered by the Agency and the Courts to be a very serious matter indeed. Moreover, there is _ empirical verification of some elements of the site, together with regular inspections and a significant amount of public reporting. Thus the Black Brook incident was first notified by CCL, then inspected by Mr. Morris and then resulted in public complaint. The EAW therefore strongly disputes the assertion made by Councillor Mia Jones that it is simply reactive. Enforcement and monitoring is a complex and ongoing process and it would be wholly wrong and misleading to characterise it as a reactive process.
- 15.14 The EAW is self evidently concerned in relation to certain aspects of the site operation. It has not been idle in terms of investigation, enforcement, and even prosecution. However, the EAW accepts that there is a fundamental difficulty with regard to the running of the site, which arises directly out of the vintage of the present operation. Whilst there remains further scope for improvement the EAW recognises that significant difficulties will remain. The proposed process would allow certain matters of current concern to be addressed, which cannot readily be tackled with the current operation. These include measures to ensure the minimisation of fugitive dust emissions, improved retention and oxidation of sulphurous compounds and improved dispersion from the stack (Doc EA/3).

- 15.15 In addition to the proposed changes to the plant one of the advantages of the proposal is that the ease of monitoring, and therefore of enforcement will be significantly improved.

The IPC/IPPC applications

- 15.16 The Environment Agency agrees that the present IPC application is unlikely to ever result in the plant operating within the scope of any authorization granted pursuant to it. That is because by the time even this part of the process is completed IPC will have been overtaken by IPPC, and both the existing and the proposed processes would require to be authorised under the new regime.
- 15.17 Nonetheless CCL has submitted a staged IPC application, effectively as a first step in determining the issues which would, if successful, ultimately result in an IPPC authorisation. That has enabled the EAW to make an informed decision as to what information is needed to determine that application as well as any IPPC application. As outlined above the outcome of that application cannot be presumed and there is, in the view of the EAW, a very significant amount of technical work that needs to be done before the application could be determined. Moreover, that information needs to be presented in a clear manner to enable the public to make informed representations in the process of public consultation.
- 15.18 The first stage of the application described the basic principle of the use of a short dry kiln with pre-calciner and 5-stage pre-heater tower. This is the most up-to-date system available and is described in IPC Guidance Note S2 3.01 and the BREF Reference Document on BAT in the Cement and Lime Manufacturing Industries (Docs EA/8 and EA/23). On the information before the EAW, the process is one that is in principle capable of being authorised. However, no two sites have the same processes or applications and therefore each needs to be assessed on their own individual merits. In order to assess the impact of common pollutants Environment Assessment Levels (EALs) have been established by the EA for the purpose of Best Practical Environment Option (BPEO) methodology. The NAQS 2000 is important in this process.
- 15.19 The IPC application proposes the use of 'non-conventional' fuels - in particular tyres, *Profuel* and *Cemfuel*. Trials of *Profuel* have been conducted elsewhere and *Cemfuel* has been authorised at Ketton and Ribblesdale. That does not mean that they would be authorised here- However, if the proposed fuel mix were used, on the evidence presently available to EAW there would appear to be a reduction in the emissions of certain pollutants. The fact that there is a difference of view between CCL and the EAW as to the whether or not *Cemfuel* is hazardous waste or not, would not affect the IPC/IPPC determination. That is because the EAW would require BAT to be deployed regardless of its definition under the HWID. Nevertheless, in order to assist its assessment, it has derived the Substitute Fuels Protocol (Doc EA/25). It remains the position that EAW is firmly of the view that *Cemfuel* is properly a hazardous waste under the HWID. That approach is the subject of a High Court challenge, yet to be determined.
- 15.20 In order to inform the process, the EAW has commissioned a number of studies to identify the 'base line' position of emissions from the present process. That is part of a process that is ongoing and would continue regardless of the outcome of this Inquiry. Indeed that would inform the future operation of the plant, for example, in seeking to effect the reduction in dioxin emissions as anticipated in the report submitted by CCL in June 2000 to EAW.
- 15.21 At all events the outcome of the IPPC applications either in respect of the present or the proposed process is overwhelmingly likely to result in improvements to the present position. That is as a consequence both of the change in legislative context as well as the inevitable requirement to demonstrate that 'BAT' is being employed. Moreover, there remains scope for further improvements on the site.

- 15.22 On the question of modelling, the interesting debate as to the shortcomings and advantages of the various models before the Inquiry has deliberately not been informed by any view of the EAW. That is because, all of the models have certain disadvantages, and it would, ultimately be for CCL to demonstrate in the IPC/IPPC applications that the modelling it has undertaken has been sufficiently robust. The present view of the EAW is that for the purposes of the IPC (which it is accepted is not to be taken as coincident with the planning process) the exercise has not yet been completed.
- 15.23 As to the capacity of the operation, whatever the physical capacity of the plant the application is for not more than 750,000 tonnes of cement per annum. To operate the plant in a way so as to produce materially more than that would not be within the scope of the Authorization and therefore CCL would be in breach of it. Nonetheless, it would not be for the EAW to seek to constrain the physical capacity of the plant within the terms of the Authorization, rather if CCL sought to increase capacity that would require a further application.
- 15.24 Finally, the Inspector asked the question whether the proposed kiln could stand alone as an incinerator, as feared by some objectors. Mr Morris believes that it could not, because it would not be economically viable to operate it as such.

16. THE CASE FOR THE NORTH WALES HEALTH AUTHORITY AS A NEUTRAL PARTY

(Also see full closing submission Doc PH/12)

The material points are:

- 16.1 The role of the NWHHA in this Inquiry is to give independent, unbiased advice on the risk to public health. If the risk to health were not minimal it would not hesitate to point this out. In the same way, if health effects are unlikely it is the responsibility of the NWHHA to explain this.
- 16.2 There is understandable public concern about the burning of flammable liquid waste (*Cemfuel*) and other alternative "waste derived" fuels such as tyres, paper and plastic in the proposed kiln. Although such concern may cause us to question any view which does not fit with our own, residents must go beyond this instinctive scepticism if they - are to come to a realistic view of the likely impact of any development on their own health.
- 16.3 The aim of the contribution of the NWHHA to the process over the last two years, and to this Inquiry, has been to help local residents and decision makers understand the potential risks to health and be able to compare these risks to other health risks within their own experience.
- 16.4 There has been confusion caused by opposing views over local cancer rates, and this has been a cause for concern and anxiety to some. A local health study of cancer cases was carried out, in collaboration with the experts at Welsh Cancer Intelligence and Surveillance Unit (WCISU), to look for any effect due to historical emissions from the works. Over 30 combinations of data on deaths and new cases for several different cancers over a period of 14 years have been looked at. Cancer rates in the area around the works were found to be normal, with no evidence of a cluster (Docs PH/3 and PH/6). The opposing views have come from those without access to the resources and independent epidemiological expertise in local cancer statistics that are available to the Health Authority.
- 16.5 There have been calls from some parties for a more extensive, but undefined, local health study. This issue was dealt with in detail in the proof of evidence (PH/1-Section 6 (page12); Appendix 2, section 5 (page 6); and Appendix 4, section 7.3 (page8)). Although the reasons are complex, expert advice is unequivocal that such studies would not be helpful. The UK expert

Committee on the Medical Effects of Air Pollutants (COMEAP), in its advice to local health authorities on investigating the health effects of local industry states that *"Single site studies of effects of air pollutants' on health are unlikely to have sufficient statistical power to confirm or refute assertions of effects and there is a significant risk that the results of such investigations will be impossible to interpret"*

- 16.6 The NWHa has been completely open about the process it followed in carrying out the Health Impact Assessment (HIA). None of the evidence submitted to the Inquiry has been changed as a result of cross-examination indicating that the process followed to assess the evidence has been robust.
- 16.7 In assessing the effect of this proposal the NWHa has relied on data from the EAW and CCL on emission levels and published conclusions of national and international expert groups in describing the public health risks of the various environmental pollutants. For the major air pollutants, the safe levels called Air Quality Standards (AQS) have been used. These standards have been set at levels at which the risks to public health are very small or negligible. Environmental assessment levels (EALs) have been used for metals not defined by national standards. EALs are health-based levels set to protect human health and the environment. For dioxins, the reference levels used are the tolerable daily intakes (TDI) defined by the WHO.
- 16.8 The data show that the overall pollution and therefore health impact due to sulphur dioxide, oxides of nitrogen, particles, metals and dioxins would be less with the proposed kiln. The predicted ground level concentrations of sulphur dioxide, nitrogen dioxide, particulate matter, carbon monoxide and lead were all within the AQS, indicating the risks to public health, including vulnerable groups, are very small or regarded as negligible. Releases of metals from the kiln would be many times below the EALs and unlikely to have any significant effect on health.
- 16.9 The impact on health of the use of alternative fuels by CCL at Ribblesdale has been studied by COMEAP who concluded that the concentrations of substances detected in ambient air samples did not indicate any concerns for health. The Committee also concluded, *"none of the evidence suggests that particles released locally are likely to pose a special risk to health"* (Doc CD/44).
- 16.10 With regard to dioxins, the emission data for Ketton and Ribblesdale and that predicted for Kiln 4 all indicate that dioxin intake in local residents would remain well within the range of intake in the general population.
- 16.11 The advice offered to local residents in November 1999 on behalf of the Health Authority, and submitted to the planning committee in February 2000 (Appendix 2 to Doc PH/1), has been confirmed and strengthened by the evidence before the Inquiry, and is in line with expert assessments of similar local industry elsewhere. It is now clear that local air quality would improve if Kiln 4 replaces the existing kilns.
- 16.12 Individuals living in the area of the works, including the most vulnerable members of the most exposed communities, are very unlikely to suffer any harmful effects from authorised emissions of any pollutant from the proposed kiln.

17. THE CASE FOR THE CHESHIRE COUNTY COUNCIL

(Letter and comments submitted to NAW - 1 September 2000)

The material points are:

Off-Site Visual Mitigation Planting

- 17.1 Owing to the nature of the Development, effective visual mitigation may also be achieved by landscape planting on land outside the Applicant's ownership, ie. "off-site planting". It is understood that conditions requiring planting on land that is not in the ownership of the Applicant cannot be imposed within a planning consent.
- 17.2 In Flintshire County Council's Committee Report dated 23 May 2000 it states in paragraph 2.10 that "Members are reminded of the Applicants offer to provide a fund of £150,000 to finance off-site tree planting, i.e. on land not owned by the Company. The aim of the planting would be to help provide some screening for particularly longer distance views of the site".
- 17.3 It is requested that the Inspector directs Castle Cement Limited to enter into a Legal Agreement under Section 106 of the Town and Country Planning Act 1990, with Flintshire County Council, to implement an effective off-site landscape mitigation strategy to minimise distant views of the proposed Development, including views from Cheshire.

Planning Conditions

Air Emissions

- 17.4 All data relating to emissions into the air from the development that are supplied by the Company to the enforcing authority pursuant to the Environmental Protection Act 1990 or any other relevant legislation, for publication on the public register, shall be supplied by the Company, as soon as possible after the data becomes available, to Flintshire County Council and Cheshire County Council, except where any party has informed the Company in writing that it does not wish the Company to supply all or part of such data to it.

Reason: To ensure that Councils are given access to information required for the exercise of their functions.

Air Pollution Monitoring

- 17.5 The commissioning of the development shall not take place until there has been submitted to and approved in writing by Flintshire County Council, in consultation with Cheshire County Council, schemes for the monitoring of air pollution in their areas. Each scheme shall include the measurement location or locations within the relevant area from which air pollution will be monitored, the equipment and methods to be used and the frequency of measurement. The schemes shall include measurements of the following pollutants: sulphur dioxide, nitrogen dioxide and particulates. Details relating to the monitoring, control and dispersion of trace metals, dioxins and furans should also be included in the air quality monitoring scheme. Each scheme shall provide for the first measurement to be taken not less than 12 months prior to the commissioning of the development and for the final measurement to be taken not more than 24 months after the commissioning of the Development. The Company shall supply full details of the measurements obtained in accordance with the schemes to Flintshire County Council and Cheshire County Council, as appropriate, as soon as possible after they become available.
- 17.6 Should Flintshire County Council or Cheshire County Council require continued monitoring of air pollution the Company shall extend the scheme approved pursuant to Condition (3) for a

period of up to 36 months from the date of the last measurement taken pursuant to Condition (3). The Company shall supply full details of the measurements obtained during the extended period to Flintshire County Council and Cheshire County Council, as appropriate, as soon as possible after they become available.

Reason: To ensure that the Councils are kept informed on a regular and programmed basis about the changes in the level of air pollution at locations within its area.

Suppression of Dust

- 17.7 The commencement of the Development shall not take place until there has been submitted to and approved in writing by Flintshire County Council in consultation with Cheshire County Council a scheme employing the best practical means for the suppression of dust during the operation of the Development. The measures approved in the scheme shall be employed throughout the period of the operation of the Development unless any variation has been approved in writing by Flintshire County Council.

Reason: To ensure that satisfactory measures are in force so as to alleviate any impact dust may have on the local environment.

Layout and Design

- 17.8 The commencement of the Development shall not take place until there has been submitted to and approved in writing by Flintshire County Council in consultation with Cheshire County Council a scheme that shall indicate:

- (i) details of artificial construction, operation, emergency and health and safety lighting, including any necessary warning lights for aircraft required during the construction and operation of the Development; and
- (ii) the siting, design, colour, materials, external appearance and dimensions of all buildings and structures that are to be retained following the completion of the Development.

- 17.9 The Development shall proceed in accordance with schemes referred to in Condition (7) subject to any variation as may be approved in writing by Flintshire County Council in consultation with Cheshire County Council.

Reason: To enable the Council to exercise reasonable and proper control over the design and appearance of the Development.

Steam Plumes

- 17.10 The commencement of the Development shall not take place until there has been submitted to and approved in writing by Flintshire County Council in consultation with Cheshire County Council a scheme employing the best practical means for the reduction of visible steam plumes from the Site. The measures approved in the scheme shall be employed throughout the period of the operation of the Development unless any variation has been approved in writing by Flintshire County Council.

Reason: In the interests of visual amenity.

Cessation of Works and Restoration of the Site

- 17.11 Within 18 months of the site ceasing to manufacture cement, the Company shall restore the site to a condition satisfactory to Flintshire County Council, unless the expiry of that period a planning application for an alternative use for the Site has been obtained or sought or otherwise approved in writing by Flintshire County Council. Such restoration work shall be undertaken in accordance with a detailed scheme submitted to and approved in writing by Flintshire County Council in consultation with Cheshire County Council.

Reason: To ensure that the site is not allowed to become derelict after the cessation of the manufacture of cement.

18. THE CASE FOR CHESTER CITY COUNCIL AS AN OBJECTOR

(Letter dated 14 September 2000 from the City Council)

The material points are:

- 18.1 Padeswood is situated 5 km from the closest part of Chester district, Lower Kinnerton; 7.Skm from Dodleston and 9.Skm from Pulford and Chester. The prevailing wind is from the south and west. This would take emissions from the plant in the direction of Chester District.
- 18.2 The principal concerns regarding the process are that the plant would burn a number of waste products as fuel for the kiln. The environmental assessment that accompanied the planning application assessed the emissions as carbon dioxide, nitrogen dioxide, and sulphur dioxide, but did not take into account emissions of heavy metals and dioxins that the plant would also produce.
- 18.3 Dioxin exposure in humans is via the food web. Dioxins are deposited from the atmosphere, and as they are persistent chemicals they accumulate in the tissue of food animals. It is estimated that 95% of dioxin exposure for a typical person is through the dietary intake of animal fats.
- 18.4 The other pollutants that would be emitted from the process include heavy metals from the burning of waste tyres and plastics in the kiln. Heavy metals such as mercury are released by the manufacture of cement, and the use of waste for fuel would increase the emissions of metals from the process.
- 18.5 It would appear that the planning application for the new kiln would be the type of development that should have a "Health Impact Assessment" IRA carried out upon it due to the perceived adverse health effects that could arise from emissions. The Health Promotion Division of the NAW has recently published a document: Developing Health Impact Assessment in Wales which describes what a HIA is and how to carry one out (Doc CD/38).
- 18.6 The objection to the project is sustained on grounds of adverse health effects. Should planning permission for the project be granted a condition should be attached stating that the Applicant should fund a "HIA.". Also that a working group should be established to monitor and respond to emissions from the proposed kiln.

19. THE CASE FOR THE OBJECTOR GROUP: CAMPAIGN AGAINST THE NEW KILN (CANK)(Also see full closing submissions Doc CAM/40)

The material points are:

Alleged Environment Agencyllnspector Conspiracy

- 19.1 These allegations were made by the Flintshire Green Party (FGP), and CANK members were asked to comment. They had investigated the rumour end sought to put together a note to explain to the originators that there was nothing in it. CANK disassociate themselves from the rumour contained within the E-mails from FGP (Doc FGP7.20 and attached notes). The sequence of E-mails make it clear that neither Wake Dyne Lawton nor CANK are the originator or the perpetrator of the rumour.

Legal Context - Planning Application

19.2 The application as submitted is for operational development, including:

"Fuel storage buildings; comprising a tank farm to receive and store ***Cemfuel*** and diesel oil; short term storage and feeding systems for shredded papers and plastics; a tyre handling system to transport tyres from the stockpile".

19.3 By virtue of Section 75 of the Town and Country Planning Act 1990:

1. Where planning permission is granted for the erection of a building, the grant of permission may specify the purposes for which the building may be used.
2. If no purpose is so specified, the permission shall be construed as including permission to use the building for the purpose for which it is designed.

19.4 Thus, by one or other of the above routes, this application, if granted, would convey planning permission to bring onto the Padeswood site the full range of waste fuels, which it is proposed to burn. It is therefore necessary to consider, when determining the planning application for the construction of the buildings, the full implications of their use in planning terms. It may be argued that such an exercise is not required if it can be shown that the proposed use of the buildings would not involve a material change of use from the present lawful use of the site.

19.5 A change of use is material where it is material for planning purposes: *East Barnet Urban District Council v. British Transport Commission* [1962] 2 QB 484 at p.490. In the instant case, a change of use involving the almost complete substitution of rail-borne delivery of fuels for road-borne delivery from a wide variety of distant sources could - for that reason alone - be said to be material for planning purposes, given national policy to avoid any unnecessary increase in the amount of road traffic, in the interests of promoting sustainable development.

19.6 It may be argued that the proposed change from conventional to waste fuels is not to be regarded as material as a matter of law on the basis of the decision of Gibbs J. in *R. v. Durham County Council ex parte Lowther* (Judgment 21st June 2000). However such a submission would mistake the ratio decidendi of *ex parte Lowther*. That case involved a challenge to the lawfulness of the view expressed by Durham City Council that, as a matter of fact and degree, the use of up to 40% ***Cemfuel*** in one (out of three) lime kilns at a site in Durham did not involve a material change of use, in circumstances where planning permission for facilities for the storage of ***Cemfuel*** on the site had already been granted, with due consideration of the transportation implications of so doing.

19.7 No further planning permission for operational development of any sort was necessary in order to permit the partial (minority) use of ***Cemfuel*** to fire one of the kilns.

19.8 The *ex parte Lowther* case does not establish a legal principle of general application, but confirms the lawfulness of the Respondent Council's decision-making process in reaching a view as a matter of fact and degree as to the implications of the change of use which it had been asked to consider.

19.9 The Padeswood case is different both in scale and in respect of the need to consider the planning implications of constructing extensive facilities on the site for the reception, storage and handling of waste fuels.

The Nature of the Proposed Development

19.10 What is proposed by the Applicant would represent a fundamentally different development in both scale and character from that which presently occupies the Padeswood site - and has done for the past 50 years. An attempt has been made by the Applicant to portray the proposed development as little more than the updating to modern standards of some rather antiquated existing plant. However, it is not expected that the NAW would be so easily fooled.

Size of buildings

19.11 The size and bulk of the proposed buildings would be truly massive in comparison to those presently on the site. The Applicant agrees that the pre-heater tower would have 20 times the bulk of the existing K3 stack. It was said that the proposed structures would be "different in kind" from those associated with the present K1-K3.

Waste fuels

19.12 These would transform the public perception of the plant from one handling essentially "benign" materials - limestone, coal and cement into a hazardous waste processing facility.

Annual throughput

19.13 The planning application and ES indicate a 50% increase in annual production as a minimum. This is a substantial increase. It is plain that the capacity of the kiln is much greater than 750,000 tpa, and no convincing explanation has been given as to how production would be capped at this level. Contrary to the Applicant's suggestion, the EAW would not impose an artificial ceiling on production capacity in approving the detailed design of the plant. Taken together, the above factors lead inexorably to the conclusion that the development proposed is in a different league to that presently on site. Moreover, that a fundamental reappraisal is required of the appropriateness of such a significant consolidation and expansion of the Applicant's operations in attractive countryside, cheek by jowl with thousands of anxious residents.

Development Plan Context

19.14 Most significant of the development plan policies applying to the site is the "Castle Cement Development Zone" identified in the Alyn and Deeside Local Plan (Doc CD16). However, this does not provide carte blanche to the Applicant to redevelop and expand at will. It offers "no special favours to the Applicant"; nor does it direct new employment to the Padeswood site. Any proposal for development on the Padeswood site, in this zone, is required to comply with policy G1, which contains a number of criteria, including:

- (a) The development should harmonise with its surroundings by suitable siting, design, scale and external appearance; and
- (b) The development should not have an unduly detrimental effect on the amenities people living nearby.

19.15 The proposed development fails these two tests given the landscape evidence. Certainly the officers of FCC formed this view, as set out in the committee report and stated in evidence by the Council's witness. It is very difficult to see how the proposed development, given its scale and content, could possibly "harmonise" with its surroundings. The original cement kiln was established at Padeswood in the 1940s on land that is surrounded by, and would otherwise be

designated as "Green Barrier". Furthermore, since the 1940s much more housing has been developed in close proximity to the site. Given the very different scale and character of the proposed development, it would plainly conflict with criteria (a) and (b) above.

Adverse. Impacts of the Proposed Development

19.16 The Applicant's witness described two or three of the adverse impacts of the proposed development as: visual impacts; and the potential for pollution, including the concerns people have about emissions to atmosphere. To these can be added conflict with sustainable development policies in respect of waste management and transportation.

Visual Impact

19.17 It is necessary to do little more than examine the Applicant's own computer generated "visualisations" of the development (part Doc CD4) in order to form the view that it would be wholly unacceptable, if built, and indeed a disastrous mistake which would haunt the NAW for many years to come. The visualisations are to scale and show the proposed surface treatment of the structures. Such structures exist elsewhere as the Applicant has pointed out. However, there is something particularly incongruous about their proposed location at Padeswood, as the visualisations demonstrated so effectively.

19.18 The Applicant accepts that they would be located in a rural area, in a "basin" or "bowl" and that many of the views of the building would be "against a backdrop or with a foreground of attractive countryside". The proposed development is accepted to be "highly visible from surrounding settlements and farmhouses and the roads and footpaths which serve them". The FCC committee report describes the site as an "isolated industrial complex set in countryside, distant from any other industrial areas ...".

19.19 The Applicant made no structured assessment of the visual impacts of his proposal, but did record in Doc CC/19 Table 2 entitled: Significant Visual Effects

Item	Potential Impact	Residual Effect	Significance
No.22 New Tower and Chimney	VERY OBVIOUS	Visible far and wide 1.5Xheight of present chimney	- ve

19.20 This is the judgement of the Applicant's own witness, who also described the tower as "very massive". The FCC report (para.8.5.7) described it as "massive and overbearing", a judgement shared by the County Council's Director and Assistant Director of Planning and Development, the Chief Planning Officer, the Head of Minerals and Waste Planning and the Senior Planning Officer who was the case officer. Thus, the five leading planning officers of FCC reached the view that this development was unacceptable in full knowledge of the "case for" the proposal and the Applicant's proposed landscape and visual mitigation measures.

19.21 Some of the landscape mitigation proposals, such as planting a shrub or tree to try to block a view of the plant, suggest either desperation or extreme naivety. From the communities which overlook the site, it would be impossible to disguise the presence of such a massive structure as that proposed. It would be visible from a wide variety of locations as one moves about in the area - from gardens, paths, and roads, and would cast a long shadow over its neighbours. Comparisons with medieval cathedrals (Doc CC/52), or Waterhouse's tower at Eaton Hall are wholly unconvincing, and smack of desperation.

19.22 Other landscape "mitigation" is paltry in comparison with the permanent harmful impacts, which would be inflicted by this development. It is surprising to find reliance placed upon the tidying up of a tip apparently created without planning permission and in respect of which existing waste disposal licence conditions appear to have been ignored. Nobody answered the question how conditions are complied with. The K1-K3 stacks to be removed are of a very different scale to that proposed. The £150,000 planting budget is pitiful when it is considered that the Applicant has very little land of its own which can be planted and this figure has to allow for all land acquisition costs.

Public Anxiety

19.23 It is evident that a very large section of the local community opposes the proposed development: (petition of 9,000 signatures presented by Cllr Woolley (Doc CAM/26 volt) and countless letters sent to the Inquiry and the NAW). The groundswell of public concern is genuine. Expressions of support have been more difficult to judge and have, as at the public meeting, had the appearance of having been a little too carefully and obviously orchestrated by the Applicant's team.

19.24 Public anxiety about a proposal is a material planning consideration: see Newport BC v. Secretary of State for Wales and Browning Ferris (1998) Env. LR174. Moreover, Dr Roberts of the NWAHA agreed that public anxiety was "understandable" and that anxiety was "a significant contributor to morbidity and mortality". This anxiety stems from 3 principal sources, addressed as follows: ,

Castle Cement's track record at Padeswood (and elsewhere)

19.25 The Applicant has an unenviable track record at Padeswood: over 250 (self-reported) unauthorised emissions over 4 years (Doc CAM[7]). The standard response has been to blame these failings on the old plant or the authorisation for being too strict. It is plain that much of the problem is attributable to very poor standards of housekeeping: see Doc CAM/9 (especially EAW letters of 9.6.97 and 19.9.98). Moreover, even though the EAW relaxed the reporting standards from November 1999, the year 2000 still saw a greater mass of fugitive dust released than 1997 or 1999. Even during the course of the Inquiry, the Applicant received two further criminal convictions and substantial fines and costs awards arising from incidents attributable to management failures. These have all taken place during the currency of the regime and workforce *which is* expected to remain in place if burning of hazardous wastes is permitted at Padeswood. It is hardly surprising that local people are fearful of an operator *which* cannot run a conventional cement kiln satisfactorily being let loose to run a far more complex and potentially hazardous process. It is hardly surprising that the local community fear that they would be the guinea pigs whilst the Applicant, if successful, experiment trying to get the new plant to work properly. It is known that it took from 1986 to 1991 to get its newest kiln at Ketton working properly. There is a lot of substance upon which to base anxiety.

The proposed use of Cemfuel and other waste fuels

19.26 There is an enormous commercial advantage for cement kiln operators to be gained in using waste fuels: they get paid to dispose of discarded residues. Understandably, the cement kiln industry is delighted at the prospect of being paid to dispose of waste rather than paying for fuel and has been offering encouragement to this development. However, this brings dangers with it: the knowledge that hazardous wastes are being imported into this country (according to a former EAW officer: Doc CAM/36) with little or no control and the proximity of Padeswood and Cemfuel plants to ports heightens fears that illegal imports may find their way into kiln fuels. These fears would not be assuaged by Doc

EA/36 and Doc EA/37; there is still no evidence of any successful prosecutions in this regard.

- 19.27 Furthermore *Cemfuel* batches would not be subjected to sampling analysis until after those batches have been burned. A 0.5 litre sample is taken from a 100 tonne batch; the Applicant would then decide whether the sample accords with the specification or whether there has been a "serious breach". It is to be noted that *Cemfuel* would contain on average 20% solids (see Doc CC/8 Table 8.1), but it is unclear how these would be detected by sampling. No continuous monitoring is available for dioxins, heavy metals or ultrafines, so public concern cannot be allayed in this way.
- 19.28 No independent EA sponsored trials of burning alternative fuels have taken place with the exception of tyres at Westbury (Doc CAM/18). These revealed significantly greater concentrations of heavy metals in emissions when compared to conventional fuels. The ENTEC report on Profuel burning in kilns seems to have been limited largely to the industry in its research; there is no discernible input from the residential communities surrounding the kilns in question, nor the regulatory authorities.

The Resources and Effectiveness of the EA

- 19.29 There is no intended criticism of the EAW. On average an EA inspector at the Buckley office would be responsible for the day-to-day regulation of 17 installations and 20 radioactive sites (hospitals) across N. Wales. As the EAW fairly explained, for knowledge of what is going on at Padeswood, it is largely dependent upon the Applicant's selfreporting of malfunctions and/or complaints from members of the public. This is all the more worrying because of the absence of continuous monitoring technology for many of the most toxic pollutants emitted. Three other examples show why the local community does not feel that it can rely upon EAW for protection if this permission is granted:
1. Despite 5 years as the regulator of the Padeswood site and in the knowledge that the limestone store was a "major source" of fugitive emissions from the site, EA never once sought to apply BATNEEC. to achieve its enclosure;
 2. The Padeswood site is, on the EA's own data, the 11th highest emitter of dioxins of any prescribed process in England and Wales: Doc CAM/16. It might have been supposed that this would have been a major cause of concern: in fact the EA asked The Applicant to address the problem in October 1999, received a report in June 2000 (9 months later) and have not yet got around to considering its conclusions (as at December 2000):
 3. The EA has not monitored air quality around Padeswood, other than in 2000 in connection with this application.

- 19.30 Thus many powerful reasons underlie the deep and genuine anxiety felt by many local residents about the possibility of the Applicant receiving planning permission for its proposals. Consideration of this issue must be set against the backdrop of a long history of emissions from the Applicant directly affecting local people in their homes - polluting the air around them and covering their cars with layers of dust.

Risks to Public Health

- 19.31 No doubt when everything is working properly at a cement kiln (burning whatever type of fuel), there should be no risks to health. But to assume that this would be the norm would be to depart from reality, as the Applicant freely admits that it is in the dust production business. A number of propositions take effect cumulatively to establish a real and serious risk to public health which has not been satisfactorily addressed at this Inquiry:

Unreliability of emissions guarantees

- 19.32 F.L. Smidth's emissions guarantees assume, and are only valid for, the burning of conventional fuels F L Smidth are not responsible for the design and manufacture of alternative fuel systems; the Applicant admitted that no system had yet been designed for feeding Profuel/tyres into the kiln. This clearly undermines the heavy reliance by the Applicant on guarantees offered by a reputable plant supplier. Yet there is, for example, a risk of blockages and fire within the feeding system of these fuels and risks of firing of *Cemfuel* due to coking of fuel injection lances (Doc CAM/5 volt)

No independent or EA sponsored comparative test - burning of Cemfuel/Profuel as against conventional fuels

- 19.33 Note USEPA Draft Report (Doc CAM/3 vol3 - Ref 6) that total dioxin emissions for kilns burning hazardous waste were 90 x those burning conventional fuels: There is a need for research by an independent and authoritative public body.

The propensity for things to go wrong generally and particularly for the Applicant

- 19.34 The Applicant accepts: "These plants depend upon hundreds of motors and mechanical plant; things simply will go wrong." and again "There are problems with multi-stage preheaters. They keep stopping". From other evidence by Mr Pratt: "My expectation is that plant would comply with its authorisation. Sadly this is seldom achieved." See for example at Ketton (Doc CAMA vol2). "In my experience, many plants do exceed their authorisations and the EA does not necessarily take action ...excursions do occur".
- 19.35 Several major planks in the Applicant's case depend upon the identity of the operator the Applicant's position vis a vis its competitors; the Applicant's wish to serve its market; the Applicant's investment plans; the Applicant's workforce to be retained. If the NAW is to attach any weight to that part of the Applicant's case, then it must also take full account of the Applicant's operating record. To do otherwise would be to tip the scales in the Applicant's favour.

The utilisation of waste fuels, the chemical composition of which makes them significantly more hazardous than conventional fuels in the event of system failure

- 19.36 Doc CAM/13 (table from IPC documentation) which shows greatly elevated concentrations of heavy metals in waste fuels when compared to conventional fuels. Note also 20% solids in Cemfuel (T.8.1 of Doc CC/8) and sampling "after the horse has bolted". *Profuel*, as solid waste, would be difficult if not impossible to sample effectively. As a result. It may be difficult to control the level and nature of plastics amongst other things, with the associated potential for the formation of dioxins on combustion.

Risks associated with ordinary operations

- 19.37 Small airborne particles (PM₁₀) from combustion processes are known to be a particular hazard causing up to 3 % of all deaths (Doc CAM/3 vol.1). Now there is the increasing knowledge of the health hazards associated with ultrafine particles (PM_{0.2}), particularly with a high metallic content. The EA does not regulate beyond PM₁₀ and ultrafine particles enable metals to travel through bag filters in vaporised form The high surface to volume ratio of these small particles of metals is thought to give them the property of catalysts making them particularly toxic.

19.38 It has been shown that the Applicant's modelling work is flawed (CAM/4 .vol. 2) and there remains a major gulf between the parties in respect of modelling results. The Applicant ignoring entirely the effect of the pre-heater tower on dispersion because of the significant impact it had on the ADMS v3 model used. This casts grave doubts on the integrity of CCL's modelling exercise and other work that depends upon it. However, if increases in emissions of between a factor of 4 and 8 are considered then it is possible that air quality objectives for SO₂ and NO_x, could be approached, if not exceeded. Drawing clear conclusions on the achievement of air quality objectives is also difficult because there is little information on existing background concentrations. CCL has also assumed that there are no other pollution sources in the area contributing to ambient air quality. This is clearly incorrect. Neither has there been any attempt to examine dust deposition. It is to be noted that the EAW is "not satisfied that the current modelling is accurate". In some instances the results are thus two orders of magnitude apart.

Risks from abnormal operations

19.39 This issue has been ignored by the Applicant - notwithstanding the hazards associated with bringing *Cemfuel*, which includes solvent wastes, onto the site; known incidents of spillage of *Cemfuel* at other Castle plants; the increased toxicity of the CKD and the close proximity of residential properties to the site.

The presence of a vulnerable population .

19.40 Neither the Applicant nor the NWA saw fit to consider the health of a local population exposed to emissions from Padeswood for 50 years. Dr Roberts avoided referring to these paragraphs in the COMEAP advice. Indeed the NWA resisted looking at the health of the local population - notwithstanding advice in the COMEAP report even when the contrary view of the Area Health Authority in Wiltshire was pointed out: (Doc CAM/22). Work on asthma admissions for children, cardio-vascular and respiratory deaths had been commissioned but no preliminary results were revealed.

19.41 Using spatial statistical methods, which take account of the topography of the area, CANK has identified a statistically significant increase in cancer incidence in the area of influence of the existing plant. The Applicant (Doc CC/58) has attempted to attack some of the conclusions, but this directly contradicts the evidence of Mr Morris in cross-examination, which confirmed the existence of the meteorological conditions (the trapping of pollutants under an inversion layer), discussed. The NWA's response was to stand by its methodology of using 2km radii, although its origin was unclear and data had not been obtained- at a sufficiently fine resolution to perform a comparison correctly. Thus large parts of Buckley Bisto West - within 2 kms of the site and one of the most populous wards with high cancer rates - were excluded even though the study was so vulnerable to the movement of the 2 kms radius.

19.42 The contribution of the NWA was difficult to understand - swallowing whole CCL's data and assumptions in the ES without any requirement for their peer review. The effects of unauthorized releases were ignored because 'no data was available'. Instead, attention was focused by the NWA and the Applicant on the spurious exercise of comparing existing emissions from Kilns 1-3 with Kiln 4's theoretical emissions, assuming all to be working perfectly and relying upon the inapplicable process guarantees and flawed modelling.

19.43 Only CANK sought to seek out information about the health of the local population and found clear evidence of elevated levels of respiratory cancer. The NWA used an unjustified annulus and incomplete data to seek to find support for its previously stated position. Dr Roberts' other work is apparently not available although, if it clearly supported his position, one wonders

whether a preview might have been permitted. The CANK work points to a need to investigate fully the vulnerability and susceptibility of the population influenced by the Padeswood plant to polluting emissions and that no decision can properly be taken on the application until that has been done (Doc CAM/3 vols.4 and 6). In combination the above factors lead to the conclusion that planning permission for the proposed development should be denied until the issues of risk to public health set out above are properly and comprehensively addressed.

BPEO: The Waste Hierarchy; The Proximity Principle and Regional Self-sufficiency

- 19.44 The Applicant makes no reference to any of these matters - not even Waste Strategy 2000 that might otherwise have been said to apply to its proposals. FCC accepts the relevance of these principles but omits to apply them. CCL's basis for ignoring these issues appears to be the general encouragement found at a variety of places in government policy documentation given to the use of waste fuels in cement kilns. It is true that these statements of encouragement do occur, but, nowhere in any of the relevant documentation is there any reference to this general encouragement having the effect of disapplying key and critical elements of national waste policy insofar as they relate to waste fuels. Nor is that surprising. BPEO is at the heart of waste planning: (PPG10, Annex A) and Waste Strategy 2000 (Part 2 Chapter 3). It is inconceivable that one or two references to possibilities for cement kilns to burn alternative (waste) fuels could obviate the need to analyse and identify the BPEO for the waste streams in question.
- 19.45 The Applicant's evidence has fallen woefully short of what is required. Now is the time to determine the BPEO: The EA does not regard examination of BPEO to be a matter for the Agency (EA 'look at the other end of the chain'). There remains therefore a large hole in the Applicant's evidence: a need to examine options higher up the waste hierarchy and to apply the proximity principle to the waste streams identified. Even on the limited evidence extracted from CCL, it is plain to see that the proximity principle is highly unlikely to be satisfied in this case: ***Cemfuel*** would come from Solrec at Heysham, Sunderland and Rye; and Safetykleen at Dinnington; tyres would come from Grantham and Nottingham/Derby. Profuel would come from Greater Manchester, Leeds/Bradford and the Midlands. It is highly unlikely that the BPEO for these waste streams is for them to be driven on the road network for many hundreds of miles across England to North Wales. For example Waste Strategy 2000 Map 14 shows a variety of Energy from Waste facilities for Secondary Liquid Fuels (SLF) and tyres which are much better located for the waste streams identified than Padeswood. Equally there are both cement and lime kilns located much nearer to many of the identified waste streams than Padeswood.
- 19.46 By the same token, the proposal is clearly contrary to principles of regional (and national) self-sufficiency. The entire waste fuel throughput identified so far is proposed to arrive at Padeswood from England. Equally the Applicant has ignored the Development Plan policies relating to waste. They clearly tell against the proposal for the reasons that have been explained (ADLP-Policy WMI).

Cement Production Need

- 19.47 There is no evidence that this greatly enlarged plant is needed to satisfy any shortfall in UK cement production capacity. Indeed the reverse is true: see Environmental Statement 'Need' Report paragraph 34: The UK has excess cement producing capacity - a situation which is exacerbated by imports of cement produced elsewhere. Substantial numbers of facilities exist at UK docks/ports for the importation of cement, and the Applicant itself has three such facilities. The Applicant admits that the cement industry is in world recession.

- 19.48 Padeswood cement may have certain qualities, but it is not unique. It also has the disadvantage of production from a particularly lead-rich seam of limestone: so its production is a route for the disposal of comparatively high levels of lead into the environment.

Waste Need

- 19.49 As there has been no examination of alternative means of waste management for the waste streams which it is envisaged would be brought to the site, no need has been established.
- 19.50 Certainly no requirement has been identified for a waste disposal facility such as that proposed to be located at Padeswood to serve an identified national, regional or local need. Clearly, the site is not well located to serve a major conurbation.

Company Need

- 19.51 The nearest the Applicant approaches to identifying any form of need is that of a "corporate need" for the proposal. However, there is no information on the analysis that has led the Applicant to submit the application before the NAW, as their Production Strategy 2000 placement has not been submitted for the scrutiny of the Inquiry, despite several requests.

Alternative Sites

- 19.52 If the NAW were to consider that some form of need existed for the development proposal, then, in the circumstances of this case, it would become relevant to consider whether the Applicant had explored sufficiently the issue of alternative sites. As a starting point, the Applicant is required to give consideration to the question of alternatives to the development proposed - a requirement greatly strengthened by E.C. Directive 98/11.
- 19.53 However, as a matter of proper planning, consideration of alternative sites is relevant such as those set out by Simon Brown J in *Trusthouse Forte Hotels Ltd. -v- Secretary of State for the Environment* (1986) 53 P & CR 293 apply in this case: See in particular p. 299 and p. 301.
- 19.54 The Applicant has looked at alternative sites, but exclusively at land within its ownership. The Applicant admits that there was no essential locational factor requiring the development to be sited at Padeswood. It is known that all of the various inputs and outputs to and from the site are transported to or from Padeswood by road or rail, some over considerable distance.
- 19.55 Hints have been made by the Applicant at the costs of establishing a new site, but no meaningful information has been supplied. The Inquiry was told that a new site in the Midlands has been considered, but no details were given. In any event, where environmental harm is accepted, "it is not a case for least cost economics".
- 19.56 It is accepted that the Applicant considers the majority of its plant at Padeswood to be outmoded and in need of replacement: that investment is plainly transferable. It is also known that extensive tracts of land traditionally occupied by heavy industry exist on Deeside. No attempt has been made by the Applicant to demonstrate why none of this land could meet their needs. Moreover, Blue Circle had recently failed to secure planning permission for a new cement works in Kent because the Inspector considered that there had been inadequate examination of alternative sites.

Employment Need

- 19.57 This is a sensitive issue. It would always seem heartless to suggest that it is not "necessary" to retain a particular job or jobs. The Applicant knows this and has, understandably, played this for all that it is worth as a point in its favour. However, the proposed development is on a very large scale with substantial and wide ranging implications in planning terms. It is therefore necessary to consider the Applicant's employment case also in that wider context, in the same way as with other development proposals e.g. mineral site extensions. For example, a long established mineral operator seeks an extension to a site and has a long established workforce. However, because of environmental issues, the greater planning good demands refusal. The objectors do not desire the loss of jobs at Padeswood.
- 19.58 As for the numbers of jobs at risk, the figures change throughout the Applicant's documentation. What is clear is that any loss of jobs would not be immediate, but gradual, as existing plant is run to the end of its useful life. A key question for the NAW in weighing the issues would be the ease with which new jobs might be found by those affected by any closure. In this regard, the evidence has demonstrated plainly that the Flintshire economy is in a condition of which any Chancellor of the Exchequer would be proud: unemployment at 3.4%; large numbers of unfilled vacancies - including manufacturing jobs (Doc FCC17); an unending stream of job creation announcements (Doc CAM/32). Additionally, Padeswood has the Warren Hall Development Zone 2 miles away, with access to Assisted Area funds. Flintshire is plainly booming and there is no evidence that the loss of Castle Cement At Padeswood would halt or reverse this now well established trend. That the many new job creation announcements would bring with them further indirect job creation opportunities - through local investment.
- 19.59 Thus, no urgent employment need can be said to exist in this area Furthermore, there is no evidence that the large numbers of employees previously made redundant at Padeswood by the Applicant have been unable to find alternative employment

Emissions Reduction Need

- 19.60 The Applicant has consistently produced tables comparing emissions from K1 - K3 with those from K4. This is a spurious exercise. First, the EA would not permit K1 - K3 to continue to operate as they have been: so the assumption (if it is made) that K4 represents an opportunity for emission reduction, which would not otherwise arise, is mistaken. The Inquiry was told that the IPPC application for K1 - K3 is already under preparation this year and that there is no scope for changing the timescale and as to when the IPPC kicks in. Equally, the Doc CC/7 series is of no value, as it is not presented on a mass balance basis and the underlying assumptions about the chemical constituents of the fuels burned are not transparent.

Planning Conditions

- 19.61 Without prejudice to the determination of whether or not planning permission is granted comments are submitted at Doc CAM/37 on the submitted planning conditions of the FCC at Doc FCC/14.

Conclusions (CANG)

- 19.62 The impacts of the proposed development would be substantial and wide-reaching. It would directly impinge on the lives of whole communities and many thousands of people.
- 19.63 The severe visual impact, the manifest and justifiable public anxiety already demonstrated; the potential risk to the health of the neighbouring population and the direct conflict with key

principles of national waste policy are matters to be accorded great weight in the planning balance. These are serious issues.

- 19.64. By contrast, the partially explained "need" for this proposal as part of the Applicant's own internal strategy and the possibility of the gradual and eventual loss of 200 jobs in an area which is booming (with hundreds of unfilled vacancies and a stream of good jobs news) do not amount to considerations of comparable importance. They are plainly insufficient matters to warrant the setting aside of soundly based objections to the development in the public interest. It would be a strange result indeed, if planning permission were granted for a development for which there is no public interest need and which gives rise to powerful public interest objections purely to protect the interests of a company or its employees.

20. THE CASE FOR THE PHOENIX OBJECTOR GROUP

(Also see full closing submission Doc PCG 35)

The material points are:

Human Rights and fair Hearing

- 20.1 Before the Inquiry an objection was lodged to the restriction of the terms of reference which conflicts with the European Convention on Human Rights (ECHR) Article (6). The Court ruling in December 2000 that decision making on planning appeals by DETR is incompatible with the Convention extends to the same functions as that exercised by the NAW regarding its determination of appeals. The ECHR assures the right of a fair and public hearing by an impartial tribunal.
- 20.2 The restriction of the terms of reference affected the Inquiry in at least two material aspects:
- The omission of waste policy and waste management strategy
 - Omission of the impact on the environment (specifying health alone)

Because of the first omission, the policy issues concerning a major hazardous waste (disposal or recovery) facility have been raised only by objectors and not by the responsible public authorities, so putting objectors at a disadvantage. Because of the second omission, the principal Welsh Agency (CCW) were not invited to the Inquiry and the EA omitted to represent their concerns on acid deposition and on habitats assessment to the Inquiry. The potential impact on European sites has been raised only by objectors, and the public authorities have not given any evidence on these sites, not even on their location.

- 20.3 It is therefore submitted, that because of these defects that the NAW in setting its terms of reference conflicted with the HRA in material ways.

Inadequate Environmental Statement

- 20.4 Under the Environmental Impact Assessment Regulations 1999, the Environmental Statement (ES) has to contain the necessary data and assessment of impacts of the development on the environment. But the ES. is deficient in important respects. Some of the deficiencies have been rectified through evidence supplied subsequently. However, the House of Lords decision *Berkele v. Secretary of State and Others*, 6 July 2000] showed that a "paper chase" cannot replace the "single and accessible compilation" plus non technical summary that was needed for an ES. Public consultation on the ES, as an essential part of Environmental Impact Assessment, "requires the inclusive and democratic procedure... in which the *public... is* given an opportunity to express its opinion on the environmental issues". It follows from that judicial

ruling that a significantly or seriously deficient ES does not satisfy the EIA Directive and planning law.

20.5 The following areas in the ES are defective (see Doc PCG/1):

- Impacts of acid gas emissions on critically acidified uplands and fragile ecosystems.
- Impacts of air pollution on crops, semi-natural vegetation and ecosystems.
- Data on *Natura* 2000 sites and listed species under the Habitats Directive, and potential impacts on them.
- Data and impacts on ultrafine particles in the air.
- Lack of IRA, under the policy and framework of the Welsh Assembly.
- Data and hazard of *Cemfuel* and other waste fuels.
- No assessment under COMAH, particularly of impacts of potential accidents and ways to limit effects on human beings and the environment.

Weighing Public Concern

- 20.6 The public was not made fully aware of this proposal and its implications by any authority or body, including their own County Councillors. *Public* meetings were not adequately advertised and methods used to alert the community were insufficient (Doc PCG/1). ,
- 20.7 FCC, the NWHa and the EAW, have not given enough consideration to the vast amount of public concern that this application has generated. The *public* has been expected to understand a complex application with little understandable information, when the company has been allowed to present its application in stages because of its complex nature.
- 20.8 Residents are appalled at the prospect of the continuous burning, transport and storage of hazardous waste products in close proximity to their homes. The opposition to this proposal has come from many thousands of people who feel that their peace of mind, quality of life, safety and amenity are all under threat. Many letters of concern have been submitted, including those to the Assembly requesting that the application be called in for determination. The number has been claimed as 25,000, but this has yet to be verified.
- 20.9 A study carried out by Peak Associates Environmental Consultants Ltd into the number of justified *public* complaints that can positively be traced to CCL's plant at Ribblesdale is unusually high. In a three-year period some 475 complaints have been recorded. This does not reflect a site where Integrated Pollution Control can be said to be working. Video evidence from the Flintshire Green Party (FGP) illustrated the plume grounding that takes place and the volume of dust that is released during a trip. The problems incurred at Ribblesdale and the lack of satisfactory air quality modelling for Padeswood have only added to the lack of confidence in the Company.

Planning and Land Use

- 20.10 Decisions on planning applications have to take into account all material considerations, so there can be no argument on neglecting secondary purposes. Alyn & Deeside LP, the Structure

Plan and the draft UDP all allocate the area to general industrial use, not exclusively for the cement works. No policies allocate it for hazardous industry nor for waste disposal. Flintshire CC told the Inquiry the site is too close to housing for hazardous for a stand alone incinerator.

20.11 Policy MIN3 is relevant to this development. The wording would apply to the processing (crushing etc.) of limestone and would apply without question if the kiln were sited in the quarry, as is normally the case (eg. Ribblesdale and Ketton). So

- The visual and pollution effects of the new kiln violate MIN3.
- The Inquiry cannot ignore failures in Pollution Control.
- Four classes of failures by the Environment Agency have been identified:
 - (i) Falling far short of the ideal of minimising harm (delayed action; tolerating bad practice)
 - (ii) Failure to identify polluting practices and discharges
 - (iii) Failure to take prompt and serious action over the dangerous dioxins and furans
 - (iv) Ignoring pollutants which are not UK-specified (LTFPs, heavy metals).

20.12 PGWPP advises that *"Planning authorities should operate on the basis that the relevant pollution control regimes would be properly applied and enforced"*. However, it has been shown that the EAW controls have been inadequate to protect the public and the environment. Breaches of the Authorisation have been running at the rate of 2 per week for several years, and tolerated by the EAW (Doc PCG/12). The EAW has recently changed the goalposts, replacing the short-term particulate limit by a 24-hour limit (Doc CD/61). Yet this has been criticised as "very poor enforcement practice".

20.13 The EAW does not say in its evidence that the pollution control regimes have not been properly applied and enforced, excusing the pollution as either harmless or because measures are restricted by BATNEEC. It has to be concluded that there would continue to be pollution risks to health and the environment despite IPPC. It is wrong to say that "concerns about potential releases" can be simply left to the EA. Though the EA (with HSE) is the competent authority for COMAH, it has not considered whether the hazardous wastes/fuel would bring the site under the COMAH regulations, and if not, whether planning conditions are required to deal with this in any permission for this proposal.

20.14 The EAW should not be relying on the 1995 WO Circular 35/95 rather than the 1999 guidance and recent legal decisions. The new draft TAN says of material planning considerations *"in land use planning this includes pollution control, and it must be given full weight"*: It adds, *"the local planning authority must be satisfied that the conditions likely to be imposed by the Environment Agency Wales would protect the planning interest"*.

20.15 The Waste Management Licensing Regulations Schedule 4 [s.2 (1) and (4)] and the Environment Act's Schedule 12 introduce the relevant objectives from the Waste Framework Directive. This includes prevention of pollution which planning processes must fulfil. So the requirements from the draft TAN have to be taken to supersede the WO Circular.

20.16 There have also been important developments in relation to the materiality of public perceptions of risk.

Health

20.17 The NWhA report to the County Council in November 1999 did not mention that the proposed fuel is composed of hazardous waste (Doc PHA - Appendix 2). It refers to waste streams and *Cemfuel* as a mixture of various combustible liquid wastes. This report also states its assessment does not take into account the effects of unauthorised releases, the effects of increased traffic locally or the contributions of non-stack emissions (from delivery and movements of materials around the site) and dust and particulate releases. Given CCL's record of unauthorised releases and bad housekeeping, ignoring these emissions can only be seen as unacceptable bias towards the Company.

20.18 The NWhA claims that a HIA is not necessary but makes reference to the issue of two important documents on HIA, one of which is Developing Health Impact Assessments Wales (Doc CD/38). This is National Assembly policy and the document makes clear its commitment to the use and development of HIA.

20.19 Developing Health Impact Assessments in Wales states: *"There is no doubt that better tools are needed to enable us to predict the health consequences of policies in numerous areas. Health impact assessment has been described as "an idea whose time has come" and its use as a tool to aid policy and decision-making must be tested". "The need for health and well being to be sustainable was emphasised in Better Health Better Wales. This can only be achieved in the context of sustainable development and care for the environment Local Agenda 21 strategies have been adopted by local authorities in Wales to focus on sustainable development. The degree to which policies, programmes and projects that impact on health produced sustainable health also needs to be assessed". Where EIA's are undertaken "it should be ensured that health issues are adequately covered". It was the NWhA's duty to advise the Council and this Inquiry that the EIA needed a full evaluation of the health and risk to health of the local population.*

20.20 The importance of outcomes to people and communities must be recognised and therefore their participation in the health impact assessment process is essential. The NWhA said it knew of the level of public concern yet it didn't involve the public in its study. It also provided vital medical data to an American company retained by CCL several days before it was released to Rule 6 parties. This can only be seen as bias to CCL and shows the NWhA cannot be regarded as independent.

20.21 The Committee on the Medical Effects of Air Pollution (COMEAP) report (repeated in Doc PH/1 Appendix 2) states the following:

- *Sulphur dioxide is a respiratory irritant, especially in people with asthma, doesn't have a threshold below which 502 has no effect on health. Significant increases in daily averages cause a small rise in deaths and increases acute admissions for chest problems for people over 65 and could be alarming to locals with asthma, heart and chest problems.*
- *Large increases in levels of NO₂ result in a small overall increase in deaths. There is also a small increase in deaths, acute hospital admissions for chest problems and heart problems due to a significant increase in PM₁₀.*

- *Significant increases in levels of ozone result in small increases in deaths overall and acute hospital admissions for chest problems.*
- *Current medical knowledge does not allow us to estimate the effects on health of any specific levels of the pollutants dioxins and metals in the environment": (This is not exactly true, as CANK's evidence on dioxin shows, but the presence of many unknown hazards from ultrafine particles and trace chemicals means that the report should not dismiss the dangers to health: a precautionary approach is essential).*

20.22 The report goes on to state: *"Anxiety about the health effects of emissions from local sources of pollution may affect the mental and physical health of certain individuals. Anxiety may be exacerbated by episodes of visible pollution or odours, an absence of information on health or misinformation about the level of risk. Therefore minimising unauthorised releases, effective systems to respond to complaints about visible pollution or odour and availability of factual information on levels of risk and health effects are important".*

20.23 It is not surprising then that a high degree of anxiety exists in the local population since there has been an on-going odour and dust problem at Padeswood and uncertainty about the effects on health. Dr Roberts has also added to the misinformation about health due to his positive reassurances about the Kiln 4 emissions, whereas other health professionals have been more cautious.

20.24 Some of the local residents have lived for many years close to this plant that has such a poor record of environmental care. . The NWA used Ketton works as the model for emissions, although Ribblesdale also burns *Cemfuel* and has a far worse record of justifiable public complaints (472 in a three-year period). The NWA ignores this record of complaints and plume grounding and only states that the COMEAP report on Ribblesdale did not indicate any concerns for health (Doc CD/44).

20.25 The experiences with BSE, contaminated fly ash from Byker and the Aintree incinerator should be a lesson to all concerned with this application where there is so much uncertainty and conflicting views on the health impact of this proposal.

Habitats Assessment

20.26 Under the Habitat Regulations the Inspector and the Assembly must consider the impact on European sites and on listed species whether or not breeding or resting on those sites. The specialist body in Wales is the Countryside Council for Wales (CCW), who had informed the EA and Flintshire CC that an assessment should be made. Neither body has required the Applicant to conduct the required assessment. Phoenix informed the Inquiry that certain local sites are included in a list of candidate SACs, which have recently been notified by the NAW to the European Commission. It is Government policy to give candidate SACS the full consideration and protection accorded to confirmed sites under the Habitats Directive and Natura 2000. None of the responsible bodies have presented evidence to the Inquiry on this aspect.

20.27 Buckley Common cSAC lies about 1 km from the site. From the dioxin survey (Annex 4 of EA/3) the Common has the highest levels of lead and dioxin/furan pollution of all the sites sampled. From Phoenix's interpretation of the dioxin re-analysis, this is caused by the plume tending to ground on the hillside more than in the valley east -of the plant. Phoenix concludes there may well be a problem of abnormal dioxin-furan pollution (as well as lead) on the Buckley Common cSAC. The NAW office may be at fault for failing to check the need for a

habitat assessment, to insert it in the terms of reference and to ask the Applicant and/or CCW to give evidence.

Planning and Hazardous Waste

- 20.28 Mr Morris from the EAW said under questioning that the prime purpose of the proposed development "has to be cement making" and failed to consider it as a hazardous waste incinerator masquerading as a cement kiln. For IPC/IPPC licensing he considers it only under one classification, though the EA also has duties under waste management, which include the fundamental Waste Framework directive duty of "ensuring waste is recovered or disposed of without endangering health".
- 20.29 The EAW did accept the change of fuel to waste (including storage of waste fuels) is a "major change" and that considerations of BPEO apply to use of the particular waste streams. Therefore, waste policy is relevant, and the full legislation on waste applies. The EA and HSE are the competent authorities for implementation of the COMAH Regulations 1999 (implementing the COMAH Directive) yet, the EAW provided no evidence. The EAW did not deny that COMAH legislation on hazardous wastes could apply. Planning law requires particular consideration to be given to hazardous development. In this case the wastes are classed under Annex B of the Hazardous Waste Incineration Directive (HWID). It is also classed as hazardous under COMAH (Doc PCG/28).
- 20.30 Schedule 12 of the Environment Act 1995 contains not only the phrase "without endangering health", but also "without risk to water, air, soil, plants or animals". There is clearly a risk of accidents involving the proposed transport and use of ***Cemfuel***. Accidental spillages could reach the Black Brook, as have recent spillages of fuel oil. More seriously, any fire or explosion of the kiln would spread the ***Cemfuel*** and/or other wastes into the Brook, because no "buffer zone" has been planned. There are therefore risks to nearby residents and to users of the adjacent right-of-way and public road, the Black Brook and adjacent badger habitat. The EAW evidence refers to accidents only under IPPC (s.4.7.8.2), which would only "limit the consequences" of accidents. The EAW did not advise the Planning Authority on the risk of development without a buffer zone, and on the consequent inability to meet Sch.12. Phoenix believes a presumption for a buffer zone must be made in the absence of contrary evidence.

Cemfuel

- 20.31 Phoenix has demonstrated that a 600 tonne store of ***Cemfzcel*** comes under COMAH because a) it contains hazardous substances from the European waste list and b) it is classified as a dangerous substance in COMAH Annex I, highly flammable or flammable liquid (Doc PCGrL8). Neither the Company nor the EAW have given evidence to dispute this. Moreover, under its classification by the Agency as "waste", ***Cemfcel*** comes under Annex 11 of the HWID.
- 20.32 The EAW said that ***Cemfuel*** would not contain PCBs, nor dioxins and furans but it was wrong. The approved categories of wastes in ***Cemfuel*** do not exclude these from classes of industrial or chemical industry residues. Indeed, the permitted classes include spent carbon filters (Doc CC/7), just the substance used to filter out dioxins and furans from combustion gases. While the dioxins and furans may be present in small quantities, no limits are set or tests required for their presence in ***Cemfuel***.

Dioxin

- 20.33 The EA's record on dealing with the dioxin problem is poor and fully justifies public concern over their ability to protect us from pollution. CANK, TCC and Phoenix have all detailed their concerns over this chemical.
- 20.34 The October 1998 results of sampling of emissions from Kiln 3 had the immensely high value of 25-27ng/m³ I-TEQ, yet the EAW took no action until the Improvement Notice of 29 November 1999. Under that Notice, a report was , due by the end of June, but has apparently just lain on a desk. Mr Morris told the Inquiry he was waiting for CCL to submit an application to change working methods, while the Company is waiting for him to read and review the report. Sampling commissioned by the Agency in 1999 gave lower dioxin readings of about 2 ng/m³, but the level is still very high and established the Kiln as the UK's 11th worst industrial emitter in 1999. The September 2000 sample had a level of 3ng/m³, so the Kiln presumably rates still worse this year.
- 20.35 The Agency's cursory dismissal of the dioxin problem in the soil sample analysis also validates the public lack of confidence. Phoenix's interpretation of the dioxin analysis is that there is definite evidence of raised dioxin and furan levels around the plant and that the components (cogeners) reflect the fingerprint of the 1999 emissions from Kiln 3. There is no emission monitoring under kiln disturbances or attempt to find other reasons for the ten-fold higher dioxin emissions in 1998.
- 20.36 Proper action by the EA in the light of the Rechem/Pontypool and CPLBolsover dioxin cases would have been to:
- (a) require continuous monitoring instead of single samples and
 - (b) check on bio-accumulation via sampling of foodstuffs and fauna in the area.
- 20.37 The EAW's failure to treat the dioxin issue promptly and seriously demonstrates to the public (and this Inquiry) that we should place only limited confidence in their regulatory function. Phoenix is highly concerned that part of the present proposal is to continue operating Kiln 3 for several years, despite it emitting more dioxin than Kilns 1 and 2. The dioxin story is a strong reason for shutting down Kiln 3 first - and forthwith.

Air Pollution

- 20.38 On the detailed use of plume models and parameters assumed, Phoenix relies on CANK evidence that the claims made by CCL are unsound. The EAW excused the Applicant's substantial changes in its estimation of stack gas emission volumes between stage 2 of the IPC application and the Inquiry by asserting that it was "too expensive" for the Company to draw up a "final design". Phoenix does not accept this failure to provide the "consolidated document" in the earlier stages of the application for this Inquiry, and indeed as part of the ES.
- 20.39 Phoenix pointed out the uncertainties of plume dispersion models and submitted in evidence the new comparison commissioned by the EA (Doe PCG/1). A factor of 3 error may well be expected when using the same input parameters. There are further errors in using inappropriate meteorological data from a distant site. The Applicant's modellers had explained they used Speke's 1970s data because there was none more recent available. Data reliability and climatic conditions have changed since then, and Speke is close to sea level and could not be compared to the Padeswood valley that lies at a few hundred feet altitude. The Company should have carried out their own local monitoring for at least a full year.

- 20.40 There was an additional uncertainty about the highest hourly values that ADMSv3 gives compared with ADMS v2.2 (>98%ile). The modellers put differences between the ADMS versions down in (large) part to differences in the pre-processor. Only second generation models (not ISC) can give one-hour peaks, and the agreement between ADMSv3 and AERMOD as reported by CCL's evidence could be just a common error in the preprocessor. The new EA appraisal retains the ADMSv2 assessment, which is several times higher at the 99.8%ile level than AERMOD. In the absence of contrary evidence, the worst case should be assumed.
- 20.41 Phoenix has reported plume grounding events - and produced pictures of a day when grounding was seen. To local residents, these events are not uncommon. The modellers agree that the local terrain with rather low hills is unimportant in the models Aermod, ADMS and ISC that they use. This could mean that the models fail to represent the plume grounding that is seen to occur. The existing Works is an obvious method to test the modelling, by checking measured pollution under measured meteorological conditions and emission rates. The Applicant's reliance on uncertain models and inappropriate assumptions of meteorological data should not be accepted.
- 20.42 The CCW drew attention (June 2000 letter to the EAW - Doe PCG/22) to the high levels of NO₂ in the EA data (Doc EA/3 - Annex 2, Fig. 4.1) and said these should be assessed against the short-term vegetation standards. CCW said (Doc PCG/33 - letter 15 March 1999) CCL's application "has omitted vital information" and it was unexplained why the Agency did not act to remedy this. Neither letter is in the EA's Appendix of relevant correspondence. This establishes that the CCW interest has not been officially represented at this Inquiry. (see Habitats assessment).
- 20.43 The EAW agreed that the SO₂ data (EA/3 Annex 2, Fig. 3.1,2) shows the kilns plumes were reaching and affecting the Penyfordd monitor, implying the NO_x plume was reaching it too. The one-hour concentrations of Fig. 4.1 could mean 100 or 150ppb of NO_x and was likely to exceed the 40ppb (75Wm³) WHO 4-hour vegetation limit. Additional to this, the short-term peaks in SO₂ (Fig. 3.2) could result in further and synergistic damaging stress on plant-life.
- 20.44 The EAW would not apply the annual limits on SO₂ and NO_x for protection of vegetation and ecosystems, because the Government intends to exempt areas within 5km of the cement works (p299 of NAQS 2000 and Doc PCG/1). It was thus unable to assure the Inquiry that the Agency would be able to protect the nature conservation interests (in particular European-designated sites) from air pollution harm. Although the EAW would consider the issue in future under IPPC, its powers are limited by BAT. And if the EAW is unable to protect the conservation interest, then this must be secured under the planning system. The evidence to ensure that has not been presented to the Inquiry by CCL, or by the Agency.
- 20.45 The CCW letters also raised strongly the issue of acid gas emissions within range of critically acidified countryside. It said (Doc PCG/33 March 1999) the EA was conducting "UK wide critical loads modelling" to assess pollution from individual sources reaching European/Natura 2000 sites", and added, "existing and proposed developments at Padeswood would also require such assessment". It's very possible that Padeswood would be required to cut its acid emissions. The emissions have to be assessed relative to Natura 2000 sites, so the nearby sites to Padeswood could be critical. It is thus important to know these sites and their current pollution/acid state. Over the Newbridge scheme, the EAW informed the Council specifically (Doc PCG/1, letters from EAW to Powys CC) that the Habitats assessment, including impact on Natura 2000 sites, had to be carried out before the planning decision. Phoenix noted that the EAW did not deny that this guidance should apply at Padeswood too.

- 20.46 Ultrafine particles (UFP) from the stack were identified as an important issue in evidence; yet no emission standards exist for this pollutant. The EAW said PM₁₀ included all particulates below PM₁₀. But this ignores the fact that the standard is based on data relating to urban particulates from vehicles, that industrial particulates can be very different (formed by condensation of metals and chlorides, and that composition and ultra fineness strongly affects toxicity (Royal Society conference, M Wallis/- Doc PCG/1). One also needs to consider the Directive that requires consideration of PM_{2.5} particles (1999/30/EC).
- 20.47 Phoenix concludes that UFPs from the proposed kiln should be identified as a potentially significant or serious problem for public health, which has not been assessed or technical fix offered. The EAW's evidence to this Inquiry (Doc EA/3) has assessed problems only against official standards, and failed to advise a precautionary approach on siting an incineration plant within range of housing.
- 20.48 The Austrian EA has a policy that waste-burning plants like cement kilns should meet the same standards as dedicated waste incinerators. This is particularly relevant to the NO_x levels for the latter (200mg/m³) being much tighter than for cement kilns. The Applicant is expecting only to meet 500mg/m³, even though pilot plants in three countries have proven that the tighter limit can be met using Selective Catalytic Reduction (SCR) technology.
- 20.49 The lack of data on acid emissions/deposition, on sensitive (Natura 2000) sites and on NO_x levels near Padeswood makes the argument for the need for NO_x abatement difficult. And it seems unlikely that the EA with its policy that SCR is not BATNEEC (or Selective Non Catalytic Reduction SNCR) would in the near future decide that SCR is 'BAT' under IPPC. Therefore, a planning condition should be imposed that SCR technology should be included on precautionary grounds, if the plant goes ahead.
- 20.50 There are further worries about many trace pollutants from incineration processes. The EA admitted to the Commons Environment Committee (Doc PCG/19 *The Guardian* 29 Nov) that the understanding of health impacts of incinerators is at an early stage. The lack of information on possible emissions of these pollutants from Kiln 4 means that the proposal should be rejected in the absence of any proposals to investigate let alone abate them.

Visual Impact

- 20.51 The proposed K4 works would be very different from the original cement factory built after the Second World War. The proposed works would produce 3 times as much cement as the original factory as well as supporting a complex multi-fuel system- based on waste materials. In order to handle the receipt of materials and fuel, storage, transfer, process, finishing and the packaging activities required for 775,000 tonnes of cement production per annum, the proposed works would change considerably. The image of a simple factory in a rural setting, so eloquently described by the Applicant, would in reality be a very large industrial complex which combines the handling and incineration of waste with cement production. The nature, scope, size and height of the development is clearly evident in the plans and elevations provided in evidence by Castle Cement Ltd. This would be no simple factory.
- 20.52 Changes to the area surrounding the works have been minor, it is still open countryside which is generally farmed for dairy, beef and sheep production. The local settlements have not noticeably encroached any nearer to the factory, neither has any other industrial development occurred. The works complex is still perceived from all directions as an industrial site surrounded by a rural landscape of impressive visual amenity.

- 20.53 The Director of Planning recommended refusal of the K4 planning application in his report of 2 February 2000 because that was the only credible interpretation of the relevant planning regulations. The height, mass and character of the pre-heater tower render the K4 development totally unacceptable in terms of visual impact. It is also apparent that a large heavy industrial complex such as K4 would be totally out of place in an otherwise unspoilt rural setting. In particular, people living to the north and east of the works, in Buckley, Penymynydd and Penyffordd would suffer visual blight from the works.
- 20.54 The relevant planning regulations emphasise the importance of two criteria in particular when considering the visual impact of a new development. These criteria are the scale and the character of the development in relation to the environment in which it is placed. It has been demonstrated that the proposed pre-heater tower is out of scale and out of character with the surrounding countryside. It is obvious that the sum total of all the proposed structures produces an industrial site which is also out of scale and out of character with its surroundings.
- 20.55 Castle Cement has provided much detailed evidence on visual aspects but never gets to the essence of the issue i.e. providing evidence to demonstrate how the proposals comply with the relevant planning regulations. Many photographs of the works have been provided, but not one which shows super-imposed images of the proposed new structures. None of this evidence allows an assessment of how the proposed development fits into the surrounding area, which is a fundamental planning requirement. Evidence has been given as to how the visual effects of the new structures could be mitigated, for example by giving the pre-heater tower a vertical emphasis and giving the top of the tower an industrial character. This sort of detail, normally so effective in blending new buildings into a man-made environment, is totally ineffective in mitigating the visual impact of such a huge structure in a rural setting.
- 20.56 The simple fact is that measures to harmonise or screen heavy industrial buildings, within open countryside, are ineffective if the buildings are significantly higher than the tree height. At the Padeswood site, proposals for on and off site planting are totally inadequate as screens to the pre-heater tower and the taller buildings. The offer of off-site tree planting by Castle Cement is little more than a public relations exercise.
- 20.57 The only reasonable and logical conclusion that can be made when considering the visual aspect of the K4 application is that the pre-heater tower is totally unacceptable due to its proposed dimensions and alien character within the existing landscape. The extent and nature of the proposed works complex as a whole must also be considered in relation to its rural setting. The planning regulations have been put in place to protect our enjoyment of the landscape and to create an environment attractive to residents, visitors, tourists and progressive business investment. The effect of ignoring the regulations for a "one off development such as K4 is to put at risk the credibility of the regulations and more importantly their underlying philosophy, which is to create a clean and attractive place for work and recreational opportunities in the long term.

Transport

- 20.5 Inherent to the K4 proposals is a huge logistical operation involving the transportation of bulk materials to and from the works at Padeswood. The site is not located adjacent to its sources of raw materials or fuel. Additional cement clinker is imported from the Ribblesdale works near Clitheroe. The finished product is transported to markets in the North West of England and the Midlands. 2.3 million tonnes of bulk materials would be transported a total distance of 11 million kilometres (approx) on the public highways each year if the K4 development goes ahead.

- 20.59 Castle Cement Ltd have provided evidence to show that local highways and junctions would remain in capacity if and when K4 is put into operation. This evidence is not disputed, apart from the Penymynydd roundabout which is already at its capacity at peak times and would obviously suffer from the additional traffic from K4. The issue of capacity is only one aspect of the transport proposals and that there are other aspects relating to public concern and planning considerations. Transport provides an analysis of the wider transport issues, ones that Castle Cement ignored because they did not wish them to be considered at the Inquiry.
- 20.60 The submission is concentrated on the following issues:
- The overall increase in HGV traffic to and from the works which would reflect the additional pollution, noise, dust, disturbance and nuisance suffered by local residents as a result of the K4 development.
 - The impact of the proposal on the use of the rail system for delivering fuel to the works.
 - The logistical and planning considerations resulting from the transportation of waste materials to be burned in the new kiln.
 - The additional traffic pollution created by the K4 development.
- 20.61 The Applicant has repeatedly misled the public, council officers and councillors as to the impact of traffic generated by the proposed K4 development. The company has presented traffic figures which suggest only small increases in works HGV traffic. In effect they compare the maximum existing daily movements over 4 days with the average predicted movements over 5 days for the new project, and this masks the overall annual increases.
- 20.62 Taking the 1999 clinker production as the baseline, HGV traffic generated by the works would increase between 80% and 100% in the total number of loads, the tonnages moved and the distances travelled. Castle Cement predict that the number of loads leaving and entering the works per 24 hours day for the K4 operation would be 902 and we predict 938, which is an overall annual increase of 82% on the 1999 works output. Castle Cement have raised their predicted increase of HGV traffic to 36% (from 12% originally) on a daily movement basis, still masking the actual overall increase of 82% per year.
- 20.63 An 82 % increase in Castle Cement HGV traffic means that the overall increase in HGV traffic on the A5118 would be approx. 20% on the sections east and west of the works entrance. Since HGV traffic creates most of the pollution, dust and disturbance the recurring problems of this nature would increase by approx. 20% on the A5118.
- 20.64 The K4 proposals would mean a reduction in fuels transported by rail and increase in road transport. Approx. 100,000 tonnes per annum of fuel currently brought in by rail would be transferred to the highway system. This is in direct opposition to current DETR policy of moving bulk freight from road to rail and creates more air pollution. Castle Cement admit that their decision to move all materials by road is economic.
- 20.65 Castle Cement Ltd propose to obtain all waste materials to be burned as fuel from sources which are most economically attractive, regardless of location. This would almost certainly mean transporting used tyres, paper and plastics from the Midlands and South East of England. The total distances required to transport alternative fuels for the K4 development cannot be calculated accurately until the actual sources are known. We predict that between 1 and 2 million kilometres per year would be generated by the transportation of waste materials used as

alternative fuels. This would create unnecessary pollution and road congestion and be in direct contravention of waste management principles i.e. regional self-sufficiency and the proximity principle as required by the PGG 10 guidelines and waste management legislation.

20.66 HGV traffic presently accounts for approx. 5.9 million kilometres (3.7 million miles) per year approx. We predict this would rise to 11.0 million kilometres (6.9 million miles) per year approx., an increase of 86 %. This would create an additional 5,870 tonnes of CO₂ gasses, with corresponding increases in other polluting diesel emissions. Compared to the proposed kiln the pollution from traffic is small but still significant.

20.67 The NAW should give very careful consideration to the following transport issues:

- Local residents and road users have suffered for decades from pollution, noise, dust and disturbance from Castle Cement's HGV traffic. This nuisance would increase noticeably.
- Castle Cement propose to move all materials by road for economic reasons. They also plan to move waste materials over long distances to provide fuel for the new kiln, again for economic reasons. The result of these plans would be to create unnecessary pollution and congestion when alternatives exist which are less environmentally damaging. This is why waste management legislation and planning policy requires regional self-sufficiency and the proximity principle to be applied to the transportation of waste.
- Compared to the proposed kiln the pollution from traffic is small but still significant. The pollution from the increased traffic should be added to all other sources of air pollution when assessing the total air pollution created by the new works.

21. THE CASE FOR MRS MIA JONES A CHESTER CITY COUNCILLOR FOR THE DODLESTON WARD AND AN OBJECTOR

(Also see full closing submission Doc MY 9)

The material points are:

- 21.1 The evidence was not given on behalf of Chester City Council, but on behalf of an elected Councillor for the Dogleston ward in the district of Chester City Council; a ward which contains about 2000 residents. It is a ward contiguous to the national border between England and Wales.
- 21.2 The development plan for the purposes of section 54A of the TCPA 1990 is the adopted Clwyd Structure Plan First Alteration (CD/ 1 5). However the Structure Plan Second Alteration (CD/ 1 7) and the Alyn and Deeside Local Plan (CD/ 1 6) have been adopted by Flintshire County Council for development control purposes.
- 21.3 An environmental assessment should take account of impacts wherever they occur. In principle it is wrong to approve development which would undermine the ability of neighbouring authorities to achieve their objectives. Especially where those objectives accord with national policy and guidance.
- 21.4 The Applicant says that the Cheshire Structure Plan Policy GEN 3 only relates to Cheshire. This is correct , of course, but the policy clearly sets out the principle that the environment should be protected. Clearly, given the proximity of the Castle Cement works to the border (some 4km to the nearest boundary of Dogleston ward), and the potential wider impacts that the development might have, it is important that the policy approach of neighbouring authorities is taken into account. In considering issues of sustainability it is essential to consider the wider impacts. It would be a nonsense to do otherwise.
- 21.5 The Applicant acknowledges that cross boundary issues can be relevant and that the Green Belt and the ASCV (both designation which apply exclusively to England) are material considerations in the determination of this application. It is agreed that RPG13 is not directly applicable to development in Wales, and that Policy GEN 7 of the Cheshire Replacement Structure Plan relates to development in Cheshire. However the underlying environmental objectives of those policies are equally relevant in this case.
- 21.6 Paragraph 3.7.1 of PGWPP indicates that collaboration is necessary between "all authorities likely to be affected". This lends weight to the view that the policies and objectives of neighbouring areas are legitimate matters for consideration in a case of this type. Moreover, whilst the Applicant accepts that the impacts upon heritage features will be significant in this instance, it is implied that heritage protection is relevant, even though all the sites referred to are in West Cheshire. Again this implies an acceptance that the objectives and policies of neighbouring authorities are material considerations.
- 21.7 The relative weight to be ascribed to neighbouring plans and proposals is an important issue, especially given the potential cross border impacts of so many environmental matters. After all nature does not respect administrative boundaries. Hence the need to "think globally and act locally." In this case it is submitted that the designated areas (ASCV, CA, SNCV, ANVC) and Scheduled Ancient Monuments situated in Cheshire (Does. MJ/1 MJ/2) would be harmed by the proposed development.

Landscape Character and Appearance

- 21.8 The size and the mass of the proposed development would be a dominant feature. This has been described by the Applicant in comparative terms by reference to both a tree and to Eaton Hall. It beggars belief that a landscape expert could describe what is proposed in this case in such terms; the Applicant cannot expect to be taken seriously on this. However, it is agreed that the best assessment of this potential impact will come from site inspection. These must be viewed in conjunction with the agreed photographic evidence submitted in documentation. These demonstrate clearly and convincingly the total unacceptability of the proposed development in terms of adverse and unacceptable impact on the character and appearance of the landscape.
- 21.9 The visualisations produced by the Applicant in the Addendum to Non-Technical summaries (CD/5) also demonstrate clearly and convincingly the total unacceptability of the proposed development in terms of adverse and unacceptable impact on the character and appearance of the landscape. The perspective effect of distance on apparent size of objects (CC/20) was not accurate in the sense that in using the sections it is necessary to remember that the base of the proposed Preheater Tower would be at 105 mAOD.

Public Health

- 21.10 The technical evidence submitted by the LANK group is adopted. There is particular concern in relation to the perception of risk, however, and in this respect reference may be made to *R v Tandridge District Council X20001 JIPL 604* where the Court of Appeal held that the existence of objectively unjustified fears can, in some circumstances, be a legitimate factor for a planning authority to take into account when deciding a planning application although the weight to be given to them is in principle a matter for the authority.
- 21.11 It is because of the concern in relation to the perception of risk that a local survey was organised. It was distributed to 570 households in the Dodleston ward and advice on its preparation was sought from experts in this field. Documents MJ/2 and document M.T/5 contains the survey material. It is submitted that the NAW can have confidence in the professional nature of the survey and the validity of its conclusions against the project. That survey demonstrates
- a high response rate in Dodleston ward;
 - considerable concern about the visual impact of the proposed development; and
 - Considerable concern that there will be harm to human-health as a result of the proposed development if consented.
- 21.12 In addition Dr Roberts from the NWAHA recognised the existence of public health perception as a phenomenon. He said "I do not attempt to say that their fears are unjustified- no matter what you say you cannot stop fear". In these circumstances, and in the light of *Tandridge*, it is submitted that considerable weight should be given to the public perception of risk, and this remains the case whatever conclusions are reached in relation to the technical evidence presented to the Inquiry.

Article (8) - European Convention on Human Rights

- 21.13 Article 8.1 provides that everyone has the Convention right of respect for his home. It is not suggested that this is an absolute right. It is not. However, it is important that this Convention right is recognised in this case in relation to all those people who live in homes affected by this project. This applies in relation to all material impacts, including visual and public health.
- 21.14 Article 8.2 provides that there shall be no interference by a public authority (including a tribunal or the NAW) with the exercise of this Convention right except as in accordance with the law and is necessary in a democratic society in the interests of national security, public safety, or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others. It follows that it is open to a decision-maker to decide, for example, that the economic well being of the country could justify interference with this Convention right. On the other hand the commercial interests of Castle Cement in themselves would not justify such interference. On the facts of this case there is no justification for interference with the Convention rights enjoyed under Article 8.

Economic Matters

- 21.15 It is acknowledged that the appeal site is designated as a Development Zone in the Alyn and Deeside Local Plan and also that the principle of industrial development is established. However, the point has been well made that there is little that points to the site being an appropriate location for industrial development. In these circumstances it is important to emphasise the following points:
- Chester Business Park is a significant employment site employing over 5000 people and concerns have been expressed about the impact of the proposed development upon economic activity in that Business Park
 - Particular concerns have been expressed by commercial organisations in relation to the impact of the proposed development, for example Marks and Spencers has warned that "This development by Castle Cement would, if allowed to proceed, inevitably impact on any decisions we make about potential sites in Flintshire".
- 21.16 By letter dated 16 November 2000 the Senior Development Control Officer, Chester City Council, informed the Inquiry that the Council's District Economy Board on 7 November 2000 resolved to bring to the attention of the Inquiry the concerns expressed by the business community in relation to the potentially adverse economic impact of the appeal proposal on Chester District. In addition to spec harm that would be caused by the proposed development in terms of landscape character and appearance and the public health matters which have been discussed during this Inquiry, it is submitted that the image of an area is important in economic terms. Whether or not there is evidence that jobs have been lost as a result of the proposed development, there is a real probability of economic harm in the form of future job losses and reduced investment by business given the published statements of significant employers such as Marks and Spencers and MBNA and the letter from Chester City Council dated 16 November 2000. In addition, the Flintshire County Council report to Committee (FCC 2 page 54), under the heading "Disbenefits" of the application, refers to " the potential loss of other investment and employment opportunities as a result" of the proposed development.

Summary (Mrs Mia Jones)

- 21.17 It is apparent, to even the most casual observer, that the existing Castle Cement works stands out as a sore thumb. It is more than an obvious "blot on the landscape". Given the size and the mass of the proposed development it must necessarily follow that what is proposed will stand out even more obviously and it would cause substantial harm to the character and to the appearance of the landscape over a very wide area, including areas within Dodleston ward. Moreover, the evidence demonstrates that there are real concerns in relation to public health matters. In addition to the CANK evidence on this issue there is the substantial public perception of harm, a perception which is well founded given the nature and the detail of the proposal.
- 21.18 Article 8 sets out the Convention right of respect for a home. This right is not an absolute right, it is submitted in this case that recognition of the Article 8 rights enjoyed by so many who live in houses within 5 km of the Castle Cement works, including the residents in Dodleston ward, together with the demonstrable harm that will be done to these rights if the application is consented, must lead necessarily to the rejection of this application.

22. THE CASE FOR THE FLINTSHIRE GREEN PARTY AGAINST THE PROJECT

(Also see full closing submission Doc FGP/10)

The material points are:

A Fair Hearing in Breach of Article 6 and 8 of the European Convention on Human Rights (ECHR) -Allegations of Environment Agency/ Inspector Conspiracy.

- 22.1 It has been left to residents to put forward the information that the proper authorities have failed in their duty to provide. Should the application be granted then residents would be justified in taking legal action, not just for judicial review, but for breaches of the ECHR, and also for discrimination against them.
- 22.2 Both the Planning Inspectorate and the NAW are a party to this conspiracy of silence regarding hazardous waste, and the health implications of this planning application. This cover-up was decided upon before the Inquiry opened. The issue of hazardous waste was not covered in any of the presentations by the Applicant.

Flawed Planning Application

- 22.3 The planning application form, at question 10, asks: "Will the proposal involve the use or storage of hazardous waste?" The Applicant has falsely answered "No" to this question. Yet *Cemfuel*, which is hazardous, would be both stored and burnt at this site if the application is granted. The planning application is illegal as the project should consider the burning and storage of hazardous waste, and this has not been done. The true nature of the project has been concealed. The application should be changed to reflect this wider proposed use. Due to this omission, and the failure of the Inquiry to address this matter, a complaint has been made to the EU Commission and the matter is under investigation.

Character and Appearance of the Area

- 22.4 The project would cause devastation to the visual amenities of the public and to the surrounding landscape. It would be visible from far and wide including parts of Cheshire.

Transportation

- 22.5 Some years back an appeal was dismissed for opencast coal mining at Bannel Lane (Doc FGP 7.14), which is near the current application site and served by the same main road. The application was dismissed on grounds of visual damage and traffic problems. The Padeswood project would generate greater volumes of traffic than the Bannel Lane site therefore it should not be permitted. Moreover, the Bannel Lane scheme would have been of short duration compared with the Padeswood site which would be permanent development.

Employment

- 22.6 Workers would lose their jobs both at Padeswood and Ribblesdale if the scheme goes ahead. The Applicant cannot be trusted over its employment projections. At the FCC meeting the Applicant's statement for the future prospects of the works does not line up with its statements to the Inquiry. It is now the case that if planning permission is not granted, then the works would close. This is definitely inconsistent with its earlier position. On this basis the claimed loss of jobs, should the project not proceed, cannot be held out as a reason to underpin the grant of planning permission.

Pollution and Health

- 22.7 The project as a whole, including the burning and storage of hazardous waste should have been considered together and an EIA carried out under the Environmental Impact Assessment Directive (EIAD) and the HWID. (A complaint has been made to the EU Commission). The ES is in breach of the EIA, as explained in the legal submission. It is flawed in that it did not consider the disposal of waste and hazardous waste residue. The project is co-incineration and should be considered as such.
- 22.8 The proposal would cause serious health problems including increases in asthma and cancer cases in the local community.
- 22.9 On the site visit, gaseous emissions were occurring from the seals to one of the kilns due to reduced rotation of the kiln caused by wet coal. This bypassing of the stack monitor and reduced kiln temperature would occur in the new kiln and cause unburned toxic particles to be emitted to the atmosphere.
- 22.10 The Applicant has an appalling record of mismanagement of the works as indicated by 290 breaches of conditions in the Authorization at Padeswood since 1995 and several criminal convictions (Doc FGP/1.3). How could the Applicant be trusted to operate a hazardous project? The EAW has no resources or will to enforce the Authorization conditions.
- 22.11 The Applicant would make more money burning hazardous waste than making cement. The burning of ***Cemfuel*** is not energy recovery but entirely waste disposal. The solvents could all be re-cycled thus the process is unsustainable. Waste could also be imported from overseas and there is therefore no legal mechanism to trail waste and no way of knowing what is in the waste or the emissions from the stack (Doc FGP/1.3). In addition, there are 98 waste codes used in ***Cemfuel*** and no way that all of these can be analyzed for.
- 22.12 The NWA was not neutral or impartial. It was biased and collaborated with the Applicant on its evidence before supplying the same information to the public. It did not look into the health problems of 20 workers who suffered severe skin rashes from materials used at the Padeswood works (Doc FGP/6.3).

- 22.13 The emissions from Kiln 4 are not agreed to be lower than from Kiln 3. They would be different and more toxic. Species including badgers and newts would be harmed from the increased toxic emissions.
- 22.14 The Ribblesdale plant causes levels of pollution over four times the UK health limit at the farm on the top of the ridge 3 miles from the cement works: children and adults living there have developed asthma and chemical responses and one of the children has ME. There is no other nearby pollution sources. Neither the Health Authority nor the Ribble Valley Borough Council has been out to monitor this. The same could happen at Padeswood (Doc FGP/8.1).
- 22.15 All of the air quality modelling is invalid because it is based on an efflux velocity of 12.5m/sec, when the minimum is 15m/sec. CCL has failed to justify why less than the minimum velocity was used. Neither has there been any assessment of the impact of malfunctions e.g. failed bags. Furthermore, all the weather data is from the totally unrepresentative coastal source at Speke airport, whereas Padeswood is inland with a microclimate of its own. In addition, the particle size, shape and aerodynamics have not been taken into account in the modelling. For these reasons alone the application should be refused.
- 22.16 Cement kilns work at a maximum of 2% oxygen. They cannot make cement with 6% oxygen in the firing zone. But 6% oxygen is needed for complete combustion of organic waste (Doc FGP/2.1). The high levels of carbon monoxide emitted confirm poor combustion in Kiln 7 at Ribblesdale, when burning hazardous waste.
- 22.17 No account has been taken of leakages, spillages and breakdowns, reduction of particle size and secondary particle formation when burning hazardous waste, or the increase in mass of bypass dust and the increase in heavy metals.
- 22.18 The Maastricht Treaty states that, *"the Precautionary Approach principle has precedence where all the factors in an application are not known"*, and if this application were to be allowed it would be in breach of this Treaty."

23. THE CASE FOR TREFNU CYMYNEDOL CYMRU (THE WALES BROAD BASED -ORGANISATION) AGAINST THE PROJECT

(Also see full closing submission Doc TCC/6)

The material points are:

Noise

- 23.1 Witnesses have described the effect that noise from the plant has on their well-being. More people, across a wider area, are already being disturbed before any possible increase of production.

Pollution

- 23.2 Toxic emissions, no matter how small, would be additional to the existing pollutants in the atmosphere and the soil. Inevitably there would be a cumulative effect over a prolonged period and the grass, vegetables and fruit grown on that soil would have high levels of dioxins. If an individual were allergic to any toxic substance then he or she would react even to the smallest doses. In other words, the effect is not always dosed related (Doc - TCC/5). _
- 23.3 It is a fact that the childhood asthma is on the increase in the United Kingdom and is blamed on a number of air pollutants. Vulnerable children would be particularly at risk of developing allergic asthma as a result of exposure to particulate emissions.

- 23.4 In medical practice, any new drug goes through a period of research and-development extending from 10 to 20 years. It is tested on laboratory animals before human testing and after a very thorough and vigorous examination, the committee on safety of medicines would grant a license for the use in humans. Each new, drug is closely monitored and all adverse side-effects are reported. Physicians observe any serious side effects, and drugs can be withdrawn at anytime, and it can be recorded that a particular patient is never given the same drug again. If CCL were allowed to burn toxic substances in the proposed new kiln there would be no such safeguards to protect the local population. The damage would be continuous and it would be extremely difficult to shut the kiln.
- 23.5 To allow CCL to burn potentially hazardous substances in populated areas would be utterly irresponsible especially because no one can guarantee against accidents, human failure or equipment failure. It would be of no use to the victims for everyone to say that the burning of toxic substances should have never been allowed so close to populated areas as was the case after the Bhopal disaster.
- 23.6 Internationally cement kilns burning hazardous wastes are known to be a major source of dioxins (USEPA dioxin draft review vol. 11 Chapter 5, March 2000). It is claimed that modern emission standards are stringent. However, it is difficult to be confident that emission levels are always in compliance with authorizations when they are normally only sampled twice a year, even when the highest levels are likely to occur during plant upsets, when no monitoring is undertaken. Furthermore, the emission standard and monitoring does not include brominated dioxins, which are claimed to be as toxic as the chlorinated species. It is known that brominated and other halogenated dioxins are formed in incinerators and the levels of brominated pre-cursors are increasing because of the use of these compounds as fire retardants etc (Doc TCC/1).
- 23.7 Kiln 4 would be a huge point source for emissions of a range of toxic substances and there is great uncertainty about the total level of impacts on local health and those living more distant from the plant.
- 23.8 The NWhA fully accepts the impacts on health that arise from public concern and anxiety and acknowledged that they had not been reduced by its evidence or the EA regulation.
- 23.9 The existing kilns have, on the Applicant's evidence, been exceeding health-based standards but neither the EAW nor the NWhA have, acted to ensure that health is protected over this period. Even after correcting the recently notified error in the DETR report produced by ENTEC: Regulatory and Environmental Impact Assessment of the Proposed Waste Incineration Directive (REIA), the proposed NO_x, SO₂ and particulates emissions would still bring forward more than 2 deaths per annum or more than 50 over a 25 year operating life (Doc TCC/6). The number of hospitalisations brought forward is even larger. The NWhA claims that you cannot compare deaths brought forward by air pollution with other deaths even though there is 200x greater risk than the risks from rail travel - which itself has caused huge anxiety during the course of the Inquiry.
- 23.10 The NWhA accepts:
- The calculations based on the Institute of Occupational Medicine impacts of deaths (*Doc TCC/1*) - 3 days lost/person with 5000 people affected. It rationalised this impact from the proposal by comparing with other impacts and deaths.
 - Air pollution is undesirable and every effort should be made to reduce it. CCL do not use the best techniques to do so.

- Important information needed to assess health impacts is still missing - this included particle size, distribution and specification. It was unclear when, or if, this data would be made available.
- NWHHA has based its assessment on the impacts from the main stack and that this was incorrect in relation to the concentrations of particulates from the clinker cooler by a factor 8-10 (even after the CCL correction of the errors in modelling evidence). .
- There is a level of harm but argues that it is acceptable in relation to other risks.

23.11 TCC do not consider that the comparative exercise is a legal (or moral) basis for the decision. The approach clearly places the application in conflict with the provisions of the Human Rights Act implementing Articles 2 and 8 of the Convention on Human Rights and for this, and the other reasons presented in our evidence, the application should be refused.

The Waste Framework Directive

23.12 Planning Guidance Wales makes it clear that: "Planning Authorities in determining applications, are obliged by EC Directives on waste primarily to ensure that waste is recovered or disposed of without harming the environment, endangering human health or causing a nuisance through noise, or adversely affecting the countryside or places of special interest and also to establish an adequate network of waste disposal installations."

23.13 The proposal to burn controlled waste at this site changes the legal basis for assessing the application as the requirements of the Waste Framework Directive (751442/EC as amended by 91/156/EC) apply. The Waste Framework Directive forms the basis of a range of duties regarding the management of waste and introduces new duties which bear upon planning and pollution control authorities. The LTK has transposed the Directive by means of the Waste Management Licensing Regulations 1994. As the proposal includes the burning of a wide range of wastes that may be included as constituents of *Cemfuel* or *Profuel* the cement kiln becomes an incinerator as well as a cement kiln. Not only would the provisions of the relevant waste and incineration directives apply to the process but the general and increasing fears that the public have in relation to incineration will also be an important factor in the assessment of the application.

23.14 The Waste Framework Directive is perhaps the most important of the European Directives in relation to the determination of this application. This Directive introduces stringent requirements for the protection of human health and the environment that have significant implications for this proposal. In particular Article 4 of the Directive is highly relevant and provides as follows:

"Member states shall take the necessary measures to ensure that waste is recovered or disposed of without endangering human health and without using processes or methods which could harm the environment, and in particular:

without risk to water, air, soil and plants and animals;

without causing a nuisance through odours;

without adversely affecting the countryside or places of special interest".

Waste Management Licensing Regulation. 1994

- 23.15 Paragraph 2 (1) of Schedule 4 of the WMLR states: "the competent authorities shall discharge their specified functions, in so far as they relate to the recovery or disposal of waste, with the relevant objectives." The meaning of competent authorities and their specified functions are partly set out in Table 5 the first entry indicates:

Competent Authority	Specified Function
Any planning authority,	The taking of any specified action.

- 23.16 The meaning of specified action is listed in paragraph 1(a)-(e) and includes: "*determining - (i) an application for planning permission*". It follows that any planning authority shall determine an application for planning permission relating to the recovery or disposal of waste, with the relevant objectives. Planning authority is defined in Paragraph (1) of the Regulations: "planning authority" means the local planning authority, the person appointed under paragraph 1 of Schedule 6 to the Town and Country Planning Act 1990 or, as the case may be, the government department responsible for discharging a function under the planning Acts and the Secretary of State shall be treated as a planning authority in respect of his functions under the planning Acts", and includes Planning Inspectors, the NAW and the Secretary of State. Local Planning Authority has the same meaning as in the Town and Country Planning Act 1990 (Sch. 4 Para. (1)):
- 23.17 In an effort to avoid unnecessary duplication paragraph 2(2) provides that a planning authority is not required: "to deal with any matter which the relevant pollution control authority has power to deal with." This does not in any way limit the extent to which the Planning Authority takes into account pollution/health issues considered to be material.
- 23.18 In terms of role, planning authorities assess 'damage' to interests of acknowledged importance. This of course gives them a more holistic view than the Environment Agency who can only consider what is before them in a waste license application and have very limited grounds for refusal of the application (EPA '90 S. 36(3)). A planning authority has a much greater freedom to identify and define 'harm' to interests of acknowledged importance. It is difficult, in any case, to see how a proper assessment of the environmental impacts of the proposal, as is required for the Town and Country (Environmental Impact Assessment)(England and Wales) Regulations 1999, could be made without material consideration of health and pollution related issues.
- 23.19 The Waste Framework Directive provisions are transposed directly into the 1994 Regulations. However the interpretation of the Directive as part of UK law is attempted by policy guidance. As is noted in Circular 11/94: "*The key objective which underlies the whole of the Directive is Article 4, and this has been transposed into the Regulations as paragraph 4(1)(a) of Schedule 4. This makes it a relevant objective to ensure that waste is recovered or disposed of without endangering human health and without using processes or methods which could harm the environment,*"
- 23.20 The effect of the wording of Article 4 becoming "relevant objectives" is arguably to weaken its legal significance since the aim or purpose of provisions carries less importance when interpreting UK legislation than in interpreting EC legislation. With or without 'direct effect' there is no authority for simply assuming that it is possible to interpret the relevant objectives in the terms of it being acceptable to allow some risk, or harm, to air, soil, plants or animals. Clearly it is a tough test. Professor Richard Macrory summed up the situation of the Waste Framework Directive in the ENDS Law report: "As has so often happened with EC Directives, Member States no doubt agreed to the general principles concerning the disposal of waste

without risk to human health and the environment without appreciating the full consequences of what they were doing."

- 23.21 The Waste Management Licensing Regulations require that the planning functions are discharged 'with' the objectives. This is undoubtedly a stringent duty. Paragraph 1.47 of Circular 11/94 Annex 1 states: "The general duty in paragraph 2(1) [of Schedule 4 to the 1994 Regulations] means that in exercising the specified functions authorities must always consider the objectives of the Directive and aim to determine decisions ... in line with them" This is broadly the language of materiality (to consider) but the duty imposed by the relevant objectives is far more onerous than this implies. Therefore unless it can be demonstrated that there are no risks -- or at least no more than de minimis risks - to these environmental objectives then the application should be refused.

24. THE CASE FOR DODLESTON AND DISTRICT PARISH COUNCIL AGAINST THE PROJECT

(Also see full closing submission Doc DPC/17)

The material points are:

- 24.1 Objections are sustained on grounds of public health, visual amenity and highway traffic.
- 24.2 No. evidence was put before the Inquiry to prove that the components of CemfuQI and Profuel are not capable of being re-cycled.
- 24.3 From the European Communities Eleventh Report it would appear that the cement industry is still fighting for permission to pollute.
- 24.4 The dangers, of incinerator ash are very relevant to Cement Kiln Dust (CKD) from K4.
- 24.5 Environmentalists, extrapolating from the EPA's risk findings, have estimated that about 100 of the 1400 cancer deaths occurring daily in the United States are attributable to dioxin". 100 in 1400 is about 7%. (Doc DPC/7). The dangers of dioxins are referred to in Document DPC/10.
- 24.6 Dodleston and District Parish Council had obtained verbal information from the Meteorological Office (MO) to the effect that, "In the UK the generally prevailing wind is from the West part of the quadrant, between NW and SSW". Local questionnaires tend to confirm the local validity of that statement. Hawarden airport may have been laid out in an X shape precisely because of the predominance of winds from the Western quadrant -particularly NW and SW. There is evidently less need for a North/South runway (Doc DPC/1A).
- 24.7 The fact that the prevailing winds in Speke are from the SE and NW is totally irrelevant to the site at Padeswood. The CCL data from Padeswood itself clearly shows that the prevailing winds are from the West. Dodleston and District Parish Council have used the data supplied to produce a "Padeswood Wind". The same data is used by the EAW. The Padeswood data, even though not subject to MO standards and calibration, is undoubtedly the most relevant wind information before the Inquiry. It would be sensible to re-work the Applicant's evidence using the Padeswood information.
- 24.8 The Applicant's "Additional Information" shows that Dodleston would receive an incremental Annual Mean Concentration of any unit pollutant of 0.006. If the modelling were re-worked using "Padeswood Wind" information then the increment would probably increase to about 0.009.
- 24.9 Two out of three Doctors of Medicine contacted in Dodleston expressed concern about the

hazards of Kiln 4 - including dioxins .(Doc DCP/15). Using the inference of CCL's own argument, the average member of the general public would be even more concerned.

- 24.10 The computer modelling undertaken by CCL is deficient in that it did not use Padeswood wind data and did not consider topographic effects. Furthermore neither they nor the NWA considered unauthorised or fugitive emissions of which CCL at Padeswood has a very bad record.
- 24.11 The bordering South Cheshire Health Authority, only 4.7km away from Kiln 4, recommended that a HTA should be carried out. The NWA survey was not adequate. It did not consider the down-wind English wards at all.
- 24.12 Most people, on learning that Kiln 4 would incinerate tyres and chemical wastes, become concerned about emissions, which they expect to be bad for their health Within a 10km radius of Padeswood this anxiety is likely to affect 25,000 people. They know that if you burn tyres or plastics on a bonfire you get huge quantities of smelly black smoke that it is dangerous to inhale. In contrast they burn coal on open hearths in their homes and are quite happy to do so. There is an instinctive fear that burning rubbish emits dangerous pollution. Evidence before the Inquiry about ultrafine particles and brominated dioxins extends that fear of the unknown. Biochemical knowledge and stack emission analyses are not yet fully understood. If Kiln 4 goes ahead then up to 25,000 anxious people may have an expectation to become ill; a huge potential impact reducing their lives by months and causing blight for years of suffering mental health problems. As the NWA reported, anxiety itself has significant adverse mental and physical effects.
- 24.13 In the event of the grant of planning permission the following conditions should be considered in addition to those already submitted in the proof of Dodleston and District Parish Council Proof of Evidence:
- (a) A monitoring post, run and manned by the EAW should be set up 1ktn East of kiln 4, in Penymynydd, to continuously monitor NO. and SO₂.
 - (b) Weaker standards for authorised emission limits should not be allowed during the start-up period, which lasted up to 5 years at Ketton.
 - (c) The invalidity of any FL Smith guarantee resulting from use of alternative fuels should not impact upon insurance cover to pay compensation should emissions prove hazardous.
 - (d) SCR technology has been well researched, so despite its cost it is most certainly an "available technique". Depending on its effect on ultrafines and other emissions globally; it may well be "BAT" An addition of electrostatic precipitators (ESP's after the bag filters might further decrease particulate emissions and be "BAT. BAT should be used for Kiln 4.

25. THE CASE FOR COUNCILLOR DEREK DARLINGTON AGAINST THE PROJECT

The material points are:

- 25.1 Penyffordd includes Penymynydd, Dobshill, the Old Warren and part of Stryt Isa. (Doc. DD/1). The Planning Report of 2nd February 2000 indicates the following views from those who commented at the time of the application:

	Objectors	Supporters
Penyffordd	473	36
Penymynydd	184	10
Dobshill	19	-
Totals	675	46
Percentage of Total	35 %	3

25.2 Of the 721 letters/forms received by the Planning Department from Penyffordd, 94% were from objectors. There are three schools in Penyffordd. Governors of two express concerns (Abbots Lane Infants, Penyffordd County Junior). Other Penyffordd Bodies comment as follows:

- (a) Penyffordd, Penymynydd and Dobshill W.1- extreme concerns - huge further blot on the landscape.
- (b) Allstone Park Limited - Emissions - burning of *Cemfuel* and other substances - traffic impact.
- (c) Penyffordd Community Council - visual blight, threat of pollution – detrimental effect on health that may result in burning of certain fuels - increase traffic flow - risks involved with transportation and storage of fuel - detrimental effect on properly values.

25.3 In the proof of evidence of Mr. Christopher Thomas (Flintshire's Chief Planning Officer) para. 4.19 states: "The County Council has considered the implications of the proposal on the existing highway network and has concluded that, there are no grounds in relation to highway issues for objecting to the proposal". However, (Doc. DD/2) Flintshire County Council relied on Castle Cement's assessments on traffic. Castle Cement's figures for additional traffic movements have given rise to confusion.

25.4 Members of the Penyffordd and District Labour Party, whose Branch Executive Members are unanimously opposed to K4, have carried out two traffic surveys.

- (a) The first survey was to gauge traffic movements coming onto Penymynydd roundabout -from 7.30 am. to 7.00 p.m. This survey was carried out (in four hourly stints) on 20 to 22 September 2000. In excess of 20,000 traffic movements were observed. (Doc. DD/3). At peak times, considerable queues formed in all four directions.
- (b) The second survey was to gauge the traffic movements coming in/out of Castle Cement and was carried out over a 24 hour period commencing at 6.00 am. on 9th October (Doc. DD/4). This information has been shared with Castle Cement. The peak time numbers are of relevance.

25.5 Emergency Services, serving Penyffordd (and other areas) originate from Buckley and Mold and, of necessity, for speedy response time, use Penymynydd roundabout.

25.6 In 1992, a Planning Appeal application for opencast coalmining (near to the Castle Cement Site) was dismissed (see DD/ 5).

- 25.7 Regarding visual issues, it is beyond belief that the Applicant should assert that the bulk and size of K4 would not become overbearing until approaching the height of Hope Mountain (250m). This answer was later modified to 145m (a 40% increase). His solutions to visual blight, regarding tree planting, were incredulous.
- 25.8 On the matter of employment, it is noted from Mr. Welder's evidence that the number of employees of the Castle Cement Group has fallen from 2001 to 1254 over the period 1990 to 1999. It is acknowledged that if K4 is built that the number of Castle Cement Group employees will reduce by a further 120 (20 at Padeswood and 100 at Clitheroe).
- 25.9 It is claimed by Flintshire County Council that many new jobs will be coming to this area:
- 230 new jobs at Ewloe (Doc. DD/6)
 - 1,700 new jobs at Broughton (Doc DD/7)
 - Several '000 new jobs at Greenfield and Penyffordd (Doc DD/8)
- 25.10 Mr. Heggarty, The Council's Economic and Tourism Head gave evidence which included comments/indications (in part) on Gross Domestic Product per head, Activity Rates (age 16+) and ward deprivation. Attached at (Doc DD/9,10& 11) are the results of research carried out by Brian Morgan (Cardiff Business School) presented to a Welsh Local Government Association Conference held at Llandudno on 8 September, 2000 which seek to demonstrate the prosperity of the area.
- 25.11 Flintshire County Council has produced (for consultation) a Unitary Development Plan covering the present period to the year 2015. Document DD/12 indicates the projected growth bands for the area around Padeswood:
- Buckley 10-20
 - Penyffordd 8-15
 - Drury 8-15
 - Dobshell 0-10
- 25.12 When questioned by the Inspector, the Council's Chief Planning Officer confirmed that it was still his professional opinion that the application for K4 should be refused. The Chief Planning Officer also confirmed to the Inspector that his recommendations would be likewise if the application was for an incinerator or a co-incinerator.
- 25.13 Much debate has taken place regarding the possible effects of burning toxic wastes. One -thing that has not been challenged is the statement made (repeatedly) by Dr. Roberts that people will (not may) suffer anxiety. Anxiety will be exacerbated by episodes of visual pollution or odours and will affect the mental and physical health of certain individuals. Dr.Roberts cited the case of the dwellings built on a former chromium works in Glasgow where 25 % of the residents suffered deteriorating health (Doc PH/1).
- 25.14 Not only would there (undoubtedly) be visible pollution but a massive physical visible monument to remind those affected of their fears and anxieties.

25.15 No one can claim that Castle Cement's housekeeping record has been good. A high figure of 255 self reported "occurrences" over the last four years equates to more than one per week. Additionally, the firm has recently been fined £1,500 for an oil spillage. More recently, the firm has been fined £18,000 in connection with a prosecution brought by the Health and Safety Executive. In February of this year, a Noise Abatement Notice was served on the firm by Flintshire County Council.

25.16 If K4 is granted planning permission it would have devastating effects on the community of Penyffordd. Many people would leave the village even though they would undoubtedly encounter problems when selling their property. Many people would suffer from anxiety. Penyffordd is a very vibrant community. This would be lost. The area would decline. It is not known what the long-term health effects would be. The precautionary principle should apply.

26. THE CASE FOR THE CAMPAIGN FOR THE PROTECTION OF RURAL WALES (CPRW)(Written submission).
The material points are:

Implications for landscape

26.1 CPRW is not 'anti-development. As its founder member, Sir Clough Williams-Ellis said in 1928: "Enterprise, enterprise by all means but at the right place and the right size and in the public interest", and it is under this maxim that CPRW still operates. This proposed development does not comply with that maxim in terms of site and scale and it is not in the public interest. .

Town and Corm

26.2 What happens in the built up areas affects the countryside. It is at the interface between town and country that, very often, the greatest threats to the qualities of the countryside are to be found, as is the case here. The majority of the urban population in Wales for most of the time, experience countryside qualities such as pleasant scenery, tranquillity and space, in the vicinity of their towns and villages. To maintain their quality of life, it is essential to protect the amenity value of their immediate green and open spaces.

The Kiln Line

26.3 The size and scale of this proposed structure would destroy that essential amenity value for the residents of the neighbouring villages. Its overwhelming presence would deny them the space needed to help them relax from their daily stresses, and strains. The sheer size of the structure would only serve to remind the residents of the possible risks from emissions from the stack. Its size would serve to increase their anxiety and create exactly the opposite effect to what they seek when they look to enjoying the green and open spaces close to the village. It may well be unscientific and illogical to equate the size of the structure with the emission risk but people, especially when they wish to enjoy countryside qualities, do not necessarily operate on a machine-like basis.

26.4 The size of the structure would not allow people to become accustomed to its presence. It would always be 'in their faces' and the unease that it would generate would not abate but, rather, it is likely to increase as time goes on. The people of the locality must be regarded as the prime receptors in terms of visual amenity of the development and it is clear that they are predominantly opposed to its physical presence.

- 26.5 It cannot be emphasised enough that the scale of the proposed structure in terms of its height is so hugely different to the present plant that it makes comparisons with the current structures difficult and it crosses the threshold of acceptability in this rural fringe area of Flintshire. The chimney would make the people of the area feel that they have become the victims of a technology, of which they are suspicious and of an enterprise of which they are unsure of its justification.

Clwydian Hills Area of Outstanding Natural Beauty.

- 26.6 AONB's were placed in the same category as National Parks in terms of their landscape quality but their management was retained entirely within the Local Government structure. The Clwydian Hills AONB, which was designated in 1985, is one of five AONB's in Wales. Three of them are in coastal locations (Ynys Mon, Penrhyn Llyn and Bro Gwyr) and two of them, are on the eastern side of Wales, close to the boundary with England: the Wye Valley and Clwydian Hills.
- 26.7 In the designation description the Clwydian Range is described as the "north-eastern rampart of Wales" and it is noted that "... on the AONB fringes highly fertile farmland gives soft pastoral foreground to the hills". From the eastern side that 'soft pastoral foreground' emanates from the countryside around Padeswood. The intrusion of this structure into that area would impair on the quality of the AONB and the enjoyment of the people who walk the ridge. Although the AONB boundary is approximately 12 kms from the site, the recreational users of the nationally-designated areas should be considered as significant receptors in terms of visual impact.

Heritage

- 26.8 The size of the structure would dominate highly significant archaeological features in the area, particularly parts of Wat's Dyke and Offa's Dyke. The Offa's Dyke Trail is a nationally designated Long Distance Trail which contributes significantly to green tourism.

Conclusion - CPRW

- 26.9 The countryside of western Flintshire is a local and national asset as it provides an opportunity for an initial experience of rural qualities for the urban population to the east. It is an historic environment that bears witness to the border character of the country. It is the green threshold to the wilder areas further west. The huge visual impact of the proposed chimney would impinge to a higher or lesser degree on all of the above. The towns and villages of Flintshire must retain and develop economic lifelines to survive but an essential component of that survival must be the enhancement of the quality of life.

- 27. THE CASE FOR MR J W ELLIS AGAINST THE PROJECT (Written submission)**
The material points are:

Human Rights - Respect for Family Life - A Fair and Public Hearing

- 27.1 The ECHR has now been absorbed into UK law. All Strasbourg case law has to be recognised in the UK. Article 6 of the ECHR makes it unlawful for a public authority to act in a way which is incompatible with a convention right.
- 27.2 The works proposed by the Applicant would emit life threatening chemicals, produce substantial increases in traffic movements with its accompanying pollution from lorry engines. The effect of the Padeswood structure would not only be traumatic for local people but also for

those who live much further afield. All this adds up to a violation of human rights under Article 6 of ECHIZ stating that *"Everyone has the right to respect for his private and family life, his home "*

- 27.3 In the determination of civil rights everyone is entitled to a fair and public hearing by an independent and impartial tribunal. An Inquiry held under the Town and Country Planning Act of 1990 is a tribunal. Planning Inspectors are not independent and impartial as required under Article 6. The principle of separation of powers, as stated by the ECHR, has not been complied with and the Inquiry has therefore been held in contravention of the ECHR.

The Environment Agency

- 27.4 CCL and FCC claim that the Agency would protect the health and welfare of the general public from the proposal. But there is little evidence that where a breach of so-called safe emission standards occurs, abatement or closure orders are imposed. Page V of the 1997 House of Commons Environment Committee Report on the Environmental Impact of the Cement Industry criticized the EA for its handling of the introduction of **Cemfuel** at the CCL cement plant at Ribblesdale. A number of deficiencies in its handling and interpretation of environmental monitoring data were highlighted as well as examples of inefficiency and lack of foresight.
- 27.5 In its May 2000 report on the EA this same Committee says "On the evidence we have received, the Agency appears still to lack a cogent ethos and strategy". It also accuses the Agency of lacking vision, ineffective management and for "punching below its weight".

Emissions to Air arid Land

- 27.6 The Applicant has issued written assurances that chemicals emitted from the proposed Kiln 4 would comply with EC Directives and the NAQS 2000. The Directives and the Strategy do not claim that compliance guarantees that there would be no health risks for the public or that the environment would not be at risk. It is CCL's task to prove that emissions are safe and not for objectors to prove they are unsafe. In rejecting a proposal for an incinerator in Anglesey the NAW has concluded that the perception of a health hazard was sufficient in itself and did not require specific basis (Doc JWE/9).
- 27.7 The 22nd Report from the Royal Commission on Environment Pollution and Energy - The Changing Climate - June 2000 (Doc JWE110) describes the "challenge to halt the steady rise in the concentrations of carbon dioxide (CO₂) and other greenhouse gases, limiting further change and reducing the risks of catastrophic alterations in climate". CCL's figures show that the current output of CO₂ is 488,600 tonnes p.a. at Padeswood and that the projected output from Kiln 4 is 650,000 tonnes p.a., an increase of 33%.
- 27.8 Emissions include a number of chemicals which cause adverse health effects at low concentrations including small particles, SO₂, NO_x and ozone which, according to the Royal Commission on Environmental Pollution Report, have been estimated to contribute to 24,000 deaths and the same number of hospital admissions each year. The most dangerous particles to the lungs are 5 microns in size or smaller (PMS) Dioxins are also of concern. The Washington Post of 7 May 2000 (Doc JWE/17) quotes the US Environmental Protection Agency in reporting that the US government was preparing to dramatically raise its estimate of health effects from dioxins. It cited new evidence of cancer risk from low-grade exposure, including changes in hormone levels as well as developmental defects in babies and children.

27.9 All the evidence leads to the conclusion that the public does not want to be subjected to chemical emissions from CCL.

28. THE CASE FOR MS JILL EVANS MEP AGAINST THE PROJECT

(Letter dated 18 December 2000) . The material points are:

28.1 The European Union is committed to the re-use, recycling and minimisation of waste. Incineration depends on the continuing production of waste and therefore discourages these aims. Over capacity will encourage incineration rather than the treatment and recycling of waste.

28.2 The NAW has a duty under section 121 of the Government of Wales Act 1998 to promote sustainable development in everything it does. The NAW defines sustainable development as "*development that meets the needs of the present without compromising the ability of future generations to meet their own needs.* " The Assembly, in common with the UK Government is committed to the precautionary principle, to preventing pollution and respecting environmental limits.

28.3 The *Cemfuel* which would be used to fire the kiln would produce dioxins for which there is no safe threshold for emissions. The House of Lords Select Committee (15/6/99) and other reports have produced evidence to back this statement. More research work needs to be done on the affects of micro-particles on human health and the environment. Until such research is conducted the precautionary principle should apply.

28.4 The co-incineration process creates dust which contributes to particulate matter concentrations which are known be responsible for increasing mortality and exacerbating respiratory and circulatory illness.

28.5 Pollutants from incinerators (and co-incinerators) include toxic and bio-accumulative substances such as heavy metals, dioxins and furans which are carcinogenic.

28.6 European Union waste legislation includes a principle of proximity which states that waste should be handled as locally as possible. In the case of Padeswood, hazardous waste (*Cemfuel*) for which there is no local supplier would be transported considerable distances to and from the plant.

28.7 Transportation of the *Cemfuel* to Padeswood would increase traffic volume and could pose a possible health hazard in the event of an accident.

29. THE CASE FOR MR STEPHEN HESFORD MP AGAINST THE PROJECT

(Letter dated 24 June 1999 on behalf of Ms D Kershaw)

The material points are:

29.1 Alignment with the points of objection expressed by interested persons against the project.

30. THE CASE FOR PARISH AND COMMUNITY COUNCILS WHO MADE SUBMISSIONS AGAINST THE PROJECT

(Written submissions)

The material points are:

30.1 Many of the letters and Inquiry submissions from these sources cover similar topics. They are summarised as follows:

- Toxic fumes would affect the area.
- The height of the tower would proved a navigation hazard to aircraft.
- Harm to the appearance and character of the area.
- The fear and apprehension of local people is a material consideration which weighs against the project.
- The predicted increase in Carbon dioxide emissions is in direct conflict with the Government's policy on the reduction of greenhouse gases.
- There would be harm to the quality of life in the area
- There is need to protect the environment, the land, and the health of unborn children.

31. THE CASE FOR OTHER INTERESTED PERSONS AND ORGANISATIONS AGAINST THE PROTECT (Approximately 550 letters - Doc beadle IP/2)

The material points are:

31.1 Many of the letters and Inquiry submissions from interested persons as objectors cover similar topics. They are summarised as follows:

- The Applicant has not proved that the project, which involves the burning of hazardous waste, would not be harmful.
- The quality if life would suffer in the locality.
- Property values would be reduced if the project goes ahead, and it would generally harm the economy of the area.
- Local people have suffered from many years of pollution; it should come to an end.
- The public health risk is too great to permit the application.
- The potential for the pollution to milk production and the livelihood of the farming community.
- The proposed works would be very ugly and damaging to the landscape.
- The offer of £150,000 towards off-site landscaping, in the form of an obligation, is derisory.
- Views from the public rights of way would be harmed (Photographs accompanying letter dated 19 September 2000 from The Ramblers' Association).
- There are no safe levels for the type of pollutants that the works would produce.
- The additional traffic would cause congestion and danger on the highway.
- Vehicles queuing on the highway to get into the works would obstruct flows.
- The dust on the highway would be intolerable, as this has happened in the past.

- The transportation of hazardous waste on the highway is an unacceptable risk.
- The storage of hazardous waste would be an unacceptable risk.
- The noise from the works would disturb people living nearby-
- The lighting on the works would cause harm to amenity of those who live within sight of the plant.
- Lack of confidence in the EA to monitor the plant.
- The company has a poor compliance record and has been fined for breaches; this is not a good example of housekeeping.
- There could be accidental emissions which would be harmful.
- Pollutants would be carried forward in the cement product - the kiln should burn conventional fuels.
- The project cannot be considered as modernisation, as no improvements would result in pollution terms.
- The potential pollution would not be restrained within political boundaries.
- The Padeswood plant would be no different from the Ribblesdale plant where there is also pollution.
- The project would have serious long-term implications for wildlife and the environment.

32. THE CASE FOR THE TOURIST INDUSTRY

(Written submissions)

The material points are:

- 32.1 There is concern over the proximity of the new works to Chester and the potential for pollution reaching the city. The tourist industry is dependent upon its host environment and this could be harmed by the project. The impact of the proposed tower on the character and appearance of the landscape and the skyline is also a source of worry. North West has in the past suffered from negative publicity, and the project, together with its adverse news and media coverage, adds further concern.

33. PLANNING CONDITIONS AND OBLIGATIONS

Planning Conditions

33.1 The following list of conditions was submitted by the FCC as appropriate to the development. The conditions are recorded in the form in which they were presented, including the "REASON" which is claimed by FCC to justify their inclusion

C1. The development hereby permitted shall be begun no later than 5 years from the date of this permission.

REASON: This condition is attached by virtue of Section 91 (1)(a) of the Town and Country Planning Act, 1990.

C2. The height of any part of the development and the construction plant used on the site shall not exceed 74 m until the Hawarden Airport off-set Instrument Landing System is fully operational.

REASON: In the interests of aircraft safety.

C3. The chimney stack for kiln 3 will be demolished within 12 months of the completion of the commissioning of kiln 4.

REASON: In the interests of visual amenity.

C4. The chimney stacks for kiln 1 and 2 will be demolished by 31 st December, 2005.

REASON: In the interests of visual amenity.

C5. On cessation of cement making operations on the site the proposed kiln, kiln structures, preheater tower, together with all other structures applied for under reference 99/0/24 shall be dismantled and removed from the site within two years of the cessation of cement making operations. Within 18 months of the removal of all the above structures from the site, the site shall be restored in accordance with a scheme to be submitted and approved by the Local Planning Authority within 6 months of the cessation of the cement making. For the purpose of this condition cessation shall mean when no cement is made on the site for a .continuous period-of 6 months or more, this time period not to include periods of industrial dispute or an insurable event for example fire, explosion, plant breakdown.

REASON: In the interests of the visual amenity of the locality.

C6. The development hereby permitted shall be carried out in complete accordance with the following submitted documents and plans:-

- Planning application dated 7th January, 1999.
- Environmental statement dated January, 1999.
- Supplementary Environmental Statement 25th June, 1999.
- Schedule of Building Function and Finish 25th June, 1999.
- Revised layout plans 25th June, 1999..

- Confidential ecological assessment 25th June, 1999.

REASON: To accord with the application and in order to retain planning control over the development.

C7. Unless otherwise agreed in writing by the County Planning Authority, piling including temporary piling, shall not be carried out other than between the following hours and by a recognised noise reduced system:-

Monday - Friday 0900 - 1700 hours.

Saturday 0900 - 1300 hours and no piling work shall take place on Sundays, Bank Holidays and other Public Holidays. .

REASON: To avoid undue disturbance to nearby properties.

C8. Prior to the commencement of the commissioning of the development a scheme for operational noise control shall be agreed in writing with the Local Planning Authority. The scheme shall include:-

C8.1 Operational noise control criteria (e.g. in the form of period dBL_A, 1 hour daytime, 5 minute night-time] limits, maximum limits and octave or 1/3 octave frequency band limits) which will seek to achieve:

C8.1.1 All noise emissions are minimised.

C8.1.2 That at worst, no neighbouring noise sensitive properties are subject to increases of more than marginal significance (in accordance with BS 4142 criteria) and are therefore also within the levels predicted in the Applicant's environmental statement.

C8.1.3 Pure tone emissions are not perceivable at noise sensitive properties.

C8.2 Details of noise control measures to be implemented, to demonstrate that minimisation of emissions has been achieved.

C8.3 A protocol for monitoring and reporting to the Local Planning Authority the level of operational noise emitted from the site on completion of commissioning, subsequently on a routine basis and in response to complaints.

REASON: To avoid undue disturbance to nearby properties.

C9. Prior to the commencement of construction a scheme for the control of noise emissions from construction shall be agreed in writing with the Local Planning Authority and the scheme shall include:

C9.1 Criteria for the maximum levels of noise to be emitted (in L_A, period L_AS and with due regard to BS 5228).

C9.2 A protocol for the measurement of construction noise to ensure compliance with the agreed criteria both on a routine basis and in response to any complaints received.

C9.3 Hours of operation. .

REASON: To avoid undue disturbance to nearby properties.

C10. None of the development hereby permitted shall be commenced until a scheme for the monitoring of environmental impacts has been approved by the Local Planning Authority. The scheme shall be based on the principles set out in the Document entitled Castle Cement Limited Padeswood Kiln 4 Project "Environmental Management Scheme" dated 2nd March, 2000. The scheme of environmental monitoring, as approved, shall be implemented for a period of 12 months prior to commissioning of the kiln, and subsequently in accordance with the time scales approved.

REASON: Prevention of pollution.

C 11. No development approved by this permission shall be commenced until a scheme setting out the method of working and risk assessment during the construction phase and a risk assessment in relation to the method of working has been submitted to and approved by the Local Planning Authority.

REASON: To prevent pollution of the water environment.

C12. No development approved by this permission shall be commenced until: -

- a) The application site has been subjected to a detailed scheme for the investigation and recording of contamination and a report has been submitted to and approved by the Local Planning Authority;
- b) detailed proposals in line with current best practice for the removal, containment or otherwise rendering harmless such contamination ("The Contamination Proposals") have been submitted to and approved by the Local Planning Authority;
- c) for each part of the development, the Contamination Proposals relevant to that part (or any part that would be affected by the development) shall be carried out either before or during such development as appropriate;
- d) if during development works any contamination should be encountered which was not previously identified and is derived from a different source and/or of a different type to those included in the Contamination Proposals then revised Contamination Proposals shall be submitted to the Local Planning Authority.
- e) if during development work site contaminants are found in areas previously expected to be clean, then their remediation shall be carried out in line with the approved Contamination Proposals.

REASON: To prevent pollution of the water environment.

C 13. No development approved by this permission shall be commenced until a scheme for the disposal of foul and surface waters together with a programme for its implementation has been approved by the Local Planning Authority.

REASON: To protect water resources in the area.

C14. Suitable samples of the proposed external facing materials shall be submitted for the prior approval of the Local Planning Authority.

REASON: These details have not been submitted and the Council wishes to ensure that they are satisfactory in the interests of visual amenity.

C 15. Floodlights and other external lights shall not be used unless they are directed and operated so as not to cause annoyance by glare at surrounding properties and highways; and without prejudice to the foregoing:

a) Lights shall not be operated between 2200 hours and 0500, unless they are essential for operational purposes, and

b) a scheme shall be submitted to the Local Planning Authority for approval to demonstrate that lighting during the construction phase and afterwards when the plant is operational is designed to achieve these requirements in accordance with appropriate criteria e.g., Guidelines of the Institute of Lighting Engineers.

REASON: To avoid nuisance to nearby properties and to prevent excessive light pollution of the night sky.

C16. Vibration from the vertical roller mill and all other plant on site will be controlled so as not to be perceptible at any neighbouring residential premises.

REASON: To avoid nuisance to nearby properties.

C17. Unless impracticable during construction, bored (auger) or vibratory piling shall be used rather than impact piling.

REASON: To avoid nuisance to nearby properties.

C18. No vehicles shall leave the site unless steps have been taken to ensure that mud and debris are not deposited on the public highway.

REASON: In the interests of highway safety.

C19. All heavy goods vehicles leaving the site shall pass through and use wheel cleaner/washing equipment.

REASON: In the interests of road safety.

C20. Surface water from parking areas, hard standings and roof water shall not be discharged into any watercourse, surface water sewer or soakaway and/or interceptor system unless it has first passed through a detritus trap designed and constructed to have a capacity and details compatible with the site being drained.

REASON: To protect water resources in the area.

C21. Surface water drainage from parking areas and hard standings shall not be discharged to any watercourse, surface water sewer or soakaway system unless it has first passed through an oil and petrol interceptor designed and constructed to have a capacity and details compatible with the site being drained.

REASON: To protect water resources in the area.

C22. Any facilities for the storage of oils, fuels or chemicals shall be sited on an impervious base and surrounded by impervious bond walls. The volume of the bonded compound shall be at least equivalent to the capacity of the tank plus 10% and if there is multiple tankage, the compound shall be at least equivalent to the capacity of the largest tank or combined capacity of interconnected tanks plus

10%. All filling points, vents, gauges and sight glasses shall be located within the bond and the drainage system of the bond shall be sealed with no discharge to any watercourse, land or underground storage. Associated pipework shall be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets shall be designed to discharge into the bond.

REASON: To protect water resources in the area.

C23. During the first available planting season following the implementation of the consent hereby granted, the on site landscaping planting as detailed in the application and Environmental Statement and shown on plans reference S/17, 5/18 and 5/19 shall be undertaken. All planting shall be maintained for a period of 5 years and losses replaced in the next available planting season.

REASON: In the interests of visual amenity.

C24. The stripping and handling of topsoil and subsoil shall only take place in fine, dry weather and when the soil is in a dry and friable condition. Dump trucks and back-actors only shall be used to strip soils. Vehicles transporting soils shall only travel along defined routes already stripped of topsoil and subsoil.

REASON: In order to protect the soils and ensure the satisfactory restoration of the land.

C25. At least 7 days notice shall be given in writing to the Local Planning Authority before each sub-phase of clay spreading is to commence. No clay shall be replaced until the tipped areas have been inspected by the Local Planning Authority regarding the need for any regrading of the tipped material.

REASON: In order to retain planning control and ensure the satisfactory restoration of the site.

C26. All stripped soils, subsoil and overburden shall be stored separately in positions to be agreed by the Local Planning Authority or used in the restoration of the phase as indicated on the approved plans. Soil mounds shall be sown with grass seed within three months of their construction and shall be so maintained until the soils are required for use in the restoration of the site. Weeds shall be controlled by cutting or by the use of herbicides. The soil mounds shall be fenced off from the extraction and tipping phases. No subsoil or overburden shall be stored in any stockpile unless the topsoil has first been stripped from the storage area. No overburden shall be stored in any stockpile unless the subsoil has been stripped from the storage area.

REASON: In order to protect soils and ensure the satisfactory restoration of the site.

C27. Topsoil shall not be stored to a height greater than 3m and subsoil shall not be stored to a height greater than 5m. Overburden shall not be stored to a height greater than 5m.

REASON: In order to protect soils, and ensure the satisfactory restoration of the site.

C28. Except for the excavators and dump trucks engaged in soil stripping operations no other plant, machinery and vehicles shall traverse the land prior to the stripping of topsoil and subsoil.

REASON: In order to protect soils, and ensure the satisfactory restoration of the site.

C29. A protocol for the monitoring and control of dust generated by construction activity shall be submitted to and agreed with the Local Planning Authority prior to commencement of construction.

REASON: To protect the amenities of the locality from the effects of dust arising from the development.

C30. The existing trees, shrubs and hedgerows within the site shall be retained and shall not be damaged, destroyed, uprooted, felled, lopped, topped or removed without the prior written approval of the Local Planning Authority. . Any such vegetation removed without approval, dying, being severely damaged, or becoming seriously diseased as a result of operations permitted by the permission, shall be replaced with trees or shrubs of such size and species as may be agreed with the Local Planning Authority in the planting season immediately following any such occurrences.

REASON: In the interests of amenity and wildlife conservation. .

C31. Trees, shrubs and hedges planted in accordance with the approved scheme shall be maintained for a period of 5 years following their planting and any plants which within 5 years of planting die, are removed, or become seriously damaged or diseased shall -be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing with the Local Planning Authority.

REASON: In the interests of the amenity of the local area and to ensure the development is adequately screened.

C32. All planting work shall be carried out in accordance with the recommendations of BS 4428, 1989: "Recommendations for General Landscape Operations".

REASON: In order to ensure the satisfactory restoration of the site.

C33. Details of the *Cemfuel*, *Profuel*, fuel store and tyres store shall be submitted to and Approved by the Local Planning Authority prior to their development on site.

REASON: Details of these structures have not been submitted and the Local Planning Authority wishes to retain control over their appearance.

COMIVENTS UPON PLANNING CONDITIONS AND OBLIGATIONS

Planning Conditions

33.2 The Applicant's comments on the conditions are set out in Doc CC 61.

33.3 The CANK objector group made comments on the conditions. These comments are set out in Doc CAM 37.

33.4 The comments of the Cheshire County Council are set out in Chapter 7.

33.5 In my opinion, and without prejudice to any determination that may be made in this case, the draft planning conditions, in general, align with the Circular. They have the potential to provide a framework for the control of the process from the Town and Country Planning Act perspective. In my view, there is merit in the submission made by the parties where they comment upon the conditions. Following on from these submissions, I comment upon the draft conditions in the order in which they are drafted by FCC:

33.5.1 C1- No change suggested.

33.5.2 C2 - There is a need to identify the parties who would determine the words "fully operational"

33.5.3 C3 - Reword condition: The existing chimney stack for kiln 3 will be demolished within 12 months of the completion of the commissioning of kiln 4 .

- 33.5.4 C4 - Reword condition: The existing chimney stacks for kilns 1 and 2 will be demolished within 12 months of the completion of the commissioning of kiln 4.
- 33.5.5 C5 - No change suggested.
- 33.5.6 C6 - Need for a complete cross reference to the submitted plans.
- 33.5.7 C7 - No change suggested.
- 33.5.8 C8 - It would seem that the condition as drafted is sufficiently wide ranging.
- 33.5.9 C9 - It would seem that the condition as drafted is sufficiently wide ranging.
- 33.5.10 C10 - It would seem that the condition as drafted is sufficiently wide ranging.
- 33.5.11 C11 - This condition, as requested by the EA, is an important element of the risk assessment. I accept that transgression into other regulation might be a risk, but it would give early identification of problems.
- 33.5.12 C12 - This is an effective condition to guard against contamination - no change suggested.
- 33.5.13 C13 - This is an effective condition to guard against contamination - no change suggested.
- 33.5.14 C14 - No change suggested.
- 33.5.15 C15 - Requires a clause to prevent operation of the lighting scheme unless the local planning authority has given its approval.
- 33.5.16 C16 - Requires a clause to qualify the word "perceptible" and to ensure that the local planning authority has given its approval.
- 33.5.17 C17 - Should be reworded: Vibratory piling methods shall not be used without the written approval of the local planning authority.
- 33.5.18 C18 - Should be reworded: Commercial vehicle wheel and underbody washing equipment shall be provided on the site. The washing equipment shall be constructed and located in accordance with a scheme to be agreed with the local planning authority.
- 33.5.19 C19 - Should be reworded: All commercial vehicles leaving the site shall pass through operational wheel and underbody washing equipment.
- 33.5.20 C20 - Should be combined with C21.
- 33.5.21 C21 - Should be combined with C20.
- 33.5.22 C22 - No change suggested.
- 33.5.23 C23 - This condition is imprecise. It needs to be linked to a scheme to be agreed with defined plans and a programme of implementation.
- 33.5.24 C24 - No change suggested.
- 33.5.25 C25 - No change suggested.
- 33.5.26 C26 - No change suggested.
- 33.5.27 C27 - No change suggested.

33.5.28 C28 - No change suggested.

33.5.29 C29 - Needs to refer to " implementation in accordance with an approved scheme".

33.5.30 C30 - No change suggested.

33.5.31 C31- No change suggested but might be more appropriate combined with C23. 33.5.32 C32 - No change suggested.

33.5.33 C33 - Acceptable condition as it stands, but would be more appropriate combined with C6.

33.6 In addition to the FCC draft conditions, the following conditions are suggested as a means of dealing with other matters that were raised during the proceedings:

C34. The new kiln shall only be fired for the purposes of:

a) The manufacture of cement clinker;

b) testing;

c) maintenance and repair.

REASON: To ensure that the primary purpose of tanning and operating the cement kiln is the manufacture of cement clinker, and that the kiln is not used for the general incineration of waste products divorced from cement manufacture.

C35. Before the development starts a scheme shall be submitted to the local planning authority showing the proposed vehicle turning and- queuing areas within the site. These shall be provided in accordance with the approved scheme, and come into use before the development approved becomes operational.

REASON: To ensure that delivery vehicles do not queue on the public highway.

C36. Vehicles arriving at the works shall not be permitted to park or queue on the public highway.

REASON: To ensure that delivery vehicles do not queue on the public highway.

C37. There shall be no variation in these conditions without the written consent of the Local Planning Authority.

REASON: To permit variation in the conditions, if it is found expedient to do so through joint agreement.

33.7 The Assessor deals with additional conditions in his report at Chapter 31. I endorse his findings. I support the need for further monitoring, and the related conditions, which he refers to in his report.

33.8 CANK comment upon perceived "omissions" from the list of conditions in Doc CAM/37, and the Applicant replies in Doc CC/61. These points are dealt with in the order in which they are set down in these documents:

33.8.1 In part this relates to the s106 obligation to provide landscaping treatment. It is an acceptable condition. However, as it relates to off-site treatment, land access and acquisition may present problems regarding implementation.

- 33.8.2 The imposition of a Grampian style condition for the off-site landscaping could present an insurmountable obstacle to development. Therefore, in my view, it would be unreasonable to seek its imposition.
- 33.8.3 The principle of such a condition is not objectionable and it could be linked to other landscaping conditions.
- 33.8.4 Regarding the landfill site, this is a matter which should be dealt with by the EA.
- 33.8.5 During the construction period there may be a need to identify haul roads. This could be covered by a planning condition. As for the temporary use of land the General Permitted Development Order provides authority for such use. Matters outside the ambit of the Order require specific permission.
- 33.8.6 It would be inappropriate to include a HAZOP study as a condition in a planning permission.
- 33.8.7 The provision of fire protection equipment is a statutory obligation not necessarily dealt with under Town and County Planning legislation.
- 33.8.8 The seeking of IPPC authorisation would take its course in tandem. In my view the grant of planning permission should not be dependent on IPPC authorisation.
- 33.9 In summary on the matter of conditions, and without prejudice to any determination that may be made in this case, I take the view that the conditions suggested by FCC, together with the additional conditions and comments made above, are capable of alignment with Circular 35/95. They would provide an effective control mechanism under the terms of the Town and Country Planning Act.

Planning Obligations

- 33.10 Two completed obligations pursuant to s106 of the Act were presented during the Inquiry (Doc CC/16A). The first of these is concerned with the expenditure of £150,000 on off site landscaping, through agreement with the local planning authority. It is intended that selective landscaping would be used, at locations both near and remote from the plant; so that in time trees would shield the plant from distant views. The planting schemes would require agreement with landowners.
- 33.11 The second obligation refers to the cessation of quarrying activity at the Colomendy Quarry. CCW urged FCC to negotiate a voluntary relinquishment of this mineral extraction permission (FCC minutes of the Meeting of the Planning Committee and letter from CCW - 4 March 1999). CCW claim that Colomendy, which is within the Clwydian Range AONB and immediately to the south of Loggerhead Country Park, supports ancient semi-natural broad leaved woodland. The 106 obligation provides, as requested, for the surrender of activity at this site.
- 33.12 Both Obligations align with submissions made by the Applicant, in support of the project, as part of its planning application process.
- 33.13 In my opinion these two completed obligations underpin the Applicant's commitment to ecological and landscape matters, and align with the guidance in Circular 13/97.

34. CONCLUSIONS - SUBSIDIARY ISSUES

(Source material indicated by bracketed text)

34.1 I turn first to those matters that were raised in evidence, or written submissions, which in my view are not critical to the determination of this planning application.

MATTERS CONCERNING THE ALLEGED ENVIRONMENT AGENCY/INSPECTOR CONSPIRACY

34.2 This matter was raised during the Inquiry. Copies of Emails were submitted to the Inquiry as part of a train of communication between the Flintshire Green Party and Wake Dyne Lawton, the solicitors representing the CANK objector group (Doc EIC/1). The Emails bore the heading "EA/Inspector conspiracy". The matter was taken up with Mr Tom Hill of Counsel who had been instructed by Wake Dyne Lawton. In response a letter was submitted to the Inquiry explaining the position regarding this allegation (Doc EIC/2). It is clear from this letter that this matter had never been suggested by Wake Dyne Lawton and this firm of solicitors knew of no reason why the allegation should have been made (p19.1).

34.3 When the EA gave evidence it was asked about this matter and if anything was known to substantiate the allegation. The reply from Mr Paul Tucker, Counsel for the EA, was that he had had this matter fully researched. No evidence was found to support the allegation (p15.1).

34.4 Despite the assertions of the Flintshire Green Party in their closing submission (Doc FGP10 and 7.20 and p22.2) there was no correspondence before the Inquiry, the Inspector, or the Assessor to support the allegation. There is nothing that I have seen or heard that the NAW has entered into any discussions or correspondence with the EA to seek an agreement to suppress any evidence. Neither has any instruction been given to the Inspector or the Assessor by the NAW to suppress any evidence or reach any agreement with the EA outside the Inquiry.

34.5 The allegation that is made by Flintshire Green Party regarding an EA/Inspector conspiracy is without foundation. In my view, it seeks to undermine and discredit the way in which the Inquiry was managed, and the allegation is reprehensible.

THE ENVIRONMENTAL STATEMENT

34.6 An Environmental Statement (ES) was produced by CCL for the development proposal in January 1999 (Doc CD/2) and non-technical summaries and a supplementary statement in June 1999 (Doc CD/3), followed by an addendum in December 1999 (Doc CD/5). Further information was supplied on 9 October 2000 as a result of a request by the National Assembly for Wales (NAW). As the planning application was made before 14 March 1999 the 1988 Town and Country Planning (Assessment of Environmental Effects) Regulations, as amended, apply in this case. Some of the essential facts and data about the project and emissions are covered in outline only in the Statement, having been set out in detail in the Applicant's application to the Environment Agency for its IPC authorization. I have taken into account the information provided by the ES and the additional statements, together with the comments received on these documents.

34.7 I have considered the alleged deficiencies of the ES and the various additions to the original document against the 6 July House of Lords decision *Berkele v Secretary of State and others* and subsequent cases. The Berkeley case concerned the complete absence of an ES. In the current case a lengthy document was produced by the Applicant together with a supplementary statement. Although the original document was deficient in some respects, FCC has accepted

that sufficient information has been provided to enable a decision to be taken. Furthermore, further information requested by the NAW was produced before the Inquiry opened.

- 34.8 A similar situation arose in *R v Derbyshire County Council ex parte Myrrov* (High Court, Queen's Bench Division, 6 October 2000) when it was held that the documents supplied by the developer complied or substantially complied with the EIA Regulations and therefore the decision should not be quashed (Ch 8).
- 34.9 In my view, there was concern about the completeness of the ES at the time of call in. However, since this time additional information has been submitted to the NAW, and to the Inquiry, to make up any perceived shortfalls. In this respect, it cannot be said the environmental submissions overall are deficient to the extent that a decision on the planning application should not be made in this case.

THE USE OF WASTE AS A FUEL

The Best Practicable Environmental Option (BPEO) and the Principle of Proximity

- 34.10 Potentially, the proposed plant would burn waste material, together with fossil fuel, at various percentage mixes (Doc CC/8). Waste material would be drawn from a number of sources (Doc CAM 30).
- 34.11 There is guidance on waste recovery, and its transportation, in many published policy documents. One of the overarching themes is the proximity principle. It is simply stated in PGWPP at Chapter 14 entitled Waste Treatment and Disposal: *Waste should be disposed of (or otherwise managed) as close to the point of generation as possible*. There is no ambiguity in this recommendation, and it is a thread which is continued into TANB: Renewable Energy and the draft Technical Advice Note (Wales) on Waste.
- 34.12 MPG10 says *"The availability of raw materials, particularly chalk and limestone, is normally the dominant locational factor in the cement industry. Market and transport considerations and the availability and cost of fuel and labour are also important."*
- 34.13 There are three main transport components in the manufacturing of the product at Padeswood, comprising the importing of fuel and raw material, and the export of cement (Doc CC/23E). To satisfy the proximity principle on waste recovery it is clear that the plant would have to be as close as possible to its waste stream source. These are currently wide spread (CAM 30). In my opinion, moving closer to a waste stream would impact on the other two factors of raw material movement and movement of the final product. In my view, in an ideal situation, the plant would be at its source of raw material, centrally placed for its distribution, and near its waste stream; but this is not the case here. Moreover, I was not presented with any cogent alternative option which would have satisfied these criteria (p 11.13 & p 10.40).
- 34.14 In my opinion, in line with MPG 10, the dominant element in the production run is the availability of limestone nearby at Cefn Mawr Quarry. For the manufacturing process, waste for fuel might have to be transported over fairly long distances (Doc CAM30). But even at present, the existing kilns require a fuel stream that is not sourced close at hand; some of the fossil fuel comes from outside the UK (Doc CC/22C). I noticed on my Ketton visit that some of the CC delivery lorries have been adapted so that on return they can carry tyres for use as fuel in the kilns. In my view, this has a beneficial impact on waste travel and could be adopted for this project.

- 34.15 I note what the Assessor says in his conclusions that the Proximity Principle is also tied to the BPEO and the Applicant has used the EA BPEO Assessment methodology (Doc EA/10) to demonstrate that its choice of process and use of alternative fuels was the BPEO (Doc CC/7 and 8-table 9.1). However, the type of facility proposed at Padeswood is advocated by the Government in Waste Strategy 2000 for some wastes where high temperature incineration is the BPEO. Cement kilns, in particular, are considered to be appropriate for the use of secondary liquid fuels (such as *Cemfuel*) and the incineration of tyres. In this respect Kiln 4 would be a more sustainable option in the waste hierarchy listed in Chapter 14 of PGWPP compared with a specialist hazardous waste incinerator, for instance, because the process involves energy recovery.
- 34.16 **PGWPP** also says that in Wales the aim should be to provide sufficient facilities to treat or dispose of all the waste produced. No evidence of the need for an incineration facility has been given. But I have heard no evidence that adequate, similar facilities are already available regionally or that Wales is self-sufficient in this respect, notwithstanding the fact that the waste streams so far identified for Kiln 4 are in England. For the same reason the proposal would not contravene policy WM1 of the ADLP.
- 34.17 Overall, I find the Proximity Principle, as it relates to waste recovery for use at this cement production plant to be an elusive concept, with seemingly no definite answer. I can see the merit in the argument put forward by objectors, in line with PGWPP, that waste should be treated close to its source. I do not underestimate the importance of the haul distances linked to the need for fuel. However, overall I believe that the movement of the plant further from its source of raw material could have serious disbenefits, in line with MPG 10, acknowledging that manufacturing close to the source of raw material is a dominant factor.

The Waste Framework Directive

- 34.18 The Assessor reports: "*it was argued the development did not take account of the aims of the Waste Framework Directive. The Waste Framework Directive also covers IPPC activities involving the disposal or recovery of waste. This means that the EA must apply IPPC in a way that achieves the relevant objectives of the Waste Framework Directive. These are set out in Schedule 4 to the Waste Management Licensing Regulations 1994 and repeated in Schedule 12 of the Environment Act 1995. They include: 'ensuring that waste is recovered or disposed of without using processes or methods which could harm the environment and in particular*

(i) risk to water, air, soil, plants or animals; or

(ii) causing nuisance through noise or odours; or

(iii) adversely affecting the countryside or places of special interest'

Circular 11/94 gives guidance on applying the Waste Framework Directive and the relevant objectives. " The objectives are addressed directly as part of the two main issues in his report, and I find no reason to depart from his conclusions.

The Hazardous Waste Incineration Directive

- 34.19 The Assessor reports that: "*Phoenix asserted that the proposal came within the scope of the Hazardous Waste Incineration Directive (HWID) (94/67/EC). This Directive sets out stringent performance standards for hazardous waste incinerators, including cement kilns, that co-incinerate hazardous waste oil and solvents (see Waste Strategy 2000). New facilities within*

the scope of the Directive are required to comply with its requirements immediately. " And then "The HWID is being merged with the proposed Waste Incineration Directive, which would also impose tight emission standards, but is likely to remain in force until around 2005. I agree that the EAW would need to take account of both of these Directives in determining the Permit for the proposed Kiln. " I endorse my Assessor's findings on this matter.

The Storage of Hazardous Substances

34.20 Turning to the Assessors report he says: *"It was claimed that the storage of Cemfuel and Profuel would require Hazardous Substances Consent (HSC) and that this matter seems to have been ignored during the current process. The most recent guidance to be found on this matter is in DETR Circular 412000. The hazardous substance authority will usually be the local authority and this obligation is accepted by the FCC. The Council says that it has not yet received an application for HSC,~ but would deal with an application should it be made.*

34.21 *It is clear from the Circular that separate and different decisions can be made for planning permission and HSC. So far as possible, it will generally be desirable and appropriate for detailed control over the manner in which hazardous substances are to be kept or used to be regulated by HSC conditions. In my view there is no confusion here. The guidance in this Circular is in line with Planning Guidance (Wales) Planning Policy p3.6 entitled "Other Legislation". I agree with the Assessor that there is nothing in this matter which impedes the grant of planning permission, or the later determination by the Council, if needed, of HSC.*

CARBON DIOXIDE EMISSIONS AND GLOBAL WARMING

34.22 Turning to the Assessor's report: *"Carbon dioxide (CO₂) occurs naturally in the atmosphere and is not toxic at the levels generally found It is not therefore of concern as a local air pollutant. However, CO₂ is regarded as one of the 'greenhouse' gases that contribute to global warming and the UK Government is obligated to reducing the 1990 emissions levels by 12.5% by 2010 under the Kyoto Protocol. It has further announced a more ambitious goal of a 20°do reduction by this date. The existing Padeswood Works emits 423,000 tonnes per annum of CO₂ as a result of the decarbonisation of the limestone raw material and the combustion of fuels. Kiln 4 would have a 50% increase in output and would emit 582,000 tonnes per annum of CO₂ burning alternative fuels (Doc CC18 - table 10.10 and p25.5). This apparent increase hides the fact that the construction f Kiln 4 would allow CCL to close the two wet kilns at Ribblesdale, resulting in a further substantial reduction in CO₂ emitted by the Company there (Doc CC17).*

34.23 *I agree with the Applicant's estimate (Doc CC-17) that there would be an overall reduction in CO₂ emissions by the Company between the two sites as a result of this development. This would be largely due to the improvements in energy efficiency that would occur and the replacement of alternative fuels that have higher hydrogen content than coal of the same calorific value. In addition to this there would, arguably, be a further reduction in emissions because of the 'carbon neutrality' of waste fuels that otherwise might be burnt without energy recovery, replacing coal. CCL estimate an overall reduction of 15% of CO₂ emissions per tonne of cement produced compared with today's position as a result of the development of Kiln 4, the closure of wet kilns at Padeswood and Ribblesdale and previous action. " I have no reason to doubt my Assessor's views on this matter.*

INCORRECT DESCRIPTION OF THE PROCESS, FLAWED PLANNING APPLICATION AND MATERIAL CHANGE OF USE

34.24 The planning application was made for the construction of a new kiln line and associated plant, limestone store, fuel storage buildings, re-profiling of former licensed waste site, and ancillary

works. No mention was made of an incinerator or waste disposal plant.(p19.2 to 19.9 & Doc CD/1)

- 34.25 Objectors claim that the planning application is incorrect. As the plant would burn waste material this should have been defined on the planning application documents. This omission is claimed by some objectors as an intention by the Applicant to conceal the true nature of the operation as the incineration and disposal of waste, and it needs to be dealt with (p19.2, 22.2 & 22.3).
- 34.26 I was pressed to change the wording of the application to include references to an incinerator, or co-incineration process. It was claimed that this would correctly define the intended scope of the operation (p22.3).
- 34.27 I explained at the Inquiry that I could not make major changes to the description of the proposed scheme in the application. To do so, in my view, would materially alter the nature of the application from one of cement production to an incinerator. The same reasoning would, in my view, apply to co-incineration. However, the Applicant does not back away from the fact that in the proposed burning of *Cemfuel*, *Profuel*, and used vehicle tyres the plant would be subject to the Hazardous Waste Incineration Direction. Nevertheless, the primary purpose of the plant would be cement production, and the Applicant would accept a planning condition restricting its use in this way (p4.3, 10.4 & 10.5).
- 34.28 The EA said that although the proposed plant could burn hazardous waste it would be unlikely that it would be operated in this way as a primary function. It would be uneconomical to do so (p15.24).
- 34.29 In my view, there is no confusion as to what is intended for this site, or attempt at concealment as to what would be burnt in the kiln. Moreover, I consider that the agreed planning condition would fix the primary purpose of the plant as cement manufacturing. Thereafter, in my opinion, to do anything different with the proposed kiln with such a condition in place, should planning permission be granted on the current application, would require a new planning permission to discharge the restrictive planning condition (p33 - C35).
- 34.30 With reference to the points made by CANK regarding s75 of the Act, I see no confusion here (p19.3). From the outset, this project concerns the proposed development of a new dry process cement kiln capable of burning a wide range of fuels. It is described in the ES as such, in the committee reports in the same way, and in the submissions to the Inquiry. There has, in my opinion, been openness on the part of the Applicant in the sharing of this information. It seems to me, that any grant of planning permission would be with the full understanding of this background and can be conditioned accordingly.
- 34.31 As for the burning of any particular type of fuel this is not, in my view, a matter which should be specified and dealt with by Town and Country Planning Controls (PGWPP p3.6 Other Legislation). I consider it is a matter for different legislation and linking authorisation by the EA. Furthermore, the breach of any authorisation, which may be issued for this plant, would be a criminal offence for which both the company and specific operators could be charged (p4.3).
- 34.32 The Applicant has not, in my view, sought to conceal any of the facts concerning incineration of waste, disposal of waste material, or indeed circumvent control mechanisms that would apply to such an operation. I take the view that EA are fully aware of what is intended for the Padeswood site (Ch 15). I consider that the planning application in its present form, whilst lacking in precision, provides sufficient information to make a determination on the application. Moreover, the suggested planning condition would fix the primary purpose of

proposed K4 as cement manufacture, should planning permission be granted (p10.5 & p33 - C35). Overall, I find no substance in the claims concerning an incorrect description of the process, or a materially flawed planning application, which would impede the grant of planning permission.

ALLEGED DEFICIENCIES IN THE ADVERTISEMENT OF THE PROJECT – CCW INVOLVEMENT

- 34.33 The Phoenix objector group claimed that the advertisement of the project and the Inquiry were not sufficiently extensive. This had resulted in statutory bodies not being aware of the Inquiry, or not being invited to attend. The CCW was mentioned in this respect (p20.2):
- 34.34 In line with normal procedure the Inquiry was advertised and notifications sent out. In my opinion both the NAW and the FCC fulfilled their statutory functions in this respect (Doc/IPD 1 &2).
- 34.35 Regarding CCW's involvement at the Inquiry, it is correct that they did not give evidence. However, had they attended, and wanted to present evidence, I would have permitted them to do so. It is a fact that CCW did write to the FCC on both the 4 March and 29 July 1999. However, the substance of the letters is "that there is no objection in principle to the manufacture of cement at Padeswood". The letters also deal with matters that can be covered by either planning conditions, or obligations under s106 of the Act.
- 34.36 CCW wrote to the EA on the 15 March 1999 expressing its concerns about certain aspects of the project (Doc FCC 24).
- 34.37 I find no flaws in the consultation process for the project or the Inquiry. In my view there is nothing of substance in this matter that should impede the grant of planning permission.

NOISE AND VIBRATION FROM THE MANUFACTURING PROCESS

- 34.38 It is claimed that the noise from the existing plant is disturbing to local residents. Sometimes this occurs at night. There is reference to all types of noise from low frequency rumbling and vibration of machinery to noise from the crushing machinery and loading equipment (p31.1).
- 34.39 In my opinion, these are the types of emission that can be disturbing and seriously harmful to the amenity of those who live within earshot of the plant. I heard a wide range of noises when I visited the existing works and the installations at both Ketton and Ribblesdale, so I have some understanding of what could be experienced. However, I felt that overall the plant at Ketton, as a more modern installation, was more refined and acceptable in terms of its noise output.
- 34.40 Noise emissions from manufacturing processes are subject to statutory control. Furthermore, in line with normal procedures, any planning permission that is granted should include conditions to ensure that noise emissions are kept within acceptable limits. This would be both for the construction period and for the manufacturing process. The local planning authority has suggested such conditions, and they are acceptable to the Applicant (Ch33 - C7, C8, C9, C10, C16 & C17 & p33.1). Breach of such a condition would leave the Applicant open to prosecution in the courts, or through the enforcement of planning controls under s 172 of the Act. The IPPC also allows for noise control through its authorisation process. So this aspect of concern would be doubly covered.

34.41 Despite the anxiety expressed by local people over this matter (p31.1), I am confident that noise emissions could be controlled by planning conditions or through IPPV authorisation. So, in my opinion, it is not a matter that should impede the grant of planning permission.

PERMANENT ON SITE AND TOWER LIGHTING

34.42 Objectors expressed concern about the brightness of security lighting on the plant, and how this would be harmful to the amenity of those living nearby (p31.1).

34.43 I can understand how lighting of this type, due to its height and intensity, could become a problem for those living in the locality. However, in my view, it is a matter that can be controlled by planning condition (Ch33 - C15).

THE ECONOMICS OF THE PROJECT

34.44 It is claimed that the economics of the project are flawed. The cement industry is currently in world recession and there is no need for a production increase to satisfy a falling demand for the product (p19.47).

34.45 National Planning Guidance for the cement industry is set out in MPG10. It says that *"There is no Government target for GB cement production .In general the planning system has operated, and will continue to do so, on the basis that applications for planning permission should be granted, having regard to all material considerations, unless the development would cause demonstrable harm to interests of acknowledged importance. "*

34.46 In my view the commercial judgement of the company is not a matter which should impinge on the decision making process concerning the grant of planning permission. The Applicant's Production Strategy 2000, a confidential document, was not put forward in evidence (p19.51); and I did not request it. I see this as a matter for the company to decide, in assessing its place and function in the cement manufacturing hierarchy, both in this country and Continental Europe. Therefore, I do not consider that the internal business mechanisms of the company should be used as reason to deny the grant of planning permission.

ALTERNATIVE LOCATIONS FOR THE PLANT

34.47 Circular 10/99 says: *"Although the Directive and the Regulations do not expressly require the developer to study alternatives, the nature of certain developments and their location may make the consideration of alternative sites a material consideration. In such cases the ES must record this consideration of alternative sites. More generally, the consideration of alternatives (including alternative sites, choice of process, and the phasing of construction) is widely regarded as good practice, and resulting in a more robust application for planning permission".*

34.48 The matter of alternatives has been addressed by the Applicant and discounted. The Applicant's land ownership at Cefn Mawr quarry has been considered as an option as this would place the plant close to its source of raw material. This was set aside on grounds of excessive infrastructure cost which would not have made the project viable. As for other sites, apart from land purchase cost, infrastructure cost, and impact on the area, there would be the attendant need to haul raw limestone even further from the Cefn Mawr source than at present. These options would also be unattractive for both cost and amenity reasons (p10.40). The national guidance is clear: *"The high capital costs of investment in the cement industry means that, in the short run at least, investment in new capacity is most likely to take the form of the uprating*

of an existing plant or the creation of additional capacity at existing plant, rather than building of new plant on greenfield sites. "(MPG 10)

34.49 It is recognised that cement manufacture can generate significant air pollution and its production, and the quarrying of raw materials for the industry, can have a significant environmental impact. (MPG 10). The Applicant admits that its business is the production of dust, and this was stated during the Inquiry (p19.31). It seems to me that there can be no precise answer to this question of an alternative site for such an industry which can cause pollution and significant environmental impact. In my view, against this background, almost any alternative location would raise substantial objection. Despite the generality of alternative sites suggested in opposition, there is no satisfactory evidence that the re-siting elsewhere of cement manufacture is a practical or realistic option for the company (p11.13). So this returns the project to the options looked at by the Applicant which are: the Padeswood site or the Cefn Mawr Quarry. Between these two, in my opinion, the Padeswood site wins on costs grounds as it already provides substantial infrastructure. It is self evident that any other more remote site would also lose, as there would be land acquisition and infrastructure costs, together with additional haul costs for raw material. In my opinion, the conclusion to be drawn is that the Padeswood site is the only current viable option for the company.

34.50 I note the CANK submissions on the Trusthouse Forte Hotels Ltd (TFH) case which went to appeal. In the TFH case there was the balance to be struck between new hotel options on new sites at different locations. That is not the case for Padeswood where there is an existing plant on the site, in an Industrial Zone, so allocated in planning policy. The differences in circumstances between TFH and Padeswood are so diverse, that in my view they do not bear comparison (p19.52 to 19.56).

34.51 I take the view that the Applicant has satisfied the tests concerning alternative sites. Therefore, I do not consider that this is a matter which should hinder the grant of planning permission.

HGV'S QUEUING ON THE HIGHWAY

34.52 It was claimed that vehicles entering the site would have to queue on the highway if load testing prior to discharge would be carried out (p31.1 and Ch33 - C36).

34.53 In my opinion, if this occurred, it would cause a danger to the free flow of traffic on the highway. I consider that the parking of vehicles on the public highway can be prevented by the imposition of a planning condition on any permission that is granted. Therefore, this matter need not be held up as an impediment to the grant of planning permission.

DUST DEPOSITION ON THE HIGHWAY

34.54 Objectors referred to the problems of dust on the highway. It is claimed that this is deposited from the wheels of vehicles leaving the plant (p31.1).

34.55 In my opinion, where there is a danger of deposits on the public highway from the wheels of vehicles leaving industrial sites, vehicles should be cleaned before joining the highway. It is an offence under the Highways Act to deposit material on the highway. It is open to the Highway Authority to serve notice on a transgressor, and if necessary carry out the cleansing work and thereafter charge the company, or persons, responsible.

34.56 When I visited the site I noticed that Castle Cement were operating a new road sweeping lorry vehicle both within the site and on the public highway. I saw similar equipment working at Ribblesdale. I have no reason to think that this service would not continue at Padeswood.

Moreover, highway cleansing, and the cleaning of lorries before entering the highway is a matter that can be controlled by planning condition (Ch33 - C18 and C19). So I do not see the alleged deposition of material on the highway as an objection to the grant of planning permission.

CEMENT MANUFACTURED WITH ALTERNATIVE FUELS

34.57 The Assessor deals with this matter in his report. I summarise from his report where he says: *"I would therefore not expect cement made from alternative fuels to be materially less safe in this respect than that made from conventional fossil fuels."* I find no reason to depart from my Assessor's conclusions on this topic.

THE PRECAUTIONARY PRINCIPLE

34.58 I summarise from the Assessor's report: *"Objectors argued that some of the risks to health were uncertain and the precautionary principle should be applied. Amongst other things, EC policy is based on the precautionary principle, which stems from the Rio Convention. The principle is based on the undesirability of acting in advance of scientific knowledge where there is the proven potential for harm. Appropriate EC action levels are being established for each type of pollution area to be protected, including air quality. In the case of emissions to air, these are largely incorporated into the NAQS 2000 and various EC Directives. If the appeal is allowed, in due course, the EAW through the IPPC procedures will use these standards and BAT to determine emission limits for Kiln 4 that are intended to protect public health."*

34.59 *BSE, the Byker incinerator and the Bhopal disaster were quoted as examples of things that had gone wrong. BSE is not a factor here, and there is no suggestion in this case that incineration ash is disposed of by using it for footpaths and allotments as was the case at Byker. I have no detailed information about the background to the Bhopal disaster, but India is a developing country that does not have the same stringent pollution control standards as those applied in this country. Other sites at Aintree, Bolsover and Runcorn where pollution from persistent organic compounds was a problem, were also raised during the Inquiry (Doc PCG11). No detailed evidence was presented about any of these sites but, in my opinion, from the information I have, the proposals in this application would not give rise to the same problems that were identified in the examples listed*

34.60 *I agree that we should be cautious in our approach to schemes such as the one in this Inquiry. But the use of alternative fuels at cement works is not an untried practice (see Waste Strategy 2000) and I consider that scientific knowledge and standards are sufficiently advanced to satisfy the precautionary principle in this case."* I find no reason to depart from these conclusions made by my Assessor on this topic.

35. CONCLUSIONS - PRINCIPAL ISSUES (Source material indicated by bracketed text)

35.1 I now turn to those matters which in my opinion are the main issues in the determination of this planning application, embracing the matters which the NAW identified in its letter to the parties. These are the effect that the project would have upon:

- a) Public health in view of possible emissions;
- b) the environment including groundwater, flora and fauna;
- c) the character and appearance of the area;
- d) employment in the locality;
- e) highway use in the locality; and f) Human Rights.

THE EFFECT UPON PUBLIC HEALTH IN VIEW OF POSSIBLE EMISSIONS

35.2 The Assessor deals with these matters in his report (Annex 3) under the following headings:

- *Expected emissions*
- *Air quality modelling techniques*
- *Plume grounding events*
- *The effect of alternative fuels on emissions*
- *The ability of CCL and the EA to protect the environment*
- *The Applicant's track record*
- *The effectiveness of the EA*
- *The health risks from dioxins and metals*
- *The health risks from gaseous emissions*
- *The health risk from particulates*
- *The evidence for increased cancer risks*
- *The evidence for non cancer risks*
- *The need for a risk assessment*
- *The need for a local health study*
- *Public anxiety and health risk*

35.3 His conclusions on this issue are as follows:

35.3.1 *Overall, my assessment of the health risk of the proposed development is broadly in line with the conclusions of the NWhA in that I have found no evidence that the local population is likely to suffer any harmful effects from emissions from the proposed kiln.*

35.3.2 *I have considered whether local and national planning policies I have identified in Section 6 would be contravened by the public health aspects of this proposal. I find that it would comply with policies AS and H1 of the CSPFA and policies GENT, CONS14, EMP6 and EMP8 of the SPSA. It would also comply with policies aimed at protecting public health in emerging plans. The proposed development would be compatible with national policies on air, including the objectives of NAQS 2000 in that measures are proposed to ensure that emissions comply with the health based standards it contains.*

35.3.3 *This leads me to the conclusion on the first main issue that potential emissions, from the proposed development would not have a materially harmful effect upon public health.*

35.4 I find no reason to depart from these conclusions made by my Assessor.

THE EFFECT UPON THE ENVIRONMENT INCLUDING GROUNDWATER, FLORA AND FAUNA

35.5 The Assessor deals with these matters in his report (Annex 3) under the following headings:

- Ecology
- *Pollution of controlled waters*

35.6 His conclusions on this issue are as follows:

35.6.1 *Notwithstanding these monitoring requirements, in the absence of any significant ecological threat or risk of pollution of controlled waters, I consider that the proposal would comply with the local and national planning policies outlined in Section 6 that seek to conserve and protect the environment.*

35.6.2 *In the circumstances, I have come to the conclusion on the second main issue that the proposed development would not have a materially harmful effect on the environment surrounding the site.*

35.7 I find no reason to depart from these conclusions made by my Assessor.

THE EFFECT UPON THE CHARACTER AND APPEARANCE OF THE AREA

35.8 From my inspection of the site and its surroundings, the existing works is prominent in the landscape. It can be seen from far and wide. It is a dominant and obtrusive feature and there is very little in terms of natural landscape that affords any degree of concealment (p3.1 to 3.3).

35.9 When travelling eastwards along the A5118, and approaching the application site, the works appears in south-easterly views (Doc Cam 1 Vol4 viewpoint 14). In my opinion, its presence is sufficiently surprising, incongruous and even surrealistic to prompt the question "Why is this massive industrial complex here in this attractive countryside?" I take the view that its towering and inter-linked mechanical presence does not pass unnoticed. It mars the landscape. I fail to see it in any other perspective.(Doc CC20 HMI.1, 1.2 and 1.3)

35.10 It is, in my opinion, hard to believe that there could be any more surprising aspects of the works than the one gained from the main road. However, I consider that views from Dyke Farm are even more grotesque (Doc Cam1 Vol4 viewpoint 13). When travelling up towards the farm just the tips of the stacks are visible. On getting closer the full and dominant impact erupts. It almost fills the northern horizon and draws the eye, despite the attractions of other more pleasing and natural landscape features.

35.11 The proposed K4 project would alter the shape and arrangement of the works. Its most prominent feature would be the combined stack and pre-heater tower, a substantial structure in both plan area and height, rising to 110m (p4.1 and 10.20). Photomontages were submitted in evidence seeking to demonstrate the appearance of the project in its proposed completed form, including the removal of the existing stacks (Doc CC 19 and 20 & Ch33 - C3 & C4). In my opinion, these give a good indication of likely impact, and include the architectural cladding discussed with the FCC and mentioned in the draft conditions (Ch33 - C14).

35.12 In my view, the proposed K4 project would be no easier on the eye than the existing works. It would still dominate the landscape. It would still be noticeable for many kilometres around, and

it would still be an obvious and incongruous industrial element in this attractive rural area. I accept that the pre-heater tower and stack of the project would be visible at a greater range than the present components of the plant, and at close quarters some elements of the proposed works would be both bulky and prominent (p20.53; 20.57 and 22.4). But overall, I take the view, that despite its obvious presence it would not be more harmful than the existing works, or any other major heavy industry on this site. In this respect I consider its impact would be neutral, to the extent that it would leave the character and the appearance of the area materially unchanged, as a massive industrial penetration into a predominantly rural area

35.13 PGWPP at p5.1 addresses development in the countryside. It says: *"The countryside should be protected for the sake of its landscape, natural resources and its agricultural, ecological, geological, physiographic, historical, archaeological and recreational value. Development in the countryside should benefit the rural economy and maintain or enhance the environment."* As the proposed development would, in my opinion, maintain the environment, in the sense of having a neutral effect on the existing industrial zone, I consider that it would align with national policy.

35.14 I acknowledge that the Applicant has proposed remedial landscaping works in the locality so that trees can be planted which would eventually either obscure or soften the views towards the works. A budget of £150,000 would be made available. It would be directed and used in consultation with the Council (p33.2). Generally, this was not well received by local objector groups who considered that it would not achieve its purpose (p31.1 and p19.22).

35.15 In my view such landscaping would be unlikely to achieve, in the short term, the desired effect. For this reason, I can understand the degree of derision attributed to this suggestion by objectors. However, as the scheme is on offer it should not be set aside lightly. Over the longer term, it should produce some of the concealment that would be needed, and provide an element of enhancement to the landscape in this rural area.

35.16 The land that surrounds the application site does not benefit from any special landscape designation (p10.19). Nevertheless, I noted from my inspections that parts of the cement plant can be seen from the environs of Chester and Green Belt land, and from the Clwydian Range AONB which is to the west of the site. In addition there are a number of country houses in this area and eight properties included in the CADW Register of Historic Parks and Gardens lie within 5 km of the works. (p 11.14)

35.17 The primary purpose of the designation of Green Belt is to preserve the openness of land and to prevent the coalescence of settlements. There is guidance on this in PGWPP, but there are no Green Belts in Wales at present. PPG2 comments on the visual amenities of the Green Belt saying that it should not be injured by proposals which are conspicuous from the Green Belt which, although they would not prejudice the purposes of the Green Belt, might be visually detrimental by reason of their siting, materials or design.

35.18 I visited the Chester area as part of my site inspections, and assessed the impact that the tower would have upon this zone. Whilst the new pre-heater tower would be visible from the Green Belt, I do not consider that, at this distance it would be conspicuous to the extent that it would materially harm the visual amenity of this protected area. Therefore, I find no breach of national policy concerning Green Belts.

35.19 PGWPP provides guidance on AONB's, saying that *"Planning policies and development control decisions affecting AONB's should generally favour conservation of natural beauty, although it will also be appropriate to have regard to the economic and social well-being of the areas."* I saw during my inspections that the existing works is visible from within the AONB, and this

would also be the case for the proposed works. I accept that the pre-heater tower would make the works more prominent from distant views, and increase the area from which the stack would become visible. However, I do not consider that the views from the AONB would be any more harmful than they are at present, or with any other heavy industry on this site. As for the off-site landscaping which is on offer (p33.2), in my opinion this would aid the conservation of the natural beauty of views from within the AONB. So I see this as a positive aspect of the project which would align with policy.

35.20 Regarding policies in the emerging development plans, which have been adopted for development control purposes, EMI of the ADLP directs industrial development to either settlements or development zones. So there is compliance here, as the site is within a development zone. There is then the rider in EM3 that the project should comply with Policy G1. In my opinion, on matters concerning its appearance and the protection of the countryside, as the project would have a neutral effect, it would not founder on this policy. It also aligns with EMP3 of the SPSA as it would not make use of agricultural land and the site is readily available for development (Ch6).

35.21 Moreover, Policy EMP8 of the SPSA specifically states that *"Industrial development which are potentially polluting will only be permitted on land either allocated or with planning permission for employment development"* In my opinion the project gains further support from this policy, as it is on allocated land and is for employment development.

35.22 Regarding historic sites and buildings, FCC has given consideration to properties included in the CADW Register of Historic Parks and Gardens within a limited (5 km) radius of the works. The conclusion is that the impact of the development if permitted would not be significantly detrimental in relation to these properties. From what I have seen of the area, this is a view I support (p11.14).

35.23 I have considered the fall back situation as to what might happen to the site in the event of planning permission not being granted for the K4 project. The Applicant was explicit regarding the productive future of the existing works (Doc 1A). As for the site, it has permission for heavy industry, and is designated as an industrial zone in the development plan. I was not presented with viable alternatives to the status quo or the K4 project. However, against its background and allocation it seems to me that reversion of the site to rural use is unlikely in the foreseeable future.

35.24 In summary, on this issue, I consider that in terms of appearance the scheme would have a neutral effect on its surrounding countryside and landscape setting. Nevertheless, I consider that the matters concerning architectural cladding of the tower and landscaping are welcome additions, and need control through both planning condition and obligation under s106 (Ch 33 - C23 to C32 and p33.10).

THE EFFECT UPON EMPLOYMENT IN THE LOCALITY

35.25 Fortunately, at present, Flintshire has a buoyant economy with many well-paid jobs and low unemployment (p19.14). In my opinion, the cement works contributes to this prosperity. As for the numbers of jobs potentially at risk and the future prospects for the plant, I asked for confirmation of this at the Inquiry. It is set out in Doc CC/1 A. In summary there are 218 persons employed at the works at present. Without modernisation the works will close. Employees would be made redundant over about a five-year period, during the gradual process of shutdown as the plant is run to the end of its useful life. As for employment prospects linked to both the present and future schemes there would also be a change. The current workforce of 218 would reduce to 200 for the K4 project (p10.25, 11.10, 11.11).

35.26 Closure of the works would not only impact upon employees' wages, there would be the linked effect of reduced expenditure in the local economy, estimated to be £10 million each year (p10.26). Therefore, the closure of the Padeswood plant would have an adverse economic impact that goes beyond the loss of some 200 jobs at the plant itself. Of particular note in this connection has been the evidence of the managing director and owner of Alan Morris Transport. This company has been said to have 10 employees directly engaged in transporting local quarry products to the works, and spending almost 100 per cent of their time on this. Reference was also made to some owner drivers, i.e. independent contractors, 6 in number, engaged primarily in moving shale from Llay to the works, and to 3 further drivers bringing products from outside the area. It has been said that it would be very difficult to source alternative employment (pl 1.11 and p13.1 & 13.2).

35.27 Currently unemployment in the area is at 3.4%; with large numbers of unfilled vacancies - including manufacturing jobs (Doc FCC17); and a stream of job creation announcements (Doc CAM32). Additionally, Padeswood has the Warren Hall Development Zone 2 miles away, with access to Assisted Area funds. There is no evidence that the loss of Castle Cement at Padeswood would halt or reverse this now well-established trend. Thus, no urgent employment need can be said to exist in this area. Furthermore, there is no evidence that the large numbers of employees previously made redundant at Padeswood by the Applicant have been unable to find alternative employment (p 19.5 8 & p 19.59).

35.28 Concern has been expressed in relation to employment. It is a sensitive issue, and objectors do not desire the loss of jobs at Padeswood (p19.57). FCC has referred to the vulnerability of Flintshire to job losses in the context of its dependence upon manufacturing. There was reference to the loss of 2000 jobs in the manufacturing sector in Flintshire in the last two years, and to the dependency of the County on a relatively small number of employers, of which the Applicant is one. Document FCC 18 shows some of the most deprived Electoral Divisions in Wales to be within the county. FCC described the cement works in its committee report, as representing a major economic investment in the region (pl 1.9).

35.29 I accept that fortunately Flintshire has, for the present, good economic prospects which to my mind are a welcome feature in any area. However, in my opinion, this is a fluid position and not a good reason to arbitrarily brush aside the prospect of 200 well paid jobs in a modern manufacturing plant, on an established industrial site. It is clear from the evidence that Padeswood is not only an existing and potential employer of a well paid workforce, but a significant contributor to the local economy to the tune of £10 million each year. To my mind, it would be wrong to deny that this manufacturing base is of no significance in the local economy, to the extent that it should be allowed to wither without improvement and modernisation. I take the view, that the cement works is an important part of the employment profile of Flintshire, and its loss would be seriously harmful to the local economy.

THE EFFECT UPON HIGHWAY USE IN THE LOCALITY

35.30 Overall K4 would have an effect on a number of factors concerning traffic use. Cement production would increase from its present 500,000 tonnes per annum to about 750,000 tonnes per annum (p4.4). This manufactured product would be transported on the public highway with HGV's. The annual manufacture of a greater quantity of cement would require more raw material and fuel to be brought into the works than is presently received (Doc CC/23E). Limestone would be brought in from its local source at Cefn Mawr Quarry. Fossil fuels would come from wider afield, and sometimes outside the UK (Doc CC/23C). Alternative fuels such as scrap tyres *Cemfuel* and *Profuel* would be brought from disparate sources as possibly identified on Doc

CAM30. The principal method of bringing raw material into the works would be by HGV's on the road network. The live rail link into the works would still exist in the future, but it has not been relied upon in the transport calculations (Table Doc CC/23E).

35.31 FCC highway engineers have researched the proposed use. FCC considers that the highway network is capable of supporting the proposed increase. Therefore, no objection is raised to K4 on highway grounds (p11. 8).

35.32 Objectors do not entirely support the FCC standpoint, saying that inherent to the K4 proposals is a huge logistical operation involving the transportation of bulk materials to and from the works at Padeswood. The site is not located adjacent to its sources of raw materials or fuel. Additional cement clinker is imported from the Ribblesdale works near Clitheroe. The finished product is transported to markets in the North West of England and the Midlands. 2.3 million tonnes of bulk materials would be transported a total distance of 11 million kilometres (approx) on the public highways each year if the K4 development goes ahead (p20.58).

35.33 Objectors accept that local highways and junctions would remain in capacity if K4 goes ahead, but there is some doubt over the capacity at peak times at Penymynydd roundabout. Objectors say that the issue of capacity is only one aspect of the transport proposals and that there are other aspects relating to public concern and planning considerations (P20.59 and p20.60). There is concern about:

- The overall increase in HGV traffic to and from the works which would reflect the additional pollution, noise, dust, disturbance and nuisance suffered by local residents as a result of the K4 development.
- The impact of the proposal on the use of the rail system for delivering fuel to the works.

35.34 It is claimed that the Applicant's traffic argument is flawed. Traffic figures have been presented which suggest only small increases in works HGV traffic, where the maximum existing daily movements over 4 days with the average predicted movements over 5 days for K4. It is said this masks the overall annual increases (p20.61).

35.35 The Phoenix group say *"That taking the 1999 clinker production as the baseline, HGV traffic generated by the works would increase between 80% and 100% in the total number of loads, the tonnages moved and the distances travelled The Applicant predicts that the number of loads leaving and entering the works per 24 hours day for the K4 operation would be 902 and we predict 938, which is an overall annual increase of 82% on the 1999 works output. Castle Cement have raised their predicted increase of HGV traffic to 36% (from 12% originally) on a daily movement basis, still masking the actual overall increase of 82% per year. An 82 % increase in Castle Cement HGV traffic means that the overall increase in HGV traffic on the A5118 would be approx. 20% on the sections east and west of the works entrance. Since HGV traffic creates most of the pollution, dust and disturbance the recurring problems of this nature would increase by approx. 20% on the A5118."* (p20.62 and p20.63)

35.36 As for balance between road and rail transport the Phoenix group says, *"The K4 proposals would mean a reduction in fuels transported by rail and increase in road transport. Phoenix calculations show that approx. 100,000 tonnes per annum of fuel currently brought in by rail would be transferred to the highway system. This is in direct opposition to current DETR policy of moving bulk freight from road to rail and creates more air pollution. "* (p20.64)

35.37 Objectors are concerned that:

- Local residents and road users have suffered for decades from pollution, noise, dust and disturbance from Castle Cement's HGV traffic. This nuisance would increase noticeably.
- Castle Cement proposes to move all materials by road for economic reasons. They also plan to move waste materials over long distances to provide fuel for the new kiln, again for economic reasons. The result of these plans would be to create unnecessary pollution and congestion when alternatives exist which are less environmentally damaging (p20.67).

35.38 The Applicant says: *"The existing traffic is acceptable in terms of highway safety and movements. The highway authority raises no objection to the proposal. The predicted increase in traffic is insufficient to alter that position. (Doc CC123 E - Tables). Any increases in the peak hour, even at the most congested locations, would not be material. Compared to other locations, the length of queues and queuing times at the Penymynydd roundabout are extremely modest, and well within that which is acceptable. The objection based on annual increases is not relevant to the key issues of safety and the capacity of the roads at peak times. The site has the benefit of on-site rail facilities. Where appropriate and possible, it would continue to make use of those facilities. In the wider context of transport policy the long term objective currently identified in the new Transport Bill, may have considerable relevance to this site."* (p10.32 to p10.34)

35.39 Table Doc CC/23E sets out the profile that was agreed at the Inquiry for traffic movements linked to the annual production profile at the plant. It sets out predicted increases and aligns them with predicted national growth rates. In my view it is a sensible annual balanced interpretation of what is likely to occur should K4 proceed. I can understand the apprehension of objectors, as their figures are based on the specific 50% increase in production and the increase in fuel and raw material needed to support this proposed change. However, I prefer the rationalised approach put forward in the Applicant's table. It is based on what I see as a balanced and optimum production profile.

35.40 I note the claims made about traffic congestion at the Penymynydd roundabout at peak times, and I observed this when I made site inspections. However, the queues soon dissipate, so I do not see this as an overwhelming objection to K4 transport issues.

35.41 In terms of regulating HGV flow to align with the table, I have attempted to devise a planning condition that could be used as a control mechanism. I have also considered whether such a condition is necessary, in any event. The view I take is that as K4 would have an optimum annual production profile, it is likely that the Applicant would want to balance this profile between supply of final product and receipt of raw material and fuels.. I consider that this would result in a relatively economical and balanced feed and delivery system that would align with the tabulated flow representation. Therefore, I consider that this self-management makes control through condition unnecessary. Moreover, such a condition would, in my opinion, be unenforceable.

35.42 As for the use of the railhead and its implications for sustainable transport, I note the concerns of objectors. However, the railhead will remain operational and the Applicant would use it if appropriate to do so. I noted the Applicant's commitment to rail transport when I visited Ketton, where I saw rolling stock specifically adapted for moving cement.

35.43 The references to the earlier proposed opencast coal site at Bannel Lane, and its traffic implications are noted (Doc FGP 7.14). But in my view the transport use comparisons and access arrangements are so different that I have not been swayed by these submissions.

35.44 In summary, on this issue, my views align with those of FCC that the highway network is capable of supporting the proposed increase. In this respect I find no breach of planning policy.

EUROPEAN CONVENTION ON HUMAN RIGHTS (ECHR)

35.45 This matter was raised at various times throughout the Inquiry. It concerned both the right to a fair hearing and health issues.

Article (6) - The Right to a Fair Hearing

35.46 On the matter of a right to a fair hearing, this matter was raised by Mx Ellis and by the Phoenix Group. Mr Ellis was due to present evidence at the Inquiry, but at the last minute withdrew from appearing. He informed me, via the Programme Officer, that in his view the Inquiry was not compatible with Article 6 of the ECHR concerning the entitlement to a fair and public hearing by an independent and impartial tribunal. It was also alleged that evidence had been suppressed (p2.01 to 20.3; p22.1-22.2;& p27.1 to 27.3).

35.47 I am not aware of any evidence being suppressed, or any agreements made not to hear particular evidence. However, I did refuse to hear, at length, evidence concerning the burning or recovery of hazardous waste. The Applicant does not deny that it wants to burn alternative fuels which might be classed as hazardous waste (p10.4 & 10.7). The Applicant accepts that such an act could not take place without appropriate authorisation from the EA (p4.3). In view of this agreement by the Applicant, a lengthy discussion of this topic at the Inquiry would have been otiose.

35.48 Turning to the matter of the tribunal being incompatible with Article 6(1) of the ECHR, this reasoning is similar to other cases which have recently been heard by 'the courts and defended by DETR. In December 2000 the Divisional Court concluded that the process involved in each of the cases was not compatible with Article (6). This decision was appealed to the House of Lords. The outcome of these cases was known in early May 2001. The decision reached was that the Secretary of State's powers are not in breach of, or incompatible with, the Human Rights Act 1998.

35.49 In terms of incompatibility with Article (6) of the ECHR, and the case presented by Mr Ellis and Mrs Booth, in line with this recent judgement determination is a matter for NAW .

Health Issues and Incompatibility with the ECHR

35.50 On the matter of health issues I turn to the relevant section of the Assessor's report which is as follows:

35.50.1 Objectors claimed that approval of the proposed development would be contrary to Section 6(1) of the Human Rights Act 1998, which makes it unlawful for a public authority (including the NAW) to act in a way which is incompatible with a Convention right.

Article 8 - respect for private and family life, and home

35.50.2 *Representations were made to the effect that the rights of nearby residents, under Article 8 of the Convention, would be violated if the appeal were allowed No individuals were named but, in any case, I do not consider the representations to be well founded because the degree of interference to surrounding properties would be insufficient to give rise to a violation of any rights under the Article.*

This is because I have already concluded that there would be no material harm to public health and the environment from the proposed development. Furthermore, emissions from the Works would be controlled by the EAW under the Pollution Prevention and Control Regulations 2000 and the 1999 Pollution Prevention and Control Act.

Article 2 - right to life

35.50.3 *TCC further alleges that individuals' rights under Article 2 of the Convention would be violated if the development were allowed. This Article states that "everyone's right to life shall be protected by law". Again, no individuals were named, instead the allegation centres on the comparison the NWhA made of the risk to public health from the proposed development against other risks (Doc PH11). I have discussed this comparison and conclude that the EAW would be able to ensure that the health risk remained tolerable.*

35.50.4 *For this reason I do not therefore consider that there would be any unacceptable risk to human life from the proposed development or that any violation of Article 2 of the ECHR would occur.*

35.51 I find no reason to depart from the Assessor's conclusion on these matters.

36. SUMMARY OF CONCLUSIONS

36.1 I deal first with the Assessor's overall conclusions at Chapter 32 of his report. I accept these findings:

36.1.1 *From the evidence I have heard I consider the proposed scheme would result in a substantial reduction in emissions from the current works that could only otherwise be practicably achieved by the closure of the Works. As a result, subject to normal background air quality being maintained, the scheme should enable the quality of the air surrounding the site to comply with the objectives of the Air Quality Strategy of England, Scotland, Wales and Northern Ireland for key pollutants.*

36.1.2 *I found no evidence that there would be any significant increase in toxic emissions from Kiln 4 as a result of using the alternative fuels proposed. I believe the use of these fuels would not contravene national or local policies for waste or the precautionary principle.*

36.1.3 *I have reached the same conclusion as the NWhA that the clear balance of evidence is that the health risks, including those to vulnerable groups, are well within tolerable limits as established by national and international standards. The proposal would therefore comply with local planning policies aimed at protecting public health.*

36.1.4 *As a consequence of the minimal risk to health, I do not consider there would be any violation of Articles 2 and 8 of the European Convention of Human Rights as a result of the development.*

36.1.5 *I have considered the potential environmental impact of the proposed development and, subject to the monitoring and environmental protection measures outlined, I believe there would be no significant ecological threat or risk of pollution of controlled waters. It would therefore comply with the objectives of local and national environmental planning policies outlined in Section 6 of this report. (ref Assessor's report).*

- 36.1.6 *It cannot~be said that the environmental submissions overall are deficient to the extent that a decision on the planning application should not be made in this case.*
- 36.1.7 *Overall, I have reached the conclusion that potential emissions from the proposed development would not have a materially harmful effect upon public health or on the environment surrounding the site. Accordingly, I have found no compelling planning objection to the proposal for these issues.*
- 36.2 I consider that in terms of appearance the scheme would have a neutral effect on its surrounding countryside and landscape setting, and no breach of planning policy would result.
- 36.3 Concerning highway use, my views align with those of FCC that the highway network is capable of supporting the proposed increase. In this respect I find no breach of planning policy.
- 36.4 On the matter of employment, I take the view, that the cement works is an important part of the employment profile of Flintshire, and its loss would be seriously harmful to the local economy.
- 36.5 I have considered all other matters raised, in both evidence given at the Inquiry and in those written submissions that have been made. However, I find nothing in these matters which leads me to different conclusions.

37. RECOMMENDATIONS

- 37.1 Subject to satisfactory planning conditions as outlined in chapter 33, that align with the recommendations of Circular 35/95, I recommend that conditional planning permission be granted on the planning application for The Construction of a New Kiln Line and Associated Plant, Limestone Store, Fuel Storage Buildings, Re-Profiling of Former Licensed Waste Site, and Ancillary Works, at the Castle Cement Works at Padeswood, Mold.

Anthony H Vaughan
Inspector

APPENDIX 1

ABBREVIATIONS USED THROUGHOUT THE TEXT OF THE REPORT.

(p.16.2)	A reference to source material elsewhere in the report
AERMOD	Dispersion model made available through US Environment Protection Agency
ADMS 3	UK Atmospheric Dispersion Modelling System
AONB	Area of Outstanding Natural Beauty
Applicant	Castle Cement: the company making the planning application to develop the site at Padeswood, Mold
BAT	Best Available Technology
BATNEEC	Best Available Technology not Entailing Excessive Cost
BREF note	European Commission Reference Document on Best Available Techniques for Integrated Pollution Prevention and Control
BPEO	Best Practicable Environmental Option
LANK	Campaign Against the New Kiln Objector Group
CCL	Castle Cement Ltd
CCW	Countryside Council for Wales
Cemfuel	A liquid.fuel used in the kilns derived from the processing of waste material
Circular	A DETR or Welsh Office Circular normally with its number e.g. 10/2000
CKD	Cement Kiln Dust
COMAH	Control of Major - Accidents Hazards Regulations 1999
COMARE	Committee on Medical Aspects of Radiation in the Environment
COMEAP	Committee on the Medical Effects of Air Pollutants
Council	Flintshire County Council
CPRW	Campaign for the Protection of Rural Wales
CSPFA	Clwyd Structure Plan First Alteration
DETR	Department of the Environment Transport and the Regions
Doc	A document number in the series of documents held in the Inquiry library
DPH	Director of Public Health

EA	Environment Agency
EAW	Environment Agency (Wales)
EAL	Environment Assessment Levels
ECHR	European Convention on Human Rights
EIA	Environment Impact Assessment
EIAD	Environmental Impact Assessment Directive
EQS	Environment Quality Standard
ES	Environmental Statement
ESP	Electrostatic Precipitator
FCC	Flintshire County Council
FGP	Flintshire Green Party
GB	Green Belt
HSC	Hazardous Substance Consent
HSE	Health and Safety Executive
HWID	Hazardous Waste Incineration Directive
IPC	Integrated Pollution Control
IPPC	Integrated Pollution Prevention and Control
K4	Kiln 4 (or KI for Kiln 1 etc)
Ketton	The Castle Cement works at Ketton
LAAPC	Local Authority Air Pollution Control
MO	Meteorological Office
MPG	Mineral Planning Guidance
Natura 2000	Community wide network of Special Areas of Conservation
NAQS 2000	National Air Quality Strategy
NAW	National Assembly for Wales
NOR	Oxides of Nitrogen (eg Nitrogen Dioxide)
NWHA	North Wales Health-Authority
OPC	Ordinary Portland Cement
PGWPP	Planning Guidance Wales Planning Policy First Revision
Phoenix	The Phoenix Coalition Objector Group
PM10	Particles in the air with a size equal to or less than 10 microns
PM2.5	Particles in the air with a size equal to or less than 2.5 microns
ppb	Parts per Billion
ppm	Parts per Million
p,g/m3	micrograms per cubic metre (of air)
mg/m3	milligrams per cubic metre (of air)
PFA	Pulverised Fuel Ash
<i>Profuel</i>	A solid fuel used in the kiln derived from the processing of waste material
Ribblesdale	The Castle Cement works at Ribblesdale
RPG	Regional Planning Guidance
SAC	Special Area of Conservation
SLF	Secondary Liquid Fuel
SO _x	Oxides of Sulphur (eg Sulphur Dioxide)
TAN	Technical Advice Note issue by the NAW to accompany PGWPP
TCC	Trefnu Cymunedol Cymru - Wales Broad based Organisation
TCPA	The Town and Country Planning Act of 1990
TDI	Tolerable Daily Intake
tpa	Tonnes per annum
WCISU	Welsh Cancer Intelligence and Surveillance Unit
WCR	Welsh Cancer Registry
WFD	Waste Framework Directive
WHO	World Health Organisation
WMLR	Waste Management Licensing Regulations

APPENDIX 2

PROPOSED DEVELOPMENT AT PADESWOOD CEMENT WORKS

ASSESSOR'S BRIEF

At the end of the Assessor's involvement in the Inquiry he will be expected to provide a report to the Inspector on the issue concerning the potential pollution that could arise from the proposed development. The issues to be addressed should be the effect that potential emissions and discharges from the project would have upon:

- public health and;
- the environment in general.

These issues are wide ranging and the report should address:

- background;
- the Environmental Statement;
- legislation and authorisations;
- planning policy on pollution;
- the process, both existing and proposed;
- the raw materials used in the process;
- fuel types and constituents;
- emissions: gaseous, solid and liquid together with disposal routes to land and watercourses;
- plume mobility, modelling and dispersion;
- likely effects of emissions upon health having regard to background air quality and diffuse emissions such as vehicle exhaust gas;
- potential pollutants in the final cement product;
- the "Fall back" situation

The report should set out, in standard Inspectorate form, the material points raised in evidence at the Inquiry and in written submissions. Conclusions should be drawn from the evidence and should identify the source material that is set out in the cases for the parties. The report will be included as an Appendix to the Inspector's report to the National Assembly for Wales.

Anthony H Vaughan
Inspector

APPENDIX 3
ASSESSOR'S REPORT

See separate bound document.

APPENDIX 4

APPEARANCES AT THE INQUIRY

FOR THE APPLICANT:

Mr Vernon Pugh	Of Queen's Counsel instructed by Norton Rose, Solicitors, Kempson House, Camomile Street,London. EC3A 7AN
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He called:

Mr P Weller BSc (Eng) Ceng MIEE	Production Director, Castle Cement Ltd.
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Mr A T Allan BSc MIMgt LCG DipSys	General Manager, Castle Cement Ltd.
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Mr I Walpole BSc (Eng) (Hons) CEng MICHemE	Environment Manager, Castle Cement Ltd.
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Mr R Barrowcliffe BSc (lions) CMet FRMS	Environmental Resources Management, 8 Cavendish Square, London. W1M OEG
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Mr S Salt BSc DipTP MRTPI FIQ CG Gethin & Associates, West Coast Energy Ltd, The Long Barn, Waen Farm, Nercwys Rd, Mold CH7 4ED	
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Mr H Moggridge OBE VMH PPLI FIHort RIBA Aadipl	Colvin & Moggridge, Filkins, Lechlade, Glos. GL7 3JG
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Mr I Turvey BSc (lions) MSc MCITL MIEnvSc	Ian Turvey Consulting Environment & Transport, 47 Ryeland Road, Welton, Lines. LN2 3LV
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Dr K Kelly AB MPH ACT	Delta Toxicology Inc. 11 West Summer, Spokane, Washington. 99204
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FOR THE LOCAL PLANNING AUTHORITY - FLINTSHIRE COUNY COUNCIL:

Mr G Little & Mr R Mullen of County	Of Counsel instructed by Mr A Loveridge, Director County Secretary's Department, Flintshire Council,County Hall, Mold. CH7 6NF
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They called:

Mr C Thomas BSc (lions) DipTP MRTPI	Chief Planning Officer, Flintshire County Council.
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Mr D Heggarty BSc (Eton) (Hons) Head of Economic Development & Tourism, Flintshire MRTPI MIED DMC	County Council.
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Mr P Tucker

Of Counsel instructed by Dr K Jones, The Environment
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Mr J Morris BSc (Hons) CEng PIR
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Inspector, Environment Agency, Buckley Offices,
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Dr R J Roberts MBBS BSc DCH
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Consultant in Public Health Medicine North Wales
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Cllr K Armstrong-Braun BSc (lions)
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County Councillor for Saltney Stonebridge Area,
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FOR THE PHOENIX COALITION GROUP:

Mrs S Booth	7 Chestnut Road, Mold, Flintshire. CH7 1QU
Dr M K Wallis	48 Westbourne Road, Penarth. CF64 3HT
Mr G Booth	7 Chestnut Road, Mold, Flintshire. CH7 1QU
Dr J Varley BSc	26 Wendover Road, Birkenhead. CH43 9HU
Mrs Lucy Thomas	Higher Kinnerton.
Mrs Irene Jones	Marburydale, Bannel Lane, Buckley.

FOR THE CAMPAIGN AGAINST THE NEW KILN (CANK):

Mr Tom Hill Of Counsel instructed by Wake Dyne Lawton, Solicitors,
Worley Bank House, Bolesworth Road, Tattenhall,
Chester. CH3 9HL

He called:

Mr A Wooley DipIM MIMgt Chairman of CANK

Mr I Rogerson BSc CEng MinstE Technical Director, Entec UK Ltd, Northumbria House,
Manor Walks; Cramlington, Northumberland.
NE23 6UP

Mr M S Pratt BSc EurChem CChem FRSC Technical Director, Entec UK Ltd, Windsor House,
Gadbrook Business Centre, Gadbrook Road,
Northwich, Cheshire. CW9 7TN

Dr C V Howard MB ChB PhD Fetal & Infant Toxicology Pathology University of Liverpool
FRCPath Mulberry Street, Liverpool. L69 7VA

Mr I Reid Dip TP MRTPI Dip LD Derek Lovejoy Partnership, 31 Lower Brown Street,
MLI Leicester.

COUNCILLOR MRS MIA JONES:

Mr Eric Owen Of Counsel Instructed by Aarons, Grosvenor Court,
Foregate Street, Chester. CH1 1HG.

He called:

Councillor Mrs Mia Jones District Councillor for the Dodleston Ward (Chester
District), Alpha, Cuckoo's Nest, Pulford, Chester.
CH40DJ

FOR TREFNU CYMUNEDOL CYMRU - WALES BROAD BASED ORGANISATION

Dr I Shah Consultant Physician Platt Bridge Farm, Platt Bridge
Lane, Penyffordd. CH4 0HX

Mr A Watson BSc (Hons) CEng Public Interest Consultants Oakleigh, Wernffrwd,
Gower, Swansea. SA4 3TY

Ms C Pilsbury 37 Kings Mill Road LL12 9EB

FOR THE DODLESTON AND DISTRICT PARISH COUNCIL:

Ms E J M Shanklin Chairperson, Coachman's Cottage, Pulford Lane,
Dodleston, Chester.

FOR THE PENYFFORDD COMMUNITY COUNCIL

Councillor D Darlington County Councillor for the Penyffordd Area & Local
Resident, Milltys, 26 Hawarden Road, Penyffordd.
CH4 OJE

INTERESTED PERSONS WHO GAVE EVIDENCE AT THE INQUIRY:

Mr B Lee	Director, Allan Morris Transport, Factory Road, Sandycroft.
Cllr D Messham	County Councillor for Buckley Bistre East Ward, Brampton, Mold Road, Buckley. CH7 2NH
Cllr C Bithell	County Councillor for Mold East Ward. The Coppins, 88 Hendy Road, Mold. CH7 1QR
Mr D Hughes	Former works manager of Castle Cement. 12 Padeswood Drive, Padeswood, Flintshire.
Mrs L Thomas	Talwryn Cottage, Stringers Brook, Kinnerton.
Mr P Thomas	Smithy Farm, Padeswood, Flintshire.
Mrs C Williams	Castle Cement Employee. 35 Pine Gardens, Chester.
Mr Turner	Castle Cement Employee 24 Lansdown Road, Broughton.
Mr J Millward	Castle Cement employee & TGWU Representative, 24 Newton Drive, Dury.
Mr A Mack	23 Parkfield Road, Boughton.
Ms C Richards	6 Park Grove, Newbridge, Wrexham.
Mr G Price	7 Church Close, Buckley.
Mr K Warbuton	Castle Cement Employee, 16 Moorcroft, New Brighton.
Mr A Roberts	1 Alyn House Cottages, Pontblyddyn .

Mr M Foulkes	7 Padeswood Drive, Padeswood. .
Mr A Booth	Castle Cement Employee, 116 Moorcroft, New Brighton
Ms J Roden	19 Bryn Awelon, Buckley
Cllr T W Jones	County Councillor for Penyffordd, Cross Farm, New Road, Penymynydd. CH4 OEN
Mrs E Davies	Former Councillor, Hope Green, Penyffordd.
Cllr C E Jones	Leeswood Community Council, c% 4 Howards Close, Wood Farm Lane, Penyffordd.
Mr J Coleman	The Gables, Park Lane, Penyffordd.
Mrs I Jones	Marburydale, Bannel Lane, Buckley.
Mr T Jones	3 Cromwell Close, Penyffordd.
Ms J Jones	143 Penymynydd Road, Penymynydd.
Cllr S Roberts	County Councillor for Leeswood, 14 Heol-Y-Goron, Leeswood.
Ms R Owen	29 Hillside Crescent, Holywell.
Mr E James	1 Wellhouse Drive, Penymynydd.
Mr M Phelps	7 Padeswood Drive, Padeswood.
Dr H Styles	Lower Mitt Farm, Stafford.
Ms S Carnivale	9 Moel View Road, Buckley.
Mr J K Shanklin	Former Chairman of Dodleston & District Parish Council, Old Rectory, Church Road, Dodleston.
Ms E Core	6 Poppyfield Drive, Penyffordd.
Ms G Clark	4 West View, Penyffordd

APPENDIX 5

List of Documents

Inquiry Procedure Documents

IPD/1	Notification of Inquiry
IPD/2	Letter of Notification of Inquiry
IPDI3	Attendance Sheets
IPD/4	Inquiry Programme

Core Documents

(To reduce expense documents marked * not photocopied as they are available nationally or duplicated in the evidence of other groups)

CDII	Planning application for Kiln 4 dated 7th January 1999 (reference 99/0/24)
CD/'1.	Environmental Statement and Non-Technical Summaries dated 7th January 1999
CD/3	Letter from Castle Cement to Flintshire County Council enclosing Supplementary Environmental Statement and replacement Non-Technical Summaries, dated 25 th June 1999
CD/4-	Amendment to planning application for Kiln 4 dated 23rd December 1999
CD/5	Addendum to Non-Technical Summaries dated 23rd December 1999
CD/6	Padeswood Kiln 4 Project: Environmental Monitoring Scheme (2 March 2000)
CD/7	Padeswood Kiln 4 Project: An Examination of Means of Disposal of Final Kiln Residues (Cement Kiln Dust) (2nd March 2000)
CD/8	Padeswood Kiln 4 Project: Dust Control Within the Works
CD/9	Report to the Special Meeting of the Planning Committee of Flintshire County Council held on 2nd February 2000
CD/10	Minutes of the Special Meeting of the Planning Committee of Flintshire County Council held on 2nd February 2000
CD/11	Report to the meeting of the Planning Committee of Flintshire County Council held on 23rd May 2000
CD/12	Minutes of the meeting of the Planning Committee of Flintshire County Council held on 23rd May 2000
CD/13	Conditions to be attached to planning permission for the proposed development approved by the Planning Committee of Flintshire County Council on 23rd May 2000
CD/14	The Delyn Local Plan
CD/15	The Clwyd County Structure Plan, First Alteration (31 October 1991)

CD/16	The Alyn & Deeside Local Plan (published in March 1994) and Proposed Modifications (published in January 1997)
CD/17	The Structure Plan Second Alteration: Flintshire Edition (published in January 1997)
CD/18	The Draft North Flintshire Local Plan (October 1997) and proposed modifications (February 1999)
CD/19	Flintshire Unitary Development Plan Pre-Deposit Consultation Draft (May 2000)
CD/20	Planning Guidance (Wales): Planning Policy April 1999
CD/21	Minerals Planning Guidance (Wales) Consultation Draft (November 1999)
CD/22	Minerals Policy Guidance Note 10: Provision of Raw Material for the Cement Industry
CD/23	Planning Policy Guidance Note No 10: Planning and Waste Management (September 1999)
CD/24	Air Quality Strategy for England, Scotland, Wales and Northern Ireland (CM 4548, January 2000)
CD/25	The Welsh Air Quality Forum (2000) The Fourth Annual Report
CD/26	CRE Air Quality Monitoring in Padeswood, North Wales - 16 February to 25 April 2000 (Contract No. 8698-3)
CD/27	BREF note of Best Available Techniques in the Cement and Lime Manufacturing Industries (March 2000) - IPTS
CD/28	The Environment Agency (1998) Limit Settling for Oxides of Nitrogen and Sulphur Dioxide: Castle Cement at Padeswood (Report No. RTST/98/1)
CD/29	Guidance Note E1 on Best Practicable Option Assessment Methodology - The Environment Agency (April 1997)
CD/30	Castle Cement Integrated Pollution Control Application - Stage 1, January 1999
CD/31	Castle Cement Integrated Pollution Control Application - Stage 2, June 1999
CD/32	Castle Cement Integrated Pollution Control Application - Stage 3, June 2000
CD/33	Castle Cement IPC application response to Schedule 1 Notice, July 2000
CD/34	Off Site Planting Assessment - RPS (13 September 1999)
CD/35	County Intelligence Report (October 1997)
CD/36	Flintshire Economic Issues and Strategy Proposals

CD/37	All Fire Up: Burning Hazardous Wastes in Cement Kilns - Environmental Toxicology International (ETI 1992) ISDN 0-963 1944-1-0 .
CD/38	Better Health, Better Wales: Developing Health Impact Assessment in Wales - National Assembly for Wales (NAW 1999a)
CD/39	The Health of North Wales : Annual Report to the Director of Public Health 1999 - North Wales
CD/40	Technical Guidance 300 : Review Assessment Selection and Use of Dispersion Models - UK Department of the Environment, Transport and The Regions (UK DETR 2000b) LAQM (TG300) - August 2000
CD/41	Cancer Incidence Near Municipal Solid Waste Incinerators in Great Britain - UK Department of Health (UK DOH 2000b) COC/00151
CD/42	Statement on Dietary Exposure to Dioxins and Dioxin-Like PCB - UK Department of Health (UK DOH 2000d) - Committee on Toxicity of Chemicals in food, Consumer Products and Environment (COT) - August 2000
CD/43	COM Statement on TCDD (2, 3, 7, 8 - Tetrachlorodibenzo-p-dioxin) - UK Department of Health (UK DOH 1999a) - Committee on Mutagenicity of Chemicals in Food, Consumer Products and the Environment (COM) - COM/99/S2
CD/44	Statement by the Committee on the Medical Effects of Air Pollutants on the Possible Health Effects of Air Pollutants in the Clitheroe Area - UK Department of Health (UK DOH 1998) November 1998
CD/45	Dioxins and Polychlorinated Biphenyls in Foods and Human Milk - UK Ministry of Agriculture, Fisheries and Food (UK MAFF 1997b) - Food Surveillance Information Sheet No. 105 - June 1997
CD/46	Guidelines on Investigating the Health Impact on Emissions to Air from Local Industry: A Consultation Document - Draft - UK Department of Health (UK DOH 2000c) COMEAP. DOH Air and Noise Pollution Unit - February 2000
CD/47	Guidelines for Environmental Risk Assessment and Management: Revised Departmental Guidance - UK DETR, Environment Agency and Institute for Environment and Health August 2000
CD/48*	Circular 15/88 Town and Country Planning (assessment of Environmental Effects Regulations 1988)
CD/49*	DETR Circular 2/99: Environmental Impact Assessment
CD/50*	Directive on Hazardous Waste (91/689/EEC)
CD/51 *	Directive on Incineration of Hazardous Waste (94/67 EEC)
CD/52*	Waste Strategy (January 2000) published by DETR

CD/53*	Planning Policy Guidance Note 23 for England "Planning and Pollution Control"
CD/54*	11th Report of the House of Lords Select Committee on the European Communities "Waste Incineration" (1999) .
CD/55*	Clwyd County Council: Clwyd Landscape Assessment (April 1995)
CD/56*	Welsh Development Agency: "Landscapes Working for Wales - A Landscape Strategy for Flintshire". (April 1996)
CD/57	Letter from Norton Rose dated 14th September 2000 to the Planning Inspectorate enclosing a planning submission drawing schedule and schedule of building function and finish.
CD/58	The Landscape Institute and the Institute of Environmental Assessment: "The Guidelines for Landscape and Visual Impact Assessment" (1995)
CD/59*	The Landscape Institute Advice Note 01/99
CD/60*	IPC Guidance Note S2 3.01: "Cement Manufacture, Lime Manufacture and Associated Processes".
CD/61	IPC Authorisation for Padeswood Variation BH 3738
CD/62	IPC Authorisation for Ribblesdale A12813
CD/63	IPC Authorisation for Ribblesdale Variation BE 7516 (31st August 1999)
CD/64	IPC Authorisation for Ketton: AT 5060
CD/65	IPC Authorisation for Ketton Variation BI 040 8 (27th June 2000)
CD/66	IPC Authorisation for Ketton Section 11(7) Notice in connection with Authorisation A1 0560. (14th November 1996)
CD/67*	Part IV The Environment Act 1995. Local Air Quality Management. Review and Assessment: Pollutant Specific Guidance. LAQM.TG (00). Department of the Environment, Transport and the Regions. National Assembly for Wales. Scottish Executive. Consultation Draft - December 1999.
CD/68*	QUARG (1996) "Airborne Particulate Matter in the United Kingdom " Third Report of the Quality of Urban Air Review Group. Department of the Environment. (May 1996)
CD/69	Cement Kiln Dust Analysis Cefn Mawr Quarry - Geochem Analytical Services Report Ref 99/0793/02/01.
CD/70	Emergency Procedures at Padeswood

Castle Cement Documents

CC/1	Peter Weller = Proof of Evidence - Castle Cement's Corporate Strategy
CC/1A	Peter Weller - Statement of Clarification on the future of Padeswood
CC/1B	Additional Information for Padeswood Kiln 4 Inquiry Derivation of Kiln Annual Capacity
CC/2	Peter Weller - Appendices to Proof of Evidence
CC/2A	Extract from Cement Data Book
CC/2B	Dimensions of Preheater Towers and Chimneys shown in Peter Weller's Proof of Evidence
CC/2C	Structure of Shareholdings - Heidelberger Zement
CC/2D	Graph showing variation of thermal efficiency versus kiln production
CC/3	Peter Weller - Summary of Proof of Evidence
CC/4	Tony Allan - Proof of Evidence - Employment and History
CC/4B	Charitable donations Budget Padeswood Works 1992 – 2000
CC/4C	Letters to former and current Employees encouraging support of project
CC/4D	Letter to Environment Agency from A T Allan regarding Enforcement Notice under s13 EPA
CC/4E	Distribution Personnel Note
CC/4F	Letter from Tony Allan to Councillor Darlington dated 5th December 2000
CC/5	Tony Allan - Appendices to proof of Evidence
CC/6	Tony Allan - Summary Proof of Evidence
CC17	Iain Walpole - Proof of Evidence - Process Description and Environmental Performance
CC/7A	Rebuttal by Iain Walpole of Proofs of Evidence of Ian Rogerson and Malcolm Pratt ,
CG7B	Tables 11.1a -11.1 d (dated 2/11/00)
CC/7C	Letter to Environment Agency dated 24th October 2000 from Castle Cement amending Table 7.3 in the IPC Stage 3 application
CC/7D	Revised Tables 11.1a - 11.1d (to incorporate request from the Assessor to record lead separately) dated 5 December 2000

CC/7E	NOx Graph 1998 and 1999
CC/7F	Revised Tables 11.1 a - 11.1 d (in response to request from CANK to show cement kiln dust)
CC/8	Iain Walpole - Appendices to Proof of Evidence
CC/8A	Revised Table 9.1 from the Appendices to Iain Walpole's Proof of Evidence
CC/8B	Table comparing Padeswood, Kiln 4 predicted emissions and Ketton, Kiln 8 emissions
CC/8C	Additional Information for Padeswood, Kiln 4 Public Inquiry - emissions comparison between Ketton, Kiln 8 and the proposed Kiln 4
CC/9	Iain Walpole - Summary Proof of Evidence
CC/10	Roger Barrowcliffe - Proof of Evidence - Air Quality
CC/10A	Rebuttal by Roger Barrowcliffe
CC/11	Roger Barrowcliffe - Appendices to proof of evidence
CC/11A	Revised Figure HI produced by Roger Barrowcliffe
CC/11B	Revised Figure HZ produced by Roger Barrowcliffe
CC/11C	Revised Table B2 from Roger Barrowcliffe's Appendices
CC/11D	Additional Information (bound document) sent to the programme officer on 14/11/00
CC/11E	Amendment to Table B2
CC/12	Roger Barrowcliffe - Summary Proof of Evidence
CC/13	Dr Kathryn Kelly-Proof of Evidence-Health
CC/13A	Rebuttal by Dr Kathryn Kelly of Dr Howard Evidence
CC/13B	Dioxin Source Apportionment Graph produced by Dr Kathryn Kelly during XX
CC/13C	Scenario A Mass-based total particle deposition (produced by Dr K Kelly during XX)
CC/13D	Scenario B Area based total particle deposition (produced by Dr K Kelly during XX)
CC/13E	Scenario C Mass based total particle deposition (produced by Dr K Kelly during XX)
CC/13F	Dr K Kelly Note to Blue Circle Tyre Data (Produced by Dr K Kelly during XX)

CC/14	Dr. Kathryn Kelly - Appendices to Proof of evidence CC/14A Table 6.5 revised
CC/14B	Results of mufti-pathway risk modelling (separate binder), modelling data behind Dr K Kelly's table 6.4 - 6.6 sent to programme officer on 14/11/00
CC/14C	Information requested by Ms Mary Homer on milk at Clitheroe - MAFF food surveillance sheet dated October 1994. NB Circulated to Inspector, Ms Mary Homer &. Programme Officer
CC/14D	Information on children ref A2 (memo from Dr K Kelly to CC relating to child exposure in MAFF info sheet on metals in milk)
CC/14E	Postcode Table
CC/14F	Additional Comments on Dr K Kelly Table 6.6 CC/14
CC/15	Dr. Kathryn Kelly-Summary proof of evidence
CC/16	Stephen Salt - Proof of Evidence - Planning Policy
CC/16A	Planning application documentation agreed statement (sent to Programme Officer on 9/11/00) and planning submission drawing schedule
CC/17	Stephen Salt - Appendices to Proof of Evidence
CC/18	Stephen Salt - Summary Proof of Evidence
CC/19	Hal Moggridge - Proof of Evidence - Landscape/Visual
CC/19A	Rebuttal by Hal Moggridge (CANK's evidence) and (Phoenix's evidence
CC/19C	HM7.1, HM7.2, HM7.4 (part of document CC/19) Architectural Views of Padeswood Works Kiln 4 Development
CC/19D	1:10,000 OS Map without any information added
CC/19E	Integrated Viewpoint Locations - Sheets 1-3 and 2 page schedule supplied by Colvin & Moggridge
CC/19F	Revised Sheet 2 and schedule produced by Hal Moggridge
CC/19G	Photo of Eaton Hall produced by Hal Moggridge during XX
CC/19H	Rebuttal of CPRW Proof - Merfyn Williams by Hal Moggridge
CC/20	Hal Moggridge - Appendices to Proof of Evidence
CC/21	Hal Moggridge - Summary Proof of Evidence
CC/22	Ian Turvey - Proof of Evidence – Transportation
CC/22A	Rebuttal by Ian Turvey of Phoenix Coalition Group - Transport

CC/22B	Clarification Statement by Ian Turvey on Transport with reference to table I in Appendix B of CC/23 and the table following paragraph 19 of Ian Turvey's Rebuttal Proof, plus Appendix CC/22C Second Rebuttal by Ian Turvey of Phoenix Coalition Group – Transport
CC/23	Ian Turvey - Appendices to Proof of Evidence
CC/23A	Clinker Deliveries to Padeswood
CC/23B	Fax sent from Norton Rose to Graham Booth dated 27 November 2000 providing annual clinker production figures at Padeswood 1995 -1999 (inclusive)
CC/23C	Traffic Tables from Ian Turvey .
CC/23D	Revised traffic tables from Ian Turvey (replacing CC23C) following request by Inspector that tables 3A and 3B be amended to show junction split and HGV split dated 18 December 2000
CC/23E	Revised traffic tables from Ian Turvey (replacing CC/23C) following request by Inspector that tables 3A and 3B amended to show junction split and HGV split dated 18/12/00
CC/24	Ian Turvey - Summary Proof of Evidence
CC/25	Comparative values of relevant exposure limits/standard to Kiln 4 emissions and predicted maximum ground level concentrations
CC/26	Dioxin exposure from Kiln 4 compared to World Health Organisation Recommendation
CC/27	Additional Information for the Padeswood Kiln 4 Public Inquiry (first heading 'Profuel')
CC/28	R v Durham County Council and another, ex pane Lowther - (QBD, 21 June 2000)
CC/29	Briefing Note for Ketton visit.
CC/30	Publication dates of open door at Ribblesdale, Padeswood and Ketton, together with back copies
CC/31	Map of viewpoints of Ketton Works produced by Hal Moggidge
CC/32	Briefing Notes Rugby Cement - New Bilton Works, Rugby, Warwickshire
CC/33	List of all prosecutions Castle Cement has had within the last five years
CC/34	Note prepared by Stephen Salt regarding waste disposal licence/waste management licence

CC/35	Document illustrating unsubstantiated claims made by Phoenix Group
CC/36	Cross examination note supporting documentation for Ms Mary Homer
CC/37	Variation of emissions on Ketton Kiln 8
CC/38	Additional information to Padeswood Kiln 4 Inquiry - 15 December 2000
CC/39	Fabricelean Pulse - Jet fabric filters and Pulse - Jet fabric filter reference list
CC/40	Assessment of noise and ground borne vibration from the Castle Cement Works
CC/41	Views of Ketton Cement Works
CC/42	Aberthaw Cement Works Site Plan
CC/43	Photo Sheet of Aberthaw Cement Works Power Station - F50
CC/44	Three A4 size photos of Aberthaw
CC/45	Note and documentation discrediting evidence produced by Dodleston & District Parish Council
CC/46	Additional Information for Padeswood, Kiln 4 - Public Inquiry – Company Employment
CC/47	Note Re Pant-y-Buarth Waste Disposal
CC/48	Opening Statement on behalf of Castle Cement
CC/49	Additional Information for the Padeswood, Kiln 4 Public Inquiry - Slites Kiln 8 - run hours
CC/50	Corrigendum to the reports to DETR in 1999 on the proposed waste incineration Directive (Enter - Annex E and letter from Mr Michael Meacher MP to Greenpeace stamped 10 November 2000)
CC/51	Rebuttal on behalf of Castle Cement Limited to the evidence produced by the Flintshire Green Party (excluding Mary Homer's evidence)
CC/52	Heights of typical coal fired power stations and Aberthaw and some medieval towers in Northern Europe
CC/53	Note of Clarification regarding Sampling for Toxic Substances in and near Padeswood 1992 – 2000
CC/54	Response by Castle Cement Limited to evidence of Ms Mary Homer for Flintshire Green Party
CC/55	Company Procedure Note
CC/56	Draft Process Description Agreed Statement

CC/57	Response to comments made by Mr Arnold Woolley
CC/58	A note on the meteorological aspects of the supplementary proof of Dr. Howard
CC/59	Final Process Description agreed statement
CC/60	Photographs taken from Mrs Mia Jones' Viewpoints Using F50
CC/61	Comments by Castle Cement Limited on CAM 37
CC/62	Briefing Note for Ribblesdale Site Visit
CC/63	Closing Submission

Flintshire Conaty Council's Documents

FCC/1A	Proof of Evidence - Mr. C. Thomas
FCC/1B	Proof of Evidence - Mr. D. Heggarty
FCC/1 C	Summary Proof of Evidence - Mr. C. Thomas
FCC/1	Report by RPS Consultants - A Review of Environmental Information in Respect of Padeswood Kiln 4 Project
FCC/2	Report to Planning Committee on 2nd February 2000
FCC/3	Minutes of Planning Committee of 2nd February 2000
FCC/4	Report to Planning Committee on 23rd May 2000
FCC/5	Minutes of Planning Committee of 23rd May 2000
FCC/6	Extracts of CADW Register of Landscapes, Parks and Gardens of Special Historic Interest in Wales
FCct7	Pathway to Prosperity - A New Economic Agenda for Wales - Welsh Office 1998
FCC/8	Proposals for a National Economic Development Strategy - Wales European Task Force July 1999
FCC/9	Flintshire Economic Development Plan 1999/2000
FCC/10	Flintshire Annual Budget 1999/2000
FCC/11	Service Delivery Plans - Flintshire County Council - February 1996
FCC/12	Flintshire Strategic Partnership for Economic Development - Discussion Paper
FCC/13	Meridien PURE Ltd June 2000
FCC/14	betterwales.com - National Assembly for Wales Draft Strategic Plan, March 2000
FCC/15	Schedule of Draft Conditions i
FCC/16	Resolution of Cheshire County Council Planning Committee (arising out of the evidence of Chester City Councillor Mrs Mia Jones)
FCC 17	Letter to Mrs Gilly Boyd of Phoenix from North Wales Tourism dated 12th October 2000 (arising out of the re-examination of David Heggarty)
FCC 18	Vacancy Duration by Occupation (information provided by the Employment Service) (arising out of the cross-examination of David Heggarty by Councillor Mrs Mia Jones).
FCC 19	Welsh Index of Deprivation 2000 Map 8 and List of Most Deprived Electoral Division deciles (arising out of the cross-examination of David Heggarty and requested by the Inspector) .

FCC 19	Assisted Areas - Flintshire as designated by the Secretary of State for Wales and the National Assembly with effect from 27th July 2000 (arising out of the cross- examination of David and the Heggarty requested by Inspector).
FCC 20	Average gross weekly earnings of full-time employees by gender, April 1998 and streamlined analyses for full-time employees of both sexes (information provided by CELTEC based on Office of National Statistics New Earnings Survey 1999) (arising out of the evidence of David Heggarty and requested by the Inspector [cross-refer to para. 6.6 of proof of A.T. Allan for Castle Cement]).
FCC 21	Note regarding assumptions made by Flintshire County Council as highway authority concerning plant capacity (arising out of the cross-examination of Christopher Thomas by CANK).
FCC/22	Amended Appendix E to the report to the Planning Committee on 2nd February 2000 (FCCt2), as referred to in proof of Christopher Thomas
FCC/23	Opening Submission on behalf of the County Council
FCC/24	Closing Submissions of the County Council
FCC/25	Countryside Council For Wales Letter dated 4th March 1999 (requested by Inspector)
FCC/26	Countryside Council For Wales (CCW) Letter dated 29th July 1999 (requested by Inspector)

Environment Agency Documents

EA/1	Statement of Case of the Environment Agency
EA/2	Summary Proof of Evidence of James Irvin Morris
EA/3	Proof of Evidence of James Irvin Morris
EA/4	Integrated Pollution Control: A Practical Guide
EA/5	Deleted - Now EA/8
EA/6	The Environment Agency and Sustainable Development DETR November 1996
EA/7	Environmental Protection (prescribed Processes and Substances) Regulations 1991 S1 No 472
EA/8	Cement Manufacturing, Lime Manufacture and Associated Process IPC Guidance Note S2 3.01
EA/9	The Chief Inspector's Guidance to Inspectors - Process Evidence Note IPR 3/1 Cement Manufacture and Associated Process
EA/10	Technical Guidance Note (Environmental) EI - Best Practicable Environmental Option Assessments for Integrated Pollution Control
EA/11	Environmental Monitoring Strategy - Ambient Air - Technical Guidance Note M8
EA/12	Monitoring Methods for Ambient Air - Technical Guidance Note M9
EA/13	Hazardous Waste Incineration Direction 1998

EA/14	Directive 94/67/EEC
EA/15	Municipal Waste Incineration Directions 1991
EA/16	Air Quality (Wales) Regulations 2000 No 1940
EA/17	Air Quality Strategy for England, Scotland, Wales and Northern Ireland - Working together for Clean Air
EA/18	Environmental Protection (Applications, Appeals and Registers) Regulations 1991, SI No 507
EA/19	Environment Agency's Prosecution and Enforcement Policy
EA/20	Pollution Prevention and Control Regulations 2000 (SI 1973)
EA/21	Directive 96/61/EEC r
EA/22	Integrated Pollution Prevention and Control : A Practical Guide
EA/23	BREF Note - European Commission Reference Document on Best Available Techniques in the Cement and Lime Manufacturing Industries - Dated March 2000
EA/24	Memorandum of Understanding between Environment Agency and Department of Health
EA/25	Substitute Fuels Protocol
EA/26	Environmental Protection Act 1990. Variation Notice & Introductory Note A10349
EA/27	Summary of Enforcement Action
EA/28	Supplementary Proof of Evidence of James Irvin Morris - October 2000
EA/29	Solid Waste Derived Fuels for use in Cement and Lime Kilns - An International Perspective
EA/30	Substitute Liquid Fuels (SLF) used in Cement Kilns - Life Cycle Analysis. Technical Report P274
EA/31	International Use of Substitute Liquid Fuels (SLF) Used for burning in Cement Kilns Technical Report P282
EA/32	Second Supplementary proof of evidence of James Irvin Morris - October 2000
EA/33	Environment Agency Wales - Memorandum of Conviction 26/10/00
EA/34	Notification of Unauthorised Release of Heavy Fuel Oil - Castle Cement 24-2-00
EA/35	Further Information required by Inspector
EA/36	Letter from Environment Agency to DETR
EA/37	Letter from Environment Agency to Alex Tovey
EA/38	Consultation document produced by Environment Agency - IPC Application (June 1999)
EA/39	Addendum Consultation Document etc (August 2000)
EA/40	Dee Action Plan
EA/41	Response to Ms Mary Homer's questions
EA/42	Environment Agency Opening Statement
EA/43	Environment Agency Closing Statement

Health Authority's Documents

PH/1	Proof of Evidence of Dr R J Roberts - September 2000
PH/2	Summary Proof of evidence by Dr R J Roberts - September 2000
PH/3	Observed and expected rates of selected cancers around Padeswood

PH/4	Excel tables relating to PH3 (submitted 20/10/2000)
PH/5	COMARE Statement of the Incidence of Childhood Cancer in Wales
PH/6	Supplementary evidence - Observed and expected rates of selected cancers around Padeswood Cement Works
PH/7	Replacement Table 1 for PH6 (amended 28/11/00)
PH/8	Critical Peer Review Comments on the Report: - Mortality from lung cancer in the wards adjoining and surrounding Castle Cement works at Padeswood
PH/9	Minutes of Meeting held to discuss alleged Cancer cluster. 8/12/00
PH/10	Welsh Cancer and Intelligence Unit - Letter to Dr Howard 5/12/00
PH/11	North Wales Health Authority - Letter to Mr J Moritz of Wake Dyne Lawton -29/11/00
PH/12	Closing Statement
PH/13	Ring Binder of References (Inquiry Library only)

CANK's Documents

CAM/1 Derek Lovejoy Partnership (Ian Reid) - Landscape and Visual Issues

Volume 1 - Summary Proof

Volume 2 - Proof of Evidence

Volume 2a - Corrected paragraph 7.4 reflecting terms of Appendix 6

Volume 3 - Appendices

Volume 4 - Plans and Photos

CAM/2 Derek Lovejoy Partnership (Ian Reid) - Planning Issues

Volume 1 - Summary Proof

Volume 2 - Proof of Evidence

CAM/3 University of Liverpool (Dr. Howard) - Fetal Toxicology

Volume 1 - Summary Proof

Volume 2 - Proof of Evidence

Volume 3 - (one copy only with Assessor - later transferred to NAW)

Volume 4 - Supplementary proof of evidence

Volume 5 - Figures and appendix to supplementary proof of evidence (Vol 4)

Volume 6 - Supplementary Proof of Evidence

Volume 7 --Amendment to CAM3/Vo14

Volume 8 - A considered response to the 'Critical Peer Review Comments'

Volume 8a - Table - Lung Cancer Mortality risks (wards)

Volume 9 - Letter - University of Illinois at Chicago dated December 5th 2000

CAM/4 ENTEC : Northwich (Malcolm Pratt) - Air Quality

Volume 1 - Summary Proof

Volume 2 - Proof of Evidence

Volume 3 - Tables & Appendices

CAM/1 ENTEC : Northumbria (Ian Rogerson) - Cement Manufacturing Process

Volume 1 - Summary Proof

Volume 2 - Proof of Evidence

Volume 3 - Proof of Evidence r

CAM/6 CANK: Chairman (Arnold Wooley)

Volume 1 - Summary Proof

Volume 2 - Proof of Evidence

Volume 3 - Appendices
Volume 4 - Video G
Volume 5 - Dust Samples

CAM/7	Notice of unauthorised emissions (EA - CC) dated 08/10/99
CAM/8	List of 250 unauthorised releases during the last 4 years
CAM/9	Letter addressed to Tony Allen from the EA dated 09/06/97
CAM/10	Opening Statement by Tom Hill
CAM/11	17/10/00 Letter from CERC stating effects of streamline dispersion
CAM/12	Table 7.3 from IPC application dated 31/05/00 showing metals input '
CAM/13	Letter from CC to B. Booth of the E.A. dated 17/5/00 (Pub Reg Info)
CAM/14	Conference paper by R. Barrowcliffe and D. J. Harvey
CAM/15	Texas Air Quality Control Board letter dated August 1992
CAM/16	ENDS report 307 for August 2000 re: dioxin emissions
CAM/17	Letter dated March 24th 1994 from Jo Ann Wiersema of the TACB
CAM/18	Reports produced by EA re: test on fuel types dated 21/03/00
CAM/19	Map outlining three suggested CANK viewpoints
CAMt20	NWHA Correspondence to Ms E Parke dated 13,14 & 22 Sept. 2000.
CAM/21	Air Quality Management article dated October 2000, Issue 58
CAM/22	Wiltshire NHS 1/1 1/00 correspondence re: tyre-burning at Westbury
CAM/23	Agreed Statement relating to Air Quality matters (MP, RB & IW)
CAM/24	ADAS Analysis of AW's Dust/limestone analysis sample dated 21/9/00
CAM/25	6 Photos included in AW's Proof showing dust deposits on cars
CAM/26	Summary of 9,000 name CANK Petition
CAM/27	Extract from Buckley Town Council's response to NWHA's June 2000 Consultation Document
CAM/28	Tables outlining: Variation of recorded or calculated main stack gas flows (1) and Alkali metal content on meal (2).
CAM/29	Castle Cement response to CAM 28 after discussion with I Rogerson
CAM/30	A3 DLP map showing geographical originating sites of Inputs to proposed Kiln
CAM/31	A3 DLP map - Survey of Land Uses within 4 km of Castle Cement, Padeswood
CAM/32	News release by Flintshire County Council 8/11/00 - Major Jobs Boots for Flintshire
CAM/33	Flintshire County Council - Letter to members of Council 18/8/00 - Flintshire - Assisted Areas Designation
CAM/34	Newspaper article entitled 'Castle fined after hot-dust accident'
CAM/35	Fax from CC to J. Morris of the EA dated 29/05/00 re: an unauthorised release and including a Schedule 2 Notice
CAM/36	Newspaper Article 'Toxic waste smugglers target Britain' by John Ungood-Thomas
CAM/37	Comments on Draft Planning Conditions on behalf of CANK
CAM/38	Note prepared by Ian Rogerson to answer the question raised by the Assessor on 12th December 2000, to explain the Mass Balances contained in Appendix D to CAM 5 Vol 3
CAM/39	Note from Ian Rogerson on behalf of CANK responding to Document CC/55 submitted by Castle Cement, "Cement Plant Fault Handling Procedures"
CAM/40	Closing Submission
Phoenix's	Documents
PCG/1	Proof of Evidence - Issue 1 - Introduction & Public Concern
PCG/2	Proof of Evidence - Issue 2 - Visual Impact
PCG/3	Proof of Evidence - Issue 3 - Health

PCG/4	Proof of Evidence - Issue 4 - Transport
PCG/5	Proof of Evidence - Issue 5 - Waste
PCG/6	Proof of Evidence - Issue 6 - Employment
PCG/7	Summary Proof of Evidence
PCG/8	Appendix 1.7 - Press Cuttings following Planning Approval "
PCG/9	Appendix 1.6 - Letters from the Public Registered before 2nd February 2000
PCG/10	Appendix 1.29, 1.30 & 1.31- Pollution of Black Brook
PCG/11	Appendix 1.1,1.17, 1.21, 1.22 & 1.25 - Press Evidence of Public Concern
PCG/12	Appendix 1.24, 1.26, 1.27a, 1.27b, 1.28a & 1.28b - Castle Cement Emissions Track Record
PCG/13	Appendix 1.18, 1.19 & 1.20. - Report on the analysis of PCCD/PCDF and heavy metals in footpaths and soil samples related to the Byker Incinerator.
PCG/14	Appendix 1.16 - Nation-wide Public Concern Justified
PCG/15	Appendix 1.14, 1.15 & 1.16 - Letters from Business, Farmers and Food Manufacturers
PCG/16	Appendix 1.12 - Letters & Forms from Residents
PCG/17	Appendix 1.11 & 1.13 - Letters from Residents Groups and Community Councils
PCG/18	Revised Proof of evidence for Transport document PCG/4
PCG/19	The Guardian Nov 2000 - watchdog admits ignorance of incinerator health risks
PCG/20	300 pro-forma letters from residents
PCG/221	478 Call in letters
PCG/22	Letter to Ms. L. Eagle of the Environment Agency dated 27/6/00 re: IPC application
PCG/223	Zone of Visual Influence and AONB Map
PCG/24	Supplementary Information required by Inspector for Zone of Visual Impact and AONB Map
PCG/25	White Horse News, 23/11/00 - Tyre Burning Row (submitted for Flints. Green Party)
PCG/26	Environment Planning & Transport Committee 15/11/00
PCG/27	Official Journal of the European Communities (2000/C 25/02) Nov 1999 including COMA-H Tables, Session Document dated 1st March & updated Directive 2000/76/EC dated 4th December
PCG/28	Hazardous Industry Classification and Implications - Dr. M. Wallis
PCG/29	Figure 2.4 - Percentage of Residents of Working Age with a limiting long term illness by Electoral Ward in Wales
PCG/30	AO Plan to show mine workings and nearby houses (Drwg. Ref. 04/782 la)
PCG/31	Photo showing plume direction changes
PCG/32	Letter from Dr. Roberts to Phoenix
PCG/33	CCW Letter March 1999 - Error in letter on EA Public register
PCG/34	Peak Associates Document (as referred to in PCG/12)
PCG/35	Closing Submission

Flintshire Green Party Documents

FGP/1

1.1	Outline statement
1.2	Report to Planning Committee 2/2/2000
1.3	Final Commentary

FGP/2 (Planning)

2.1	Cement Kilns are totally unsuited to safe incineration of chemical waste E:
2.2	Her Majesty's Inspectorate of Pollution - Letter to Castle Cement dated 13/11/92
2.3	Friend of the Earth - I.P.C. at Castle Cement, Clitheroe
2.4	Letter from Richard C Rogers to Cllr K Armstrong Braun dated 10/8/99
2.5	Meachers cop-out Waste Strategy raises threat of new waste incinerators around UK,

- say Green Party
- 2.6 Letter from Mr. Shone to Cllr. Armstrong-Braun dated 14/2/2000
- 2.7 Final PPC Consultation confirms further delays to phase-in schedule
- 2.8 Recycling of used tyres
- 2.9 Report of Municipal Waste Incineration

FGP/3

- 3.1 Tyndlewoods Bundle

FGPI4 (Waste)

- 4.1
- 4.2 Extracts from Demos "Creating Wealth from Waste"
- 4.3 BBC Panorama: Rubbish
- 4.4 Waste Materials that can be utilised as a fuels source for Cement Kilns (ERA tech Group)
- 4.5 Waste: The Options - Option 4 : Burn it – Incineration

FGP/5 (Waste Disposal)

- 5.1 A Charter for Health Waste Disposal

FGP/6 (Health)

- 6.1 Dr D Van Steenis-- Some Public Health Relevant Issues
- 6.2 Dr D Van Steenis - Report on Assessment of the effect on the health of local residents of burning Cemfuel and other combustible waste.
- 6.3 BBC News Online: Health: Medical Notes
- 6.4 Extract from The Guardian 18/5/00 - Dioxins from waste burning and industry far more dangerous than was thought.
- 6.5 Dioxins in Cement Kilns
- 6.6. Continuous Radiation and Environmental Monitoring System March 2000.
- 6.7 Classification of Carcinogens
- 6.8 Industrial Air Pollution and the Country Doctor
- 6.9 Toxic Detective - Inter-view with Dr D Van Steenis
- 6.10 Anonymous Letter received from Penryffordd Resident on 25th October
- 6.11 HEI Statement - Synopsis of the Particle Epidemiology Re-analysis Project.
- 6.12 Comments on Dr Roberts' Report E

FGP/7 (Legal)

- 7.1 Teletext Information - Page 132 July 29th 2000
- 7.2 The National Assembly for Wales - 31/1/2000. Appeal by Messrs Waste Hygenics - Land at Gaerwen Industrial Estate, Gaerwen, Anglesey
- 7.3 Judgement of the Court of Justice of the European Communities 15/6/2000
- 7.4 Solarec - The Cemfuel Programme
- 7.5 Official Complaint to Trading Standards 10/10/2000
- 7.6 Castle Cement's Judicial Review - Legal standing of the word "Cemfuel"
- 7.7 Environment Agency Wales - Letter dated 23/7/99
- 7.8 Friends of the Earth dated 22./2/99 - Padeswood Fined £6000
- 7.9 Extract of Norton Rose Document - 4 September 2000
- 7.10 Castle Cement/Padeswood Cement Kiln - Review relating to 1999 prosecution
- 7.11 Report by Peak Associates - March 2000

- 7.12 Annex to National Assembly for Wales letter ref PP145-98-001 dated 31st January 2000
- 7.13 Letter to Planning Inspectorate from Flintshire Green Party dated 27/10/2000.
- 7.14 Welsh Office dated 21st December 1992 - Land at Bannel Bridge, Bannel Lane, Buckley
- 7.15 Opencast Coal Act 1958 - applications and Appeal by the British Coal Corporation
- 7.16 Letter from Wales Green Party 12/11/2000
- 7.17 Complaint to European Commission 6/11/2000
- 7.18 Photographs to show problem areas along stream by Castle Cement
- 7.19 Notice of Modification of Waste Management Licence
- 7.20 EA/Inspector Conspiracy Notes
- 7.21 Burning of Hazardous Waste 27/12/2000

FGP/8 (Ms M Horner's Evidence)

- 8.1 Are you prepared to receive your share - Objections to the Planning Application for the New Kiln at Padeswood (published by Mary Homer 17/9/2000)
- 8.2 Okopol - Expertise on the Environmental Risks Associated with the Co-Incineration of Wastes in the Cement Kiln
- 8.3 Objections to the Planning Application for the New Kiln at Padeswood by Castle Cement
- 8.4 Cost in Lives - to Cllr. K. Armstrong Braun dated 07/09/2000
- 8.5 Okopol - Economic evaluation of dust abatement techniques in the European Cement Industry
- 8.6 Supplementary evidence by Ms M V Homer
- 8.7 Video evidence by Ms M V Homer

FGP/9 (General)

- 9.1 Daily Post 2/2/2000 - Incinerator dumped
- 9.2 Sunday Mirror 23n/00 - Incinerators double a child's cancer risk.
- 9.3 The Guardian 1/11/2000 - MP's accuse Whitehall of cover-up on incinerators
- 9.4 The Observer 29/10/00 - Toxic Fumes
- 9.5 Environment Agency Consultation Feed Back,`
- 9.6 Kiln Objections: Facts or Simply Unfounded Fear 1/12/00 Chester Chronicle
- 9.7 Kiln Hazard - 23/11/00 - (Chester) Standard
- 9.8 Kiln Plans are Straight Bananas 24/11/00 - The Chronicle
- 9.9 Kiln Rage - 12/10/00 - Flintshire Mail
- 9.10 New Row Over \$iln Go Ahead - Oct 2000 - Evening Leader
- 9.11 Landscape is not enough - 8/12/00 - The Western Mail ,

FGP/10 (Closing)

- 10.1 Final Submission

Documents of Councillor Ms Mia Jones

- MJ/1 Proof of Evidence
- MJ/2 Appendices to Proof of Evidence
- MJ/3 Summary Proof of Evidence
- MJ/4 Duke of Beaufort, Duke of Westminster & Eaton Hall extract
- MJ/5 Dodleston Ward Surveys (131)

MJ/6 Newspaper Article - Cement Firm Fined £18,000 for accident ,
MJ/7 Letter to Inspector Re: Accompanied Site Visit 31.10.00.
MJ/8 Dodleston Parish Council Minutes - Requested by Inspector during Cross Examination
MJ/9 Closing Submission

Documents of Dodleston & District Parish Council

DPC/1a Proof of Evidence
DPC/1 EPA Workshop Lists Major Sources of Dioxin
DPC/2 Myths and Facts about protecting Human Health and the Environment: The Real Story
about Burning Hazardous Waste in Cement Kilns
DPC/3 Sources of New "Monster" Incinerators planned iF
DPC/4 Why Friends of the Earth opposes Incineration
DPC/5 Health Alert June 14, 1997 w
DPC/6 Incineration, Co-Incineration and Health
DPC/7 EPA Links Dioxin to Cancer - r°
DPC/8 BBC News Online - Dioxins [http://news2.thls.bbc.co.uk/hi/english/health/medical- i""](http://news2.thls.bbc.co.uk/hi/english/health/medical- i)
notes/newsid-35 8000/358889.stm
DPC/9 Dioxin in Breast Milk Raises New Health Concerns
DPC/10 Unravelling the toxicity of dioxins
DPC/11 Draft Guidelines on investing the health impact of emissions to air from local industry:
A Consultation Document.
Air and Noise Pollution Unit, Room 679D, Department of Health, 80 London Road,
London SE16LW
DPC/12 Dioxin cost Belgium almost \$1 bn - <http:Hlists.essential.org/dioxin-1/Msgol0l I.html>
DPC/13 List of substances to be monitored (Normal Local Authority Duty to Review)
DPC/14 List of substances to be monitored (additional to normal duty requirements)
DPCI15 Questionnaires completed by local doctors
DPC/16 Questionnaires completed by local farmers
DPC/17 Closing Statement

Documents of Mr John W . Ellis

JWE/la	Proof of Evidence
JWE/1	Letter from Mr D M Davies - Flintshire County Council
JWE/2	Castle Cement - Environmental Monitoring Document
JWE/3	The Guardian report of 8.2.99, Emission of Cancer causing Chemicals and the Perpetrators
JWE/4	House of commons report, "The Environmental Impact of Cement Manufacture" Environment Committee, 26 February 1997.
JWE/5	The Guardian Report of 23.4.97 on the Performance of the Environment Agency and based on JWE/4 above
JWE/6	Report to the House of Lords on the subject of Waste Incineration by Dr D Van Steenis
JWE/7	House of Commons Report on the Environment Agency published on 3 May 2000, 2 Documents, Evidence and Proceedings
JWE/8	The Guardian Report of 20.5.00 based on JWEn above.
JWE/9	National Assembly Document - Refusing Planning Permission for an Incinerator on Anglesey dated 31 January 2000.
JWE/10	Royal Commission Report on Environmental Pollution
JWE/11	Castle Cement Mail-Shot on the subject of Secondary Liquid Fuel.
JWE/12	Sulphur Dioxide Profile from the Irving Sax, Dangerous Properties of Industrial Chemicals.
JWE/13	North Wales Health Authority Report of 20 December 1999
JWE/14	Dr C V Howard's response to JWE/13
JWE/15	World Health Organisation - Air Quality Report and Guidelines - Europe
JWE/16	EU Dioxin Exposure and Health Data - October 1999
JWE/17	U.S. Environmental Protection Agency Report, Dioxin is a Human Carcinogen.
JWE/18	Bristol Based Planning Inspectorate Letter, Human Rights Act 1998

Documents of Mr J K Shanklin

JKS/1 -	Statement by Mr J K Shanklin, read out at Inquiry on 17/10/00
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Documents Ms L Thomas

LT/1	Statement by Ms LThomas, read out at Inquiry 20/10/00
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F Documents of Mr D N Hughes

DNH/1	Penyfford Residents Liaison Committee 28/3/95 Leeswood Community Council
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Documents of Councillor Carlton Jones

LCC/1	Statement by Councillor Carlton Jones, read out at Inquiry 25/10/00 (evening session)
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Documents of TCC (Wales Broad Based Organisation).

TCC/1	Proof of Evidence by Alan Watson
TCC/2	Appendices to Proof of Evidence by Alan Watson

TCC/3	Appendix 2 - Benefit Analysis Calculations
TCC/4	References from Proof of Evidence by Alan Watson
TCC/5	Statement by Dr. Shah - read out at Inquiry 1/11/00
TCC/6	Closing Submission
TCCf7	IOM Report - Towards assessing and costing the health impacts of ambient particulate air pollution in the UK

Documents of CPRW

CPRW/1 Proof of Evidence of Mr Merfyn Williams

Documents of Councillor D Darlington

DD/1a	Proof of Evidence
DD/1	Tables to show objectors and supporters to the application & summary of figures
DD/2	Letter dated 1/10/00 to Chief Planning Officer & reply dated 13/10/00 from Chief Planning Officer re: Traffic
DD/4	Figures to show HGV vehicles in and out
DD/5	Letter from Welsh Office 21/12/92 & Policies
DD/6	News Release from Flintshire County Council - 8/11/00
DD/7	Press Statement - BAE Systems - Grant Announcement
DD/8	Letter from Flintshire County Council (Chief Executive) 18/8/00 - Flintshire - Assisted Areas designation
DD/9	Graph to show GDP per head
DD/10	Graph to show activity rates (ages 16+)
DD/10a	Unemployment: Local Area Data
DD/11	The Distribution of Deprivation to wards
DD/12	Flintshire Unitary development Plan - Target Growth Bands for Settlements
DD/14	Letter to Mr. T. Allan 15/7/99 requesting information
DD/15	Response to letter DD/14 dated 20/7/99 .
DD/16	Letter to Mr. T. Allan 19/10/00
DD/17	Reply to letter DD/16 dated 5/12/00

Letters from Interested persons

(In blue folders inked accordingly in snort or as an objection to project)

IP/1	Bundle of Letters in Support of the application
IP/2	Bundle of Letters Opposing the application

Correspondence ref- Allegation of Environment Agency/Inspector Conspiracy

EIC/1	Emails regarding allegation of conspiracy (see also FGP.7:20)
EIC/2	Letter from Wake Dyne Lawton - 15/12/00 in response to Emails FGP.7.20)