



Appeal Decisions

Hearing held on 15 & 16 July 2009

Site visit made on 16 July 2009

by **J I McPherson**

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Decision date:
28 August 2009

Appeal A - Ref: APP/Y2736/A/09/2098908

Potato Building, Wombleton Airfield, Wombleton, North Yorkshire, YO62

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Land Energy Limited against the decision of Ryedale District Council.
- The application Ref 08/00303/MFUL, dated 06 March 2008, was refused by notice dated 29 August 2008.
- The development proposed is the change of use of buildings and land from the storage and distribution of potatoes to the manufacture of wood pellets, including an extension, the provision of plant, landscaping, outside storage, internal servicing and alterations to the access.

Appeal B - Ref: APP/Y2736/A/09/2101905

Potato Store, Hungerhill Lane, Wombleton, North Yorkshire, YO62

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Ryedale Potatoes against the decision of Ryedale District Council.
- The application Ref 08/00986/FUL, dated 17 October 2008, was refused by notice dated 05 February 2009.
- The development proposed is to improve the visibility at the entrance to the site, to form a side extension for a potato box store and to form new hard standing areas within the site.

Application for costs

1. At the Hearing an application for costs was made by Ryedale Potatoes against the Ryedale District Council. This application is the subject of a separate Decision.

Decisions

2. I dismiss Appeal A.
3. I dismiss Appeal B.

Appeal A – The Wood Pellet Scheme

The Proposals

4. The appeal site forms part of the old wartime Wombleton Airfield and it contains a large industrial style building of some 3,000m² which is currently used for the storage, sorting and distribution of potatoes. Much of the rest of the site is covered by hard standings, but there is also an earth bund to the south of the building, beyond a part grass and part concrete apron.
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5. The appeal proposal is to change the use of the site to the production of wood pellets that would be used as an alternative to fossil fuels for both domestic and commercial purposes. An open fronted side extension of some 180m² is also proposed.
6. When fully operational, the process would involve sourcing some 30,000 tonnes per annum (tpa) of trees from the commercial and private woodlands in the area and 15,000 tpa of short rotation coppice (SRC), plus 12,000 tpa of forest brash therefore equating to a total input of a little over 45,000 tpa.
7. Tree trunks would be stockpiled on the site and then loaded into the de-barking and chipping machine which would be housed in an underground enclosure in the production area to the south of the existing building. From there, the resultant chippings and bark would be deposited in separate piles for transfer by a front loader into hoppers that would be formed in the floor of the proposed side extension.
8. The bark and forest residue (brash) would be burnt on site in a combined heat and power (CHP) plant to provide both heat and electricity for the whole site, but there would also be a back-up generator.
9. Some of the heat would be used to dry the chips, which would be ground in a two stage process to a fine sawdust, conditioned with water and then moulded into pellets for use as fuel in commercial and domestic heating installations. The plant would produce about 25,000 tpa of finished product, which would leave the site by road; as would the approximately 120 tonnes of ash.
10. The pelletising plant, CHP plant and the ancillary equipment, such as the standby generator would all be housed within the western end of the existing building. They would operate 24 hours a day, seven days a week, except for an anticipated three week maintenance shutdown in the summer and about a one week shutdown in the winter. With the available storage capacity, the external deliveries, collections, de-barking and chipping operations would be carried out only between 08:00 and 17:00 hours on Mondays to Fridays.
11. The current access would be improved by increasing the visibility to the south. Cars would park on the north side of the building, thereby allowing pedestrians to enter the proposed offices at the front. The materials delivery vehicles would enter the production area over a weighbridge to the south of the building, and the finished product would exit the same way.

Main Issues

12. The main issues in this appeal relate to the landscape impact of the development, highway safety considerations, the noise likely to be generated, tourism and employment, emissions to the air, as well as renewable energy, sustainability, alternatives sites and other uses of the appeal site.

Development Plan

13. The Development Plan for the area includes the Yorkshire and Humber Plan - RSS to 2026 and the saved policies of the Ryedale Local Plan - March 2002.

Reasons

Landscape Impact

14. The appeal site is some 1km to the south of the centre of Wombledon Village. It is surrounded by open countryside where the normal policies to protect the appearance of the countryside apply. However, this scheme would re-use this large existing rural building (with a relatively minor side extension) for a business use, as advocated by Local Plan Policies EMP11 and AG5.
15. Nevertheless, there would be some increased impacts on the appearance of the area. The opening up of the visibility splay to the south and the new access arrangements with their stockade fencing and gates, together with the proposed reception and office area with their new doors, windows and signage would all introduce a more commercial appearance to the front of the site and would be clearly seen from the road. The incoming logs would be stockpiled up to about 4m high just inside the gates and, although piles of logs may be akin to forestry operations in the countryside, in this case they would draw further attention to the business use of the site. Although further from the road, so would the sizeable piles of chipped wood and bark and their respective conveyors. The relatively small lean-to extension to the building would continue the roof slope down and would not be particularly obtrusive.
16. As originally proposed there would be a chimney protruding nearly 6m from the roof, and the Appellants accepted that the water vapour plume from it would be visible at air temperatures below about 10⁰C, which in North Yorkshire could be a significant proportion of the time. This would further attract attention to the nature of the business. However, at the hearing, it was suggested that a condenser could be fitted that would reduce the dew point, and thereby prevent the formation of a vapour plume above approximately -5⁰C. If this were the case, the chimney would be replaced by a louvered outlet on the roof which would probably be about 2m high. At the site visit, it was suggested that the present air exhaust structure on the western end of the roof might be adapted for this purpose.
17. The significant quantities of stone that have already been brought onto the site would be used in the construction works. The surplus soil would be used to extend the existing earth bund at the south, which would partially wrap around the western end of the site. This new bund could of course be planted, and the revised 'red line plan' also makes provision for a strip of landscape planting further out to the north west, in the general direction of the residential property at Cote Garth. This latter landscaping would be some way beyond, but cross the line of, one of the old runways which is still in use by light aircraft. Bearing in mind the extent of the runway, which was used during World War II by Halifax bombers, I very much doubt if the proposed planting some distance beyond the end of the runway would materially affect its use by light aircraft. But in any case, as suggested at the hearing, a gap could be left in the planting in line with the end of the runway. With or without this gap, there would be continuing views of the building and some of the production area for a long time to come from the more elevated view point on the road close to Cote Garth. Although at a distance of some 500m, the on-site operations with their associated plant and vehicle movements would be apparent from this location. There would be virtually no effect when viewed

from the Wombleton Caravan Park about 400m to the south west, even if standing on the edge of the airfield outside the caravan park's perimeter tree screen.

18. In summary therefore, there would be harm to the appearance of the area when viewed from the highway just outside the site, and also from near Cote Garth. In this respect the scheme would be contrary to Local Plan Policy AG5(v) and to national planning policy in PPS7.

Highway Safety

19. It is estimated that about 80% of the trees would come from within a 27 km (17 mile) radius and the rest from within 53 km (33 miles). The SRC, brashings, and possibly miscanthus grass in the future, would be more likely to come by tractor and trailer from the closer locations, but that there are no definitive sources so both the HGV and the tractor and trailer traffic could most conveniently access the site from practically any direction.
20. From the north, the most direct access from the main A170 would be through either Wombleton Village or Welburn Village, or possibly through Harome Village. From the B1257 to the south, the most direct routes would be through Nunnington Village, or alternatively through Slingsby and Muscoates. As the Highway Authority, North Yorkshire County Council says, these are all typical rural lanes which in many cases have unrestrained edges and poor vertical and horizontal alignments significantly below the current standards. There are also sections with limited carriageway widths and sharp bends, together with reduced visibility at junctions. There are however no traffic restriction orders in place on the relevant roads.
21. The Appellants acknowledged the general unsuitability of the highway network in general and proposed to restrict all HGV and tractor and trailer traffic to just one route from the site to the A170 at Welburn Cross Roads. This would be via Hungerhill Lane, Wash Beck Lane, Flatts Lane and Back Lane, therefore avoiding the more direct route through Wombleton Village. Along this route they proposed to carry out some road improvements that would be required through a planning condition intended to preclude operation of the site until these works had been completed. They envisaged enforcement of the route through a Section 106 unilateral planning obligation.
22. Whilst planning conditions cannot fetter the free use of the public highway by HGVs, or any other class of vehicle, legal obligations are sometimes used for this purpose, for instance with minerals or waste developments, and they are recognised in MPS2. In order to ensure a particular route is used, the person or body bound by the legal undertaking must of course have adequate control over the operation of the vehicles in question. In this case, all large vehicles coming to and from the site would be under a contract to the operator of the site.
23. The finalised Section 106 unilateral obligation defines the operator as Land Energy Ltd, the appellants, and their successors, and it requires them to comply with, and enforce, the appended Drivers' Code, or any variation agreed with the Council. Furthermore any cumulative code breach would require termination of the haulier's contract, and the term 'cumulative code breach' is defined in terms of the Drivers' Code. Among other things, the Drivers' Code

- requires all drivers of commercial vehicles visiting the site to adhere to the prescribed route which is shown on a plan and it also sets out an enforcement procedure. Accordingly, and despite the Council's contrary view, I consider the undertaking is sufficiently detailed and would provide the necessary safeguards to be satisfied that drivers would very likely follow the prescribed route.
24. The Appellants' Transport Statement gives the number of vehicles visiting the site during its 48 weeks of operation a year as 2,988 HGVs, 2,071 tractors and trailers and 3,500 cars; but these figures need to be doubled to give the number of vehicle movements on the highway. On average therefore, there would be some 25 HGV movements per day, 17 tractor and trailer movements per day and 29 car movements per day, although during the conditions session, it was indicated that at certain peak periods the HGV and tractor and trailer numbers might well increase to double the average, or more. In this connection, I see no reason to consider any major increases in production capacity on the site because the plant would be sized for the proposed throughput and planning permission would be required for any significant changes.
25. Whilst the anticipated average HGV movements might well be only about 3 or 4 per hour, taking into account also the tractors and trailers, and the peak traffic flows, there would be periods of significantly greater traffic generation.
26. The proposed route to Welburn Crossroads is not markedly different from the rest of the roads in the immediate area. For instance HGV's could not turn from Hungerhill Lane into Washbeck Lane if there were other vehicles waiting to turn right towards Wombledon. There is also restricted visibility in both directions for vehicles turning from Wash Beck Lane into Flatts Lane, and also limited visibility to the south at the junction with Back Lane. Large vehicles waiting on the A170 to turn right into Back Lane at the Welburn Crossroads would also obstruct the free flow of traffic on this fast section of A road. Although there are no detailed measurements, there are certainly a number of sections along this approximately 2.4 km (1.5 mile) route where the road widths would not permit the free passing of two HGV's, eg widths of less than 5.5m on some straight sections. Part of the proposed route is used by a regular double decker bus service, and there are no records of personal injury accidents except at Welburn Crossroads, though on examination the latter are not particularly relevant. Even so, as it stands, I consider the route to be unsuitable for the anticipated traffic movements from the development which would therefore be likely to harm highway safety, contrary to Local Plan Policies AG5(iv) and T3.
27. The Appellants proposed the formation of some additional passing places within highway land along the route. From the indicative plan, it seems that there would not be intervisibility between these sites in all cases, but they have not been fully detailed and there were still suggestions for changes during the site visit. The Appellants also proposed improving the width of the Back Lane carriageway at the Welburn Crossroads sufficiently to allow one large vehicle to enter whilst another waited to exit. Once these proposals had been properly worked up, it may be that the resulting route would be adequate to avoid undue harm to highway safety, but I am not satisfied with the proposals at present, and they are far too imprecise to be required through a Grampian-Style planning condition.

28. I have reached the above conclusions on the information before me relating to the appeal proposal itself. The Appellants also referred to the traffic generated by the site in its former potato storage and processing use, together with that from the other claimed uses that operated from the site. It is clear that the potato use has not been fully operational for some time and it seems that the other pig rearing, agricultural contracting and straw storage uses have come and gone. If however the appellants' traffic generation figures are accepted, on its own, the potato use would have produced less traffic than the proposed use, and I am far from convinced that the greater traffic generation from all the combined uses ever occurred at the same time. I do not therefore consider the past traffic generation very helpful to my consideration of the appeal proposal, although I do acknowledge that the latter would create an opportunity to control traffic flows along some of the less desirable routes to the site.

Noise

29. Noise would be generated in the outside production area from the delivery and collection lorries and from the tractors and trailers bringing in brash and SRC from the local area. There would also be a front loader to move the wood, the chips and the bark. The de-barker/chipper would be housed in a below ground 'bunker' with a reinforced concrete roof; the logs being dropped into the feed hopper. The screw conveyors delivering the chipped wood and the bark should be quite quiet.
30. There was no internal layout of the building showing the proposed plant. However, it was explained at the hearing, that it was intended that the main processing plant would all be located in the western 'third' of the building, the finished product would be transferred by conveyor to the eastern 'third', behind the proposed office and storage area, and the centre 'third' would be used for the loading of the finished product into HGVs for delivery to the customers. During the hearing, it was suggested that the collection HGVs could avoid reversing whilst on the site, and so avoid the operation of their reversing beepers, by coming in through the eastern door in the southern wall of the centre section of the building and exiting by the western door on the same side. On site however, it was suggested that it would be more operationally efficient for the collection vehicles to drive round the western end of the building and enter through the north door so that, after loading, they could drive straight out of the opposite door on the southern side.
31. Indicative sound power levels have been identified for most of the noise sources inside and outside the building, although in some cases a value has been assumed and the plant would have to be designed to meet it. The assessment was also based on the originally proposed vent stack and not the possible louvered outlet from a condensing system discussed at the hearing.
32. The noise assessment calculated the noise levels at Cote Garth as 23-24 dBLA_{eq} (1-hour) during the working day and 19 dBLA_{eq} (continuous) at night, when there would be no outside working. These values assumed a distance of 600m to Cote Garth, which is about right from the centre of noise generation, but they also assumed a 10dBA reduction for predominantly soft ground absorption, as advocated in the Department for Transport advice on road traffic noise for a noise source about 1.5m above ground level. Whilst much of the noise may come

from the bottom part of the building, the roof is more like 6m high and that is where the stack or louvered outlet, and its related noise source, would be. Allowing for this, the revised reduction would be more like 6.6 dBA if the centre of the noise were at a height of 5m above ground. Furthermore, no allowance had been made for the fact that Cote Garth stands on ground that is about 10m higher than the appeal site. It would have been highly preferable for all these values to have been settled in technical discussions before the hearing but, on the basis of what I heard, it seems likely that the noise levels at Cote Garth from the proposed development would be about 28-29dBLA_{eq (1-hour)} during the working day and a perhaps about 23 or 24dBLA_{eq (continuous)} at night. In comparison, the un-challenged background levels were measured as 32.8dBAL₉₀ during the daytime and 22.4dBAL₉₀ at night.

33. The normal method of assessing such industrial sounds is set out in BS4142 where it says that complaints are unlikely if the new sound is less than 3dBA above the background. However the BS also cautions that this cannot be safely applied with background levels below about 35dBA, as in this case. A further guide may be taken from the 30dBLA_{eq} quoted in BS8233 as providing good sleeping conditions. Even with an open window, inside a bedroom there would be a further 10-15dBA reduction. I therefore consider both the day and night noise levels would be acceptable at Cote Garth, providing there was no undue tonal element; a matter on which I have scant information.
34. Whilst the noise assessment concentrated particularly on Cote Garth, the Wombleton Caravan Park comes to within about 400m of the centre of noise generation. By adapting the Cote Garth sound levels during the hearing, I concluded that the daytime noise level would be perhaps a little over 30dBLA_{eq (1-hour)}, which is just about the measured daytime level. The measured background noise demonstrates that this is a quiet site, but even when only some of the 100 or more caravan and tent pitches are occupied, there would still be a significant bustle of activity and I do not consider the noise from the development would be very noticeable, especially taking into account the use of the intervening runway by light aircraft.
35. By the same adaptation process, I came to the view that the night time noise level at this edge of the park, where the tents are, would probably be about 22dBAL₉₀. Neither the boundary tree screen nor the fabric of the tents would provide any material attenuation so that figure should be compared with the measured background night time noise level of 21.2dBAL₉₀. Adding one sound to another of the same magnitude is likely to raise the total by about 3dBA, but that would still be well below both the 30dBA advised in BS8233 for good sleeping conditions and the World Health Organisation's recommended level.
36. Nevertheless, I am still concerned about the likely tonal quality of the sound which could add significantly to the impact at the caravan site. There is no information on the tonal quality of the fixed plant, although it was suggested at the hearing that the reversing 'bleepers' on the front loader, and any other mobile plant, could be of the 'white noise' variety, from which the sound does not carry very far. I am far from convinced that the normal reversing beepers on contractors' HGVs and tractors and trailers would be of the same 'white noise' type and, although with the proposed one way system, the HGVs should normally be able to avoid reversing, I have my doubts if that would always be

the case. I also suspect that the tractor and trailer units would probably need to reverse to unload their SRC and brash.

37. The possibility of attaching suitable conditions to a planning permission in order to prevent undue harm from noise was considered at the hearing. Because the noise from the site may well be below that of the background at the noise sensitive locations, it would not be possible to measure it directly. As an alternative, noise limits that would adequately protect these locations could be set at closer locations. In this case, at the site visit, the appellants suggested a daytime limit of 27 $\text{dBAL}_{\text{Aeq}}(1 \text{ hr})$ and a night time limit of 16 $\text{dBAL}_{\text{Aeq}}(5 \text{ min})$ at a point on the site boundary in line with the caravan park. I have no doubt that such limits would indeed protect the noise sensitive locations but, being below all the measured background levels that I have seen for the area, I conclude that they too would be unmeasurable. I am also most concerned that these proposed limits would be significantly below those previously anticipated by the appellants some considerable distance further away from the site, yet there was no explanation of how they would be met.
38. The existing generator used in connection with the potato business is sited on the north side of the building with virtually no acoustic attenuation and its noise has, in the past, caused complaints from the Wombleton Village residents. This generator would be replaced with one sited within the acoustic envelope of the building and the village would mostly be shielded by the building itself from noise generated in the production area. If, as suggested at a very late stage, the HGVs collecting the finished product were to drive round and enter the building from the north, that would introduce more noise on the side nearest the village. To guard against undue effects, it was suggested during the site visit that a condition could be attached using the same noise levels as on the boundary in line with the caravan site, but at a point on Hungerhill Lane opposite the northern extremity of the site. Whilst such values would undoubtedly protect the amenities of the village residents, as discussed above, they would be unmeasurable and therefore not practicable.
39. In both cases, it was suggested that a condition should require no overall tonal spike in the noise, as defined by no octave band or third octave frequency (measured in $\text{dBL}_{\text{eq}}(5 \text{ min})$) exceeding the adjacent one by more than 10 dBA. Such a condition might well control the tonal qualities of the noise but it would be impractical if, as outlined above, the values cannot be measured.
40. With the piecemeal development of the scheme even during the hearing, I am far from satisfied that the true noise levels have been adequately determined. The assumed plant and the proposed operating procedures have changed since the original noise assessment and I have no evidence to show how the appellants could reasonably be expected to meet the noise levels they themselves suggested for the boundary of the site. I conclude that there is still the prospect of undue noise disturbance, particularly to the occupants of the caravan park, contrary to Local Plan Policy AG5(iv) and to national planning policy set out in PPG24.

Tourism and Employment

41. In line with national planning policy, Policies YH1 and E1 of the RSS encourage continued growth of the regional economy, and Policy E6 advocates sustainable tourism.
42. The appeal proposal would generate about 10 or 12 full time jobs and in both the Yorkshire and Humber Region, and in Ryedale District, unemployment has risen substantially in the last year or two. However, it seems that the former potato use, together with the other activities operated from the site, used to generate very comparable numbers of jobs.
43. It is clear that any material effect upon the present quiet camping conditions at the Wombleton Caravan Park could reduce the numbers of visitors, thereby harming the tourist industry as a whole, and at the same time the local economy which is supported in part by these visitors. As indicated above, I am not sufficiently convinced that the proposal would avoid creating such harmful noise impacts.

Emissions

44. The pellet producing process is one of the prescribed processes covered by Local Authority Pollution Prevention and Control (LAPPC) under the Environmental Permitting (England and Wales) Regulations 2007. As such the associated CHP plant would also be covered. All the emissions to air from the proposed scheme, apart from water vapour, would therefore require permitting by the Local Authority. Despite the advice in paragraph 2 of PPS23 that consideration should be given to submitting parallel applications for planning permission and pollution control permits, no such application has been made. The same paragraph says that controls under the planning and pollution control regimes should complement, rather than duplicate, each other. In this case, I see no reason why the emissions to air should not be left to the permitting authority.
45. That leaves the discharge of water vapour for assessment at this stage. I have already considered the prospective vapour plume in connection with the appearance of the area, and this could be largely suppressed by the much greater proportion of air flowing through a condenser. But the same overall quantity of water vapour would still have to be discharged from the louvered outlet on the roof and it was suggested that, under certain atmospheric conditions, this could form a horizontal cloud that would obscure visibility for pilots landing light aircraft on the adjoining runway. I have no details of the conditions necessary for this temperature inversion to occur, but it seems to me that on the few occasions when it might happen, the volume of water from the site is unlikely to form a sufficiently high proportion in the atmosphere to greatly affect the local climatic conditions.

Renewable Energy, Sustainability and Alternative Sites

46. National policy is to increase the proportion of energy from renewable sources and PPS22 strongly supports such an approach. The annex on wood fuel notes that wood is regarded as CO₂ neutral because the CO₂ produced in combustion is recycled. In any case, the full 25,000 tpa output of the plant would be

equivalent to some 12.5million tonnes of heating oil but, when burnt, it would produce only about 20% of the equivalent CO₂.

47. At paragraph 24 of the PPS, it notes the need to transport biomass crops and advises that generation plants should be located in as close proximity as possible to the identified sources of the fuel. This advice seems to me just as appropriate in the production of wood pellets as for the direct burning of biomass for energy production in the CHP plant.
48. As already noted, there is no specific source of the trees, SRC, brashings or miscanthus for this scheme, but the appellants have carried out their own assessment of the availability of these various raw materials from the surrounding area and concluded that there would be an adequate supply within a radius of 53 km (33 miles), with a large majority coming from within 27 km (17 miles). Simply looking at the Ordnance Survey map shows considerable areas of woodland within these distances in most directions. It may be that not all these woodlands are suitable for exploitation, for instance if they happen to be ancient woodlands or are on inaccessible sites, but I see no reason to doubt the Appellants' claim that an adequate supply could not be sourced locally. In addition, I note that the Forestry Commission has also indicated that nationally there are something like 2M tonnes of additional timber that could be utilised every year.
49. The annex to PPS 22 comments that the raw material is usually converted into wood chips before use as a fuel, but I accept the point made on behalf of the Appellants that the use of chips can lead to moisture content and handling difficulties, particularly in smaller installations. I do not therefore consider it unsustainable to process the material further into pellets, which do not have these drawbacks.
50. The total input of about 45,000 tpa of raw material would produce only about 25,000 tonnes of pellets, which themselves would occupy a proportionately smaller volume, and therefore require less vehicle movements for transport to the end users. It must therefore be more sustainable to process the raw materials close to their source, rather than to do so close to their use. Although the Appellants cited no back-up for their figures, they did indicate that their production could be used within not too great a distance of the site, and they should at least have some 'feel' for the market, as they currently operate one plant in Wales and have planning permission for two more.
51. There is normally no requirement in planning law to seek out and compare alternative sites unless only one such development can reasonably be permitted in a particular area, eg by policy motorway service areas can generally only be sited at certain distances apart. I am not convinced that this is such a case, and at least the appeal site is brownfield land where PPS22 encourages renewable energy developments to be sited.
52. I therefore conclude that the proposal would comply with Policy ENV5 of the RSS which encourages more renewable energy capacity. Local Plan Policy RE3 deals with combustion plants for electricity generation, but in my view the CHP plant is simply a subsidiary element of the overall proposal which is, in reality, for the production of wood pellets.

Other Uses

53. Some concern was raised at the hearing about the possible consequences of allowing this development if it should subsequently lead to a different use of the site, with greater environmental impacts. I have considered the impacts of the scheme that is before me. I have not identified its use class, which was variously canvassed as B2 or sui generis. That would be a matter for a later determination should the need arise but, in any case, the intention of the Use Classes Order is to allow similar, but different, business users to operate without the need for planning permission on the assumption that similar uses would have similar impacts. I do not therefore find this a convincing argument against allowing the appeal.

Other Matters

54. Having seen the grassland and concrete surrounding the existing building, I can well see why Natural England considered there to be no material wildlife concerns, with which I agree. Similarly, there has been a desk study into contaminated land which raised no concerns, and again I see no reason to disagree.
55. If the heavy vehicle traffic to and from the site were via the proposed route it would not pass through the Wombleton Village Conservation Area and its listed buildings. I therefore see no other reason for either to be affected. Fire safety is a matter for later consideration under Building Regulations, no doubt in conjunction with the local fire service.

Conclusions

56. The scheme would comply with national and local policies on renewable energy and sustainability, and the emissions to the air would be controlled under the LAPPC regime. There would however be harm to the appearance of the surrounding countryside, and the mitigation measures to prevent highway safety hazards are not adequately detailed for full consideration. Likewise, the evolving nature of the scheme did not give me sufficiently reliable evidence on the issue of noise, which could still cause unacceptable conditions for nearby holidaymakers and lead to other harmful effects for the tourist industry.
57. For these reasons, I conclude that Appeal A should be dismissed.

Appeal B – The Improved Access Scheme

The Appeal Proposals

58. The application leading to Appeal B relates to more or less the same site as Appeal A and it has three elements, namely:-
- improvements to the access,
 - the erection of a side extension to the main building, and
 - the removal of five presently grassed areas within the concrete apron and their surfacing with the stone that is already stockpiled on the site.
59. The proposed side extension was however withdrawn before consideration by the Council so I will determine the appeal on the basis of just the two remaining elements.

60. This appeal assumes the continued lawful use of the site for the storage and distribution of potatoes.

Main Issues

61. The main issues in this appeal relate to highway safety, the appearance of the area and the amenities of the nearby residents.

Reasons

Highway Safety

62. The proposed access improvements include reducing the present boundary hedge to a maximum height of 0.9m both to the north and south of the present access onto Hungerhill Lane. Both a new post and wire fence and a new hedge would be provided further into the site, thereby increasing the visibility splays in both directions. Once the new hedge had reached about 1.8m the original one would be removed.

63. As described under Appeal A, Hungerhill Lane is a rural road, subject only to the national speed limit of 60mph for a single carriageway. In practice a speed survey showed 85%ile traffic speeds of 54.4 mph northbound and 52.8 mph southbound for which the 'Y' distance for the visibility splays should be 169m and 160m respectively. In agreement with the County Council as Highway Authority, the 'X' distance can be taken as 2.4m. The northern visibility splay is already available without the need to remove the present hedgerow, but the southern one is not. Nevertheless, there is a considerable visibility distance to the south and, with no accident record from the previous use of the site, the Highway Authority has not requested any improvements.

64. I see no particular highway safety benefits in improving even further the northern visibility splay. There would however be some benefits in improving the southern splay to provide a safe access to the local highway network, as sought by Policy T3 of the Ryedale Local Plan, but that is subject to the works not being 'detrimental to the rural character of the District'.

Appearance of the area

65. Increasing the visibility splays at the access would increase the area of open land beside the highway which would give it a more urban feel than the current rural character of the lane. At least for a period, the reduced height of the existing hedge and the post and wire fence would also reduce the screening effect for the on site operations. These access improvements would therefore have a detrimental effect on the appearance of the area.

66. Within the site itself, the sizeable grass 'lozenges' significantly reduce the visual impact of the large areas of wartime concrete. Views of these areas are mainly limited to views from the highway through the access but, if the front hedge were reduced in height as proposed, they would become much more apparent, at least for a time.

67. Bearing in mind the very limited highway safety benefits of the access works it would be possible to dismiss that element of the appeal and limit the visual envelope of the grassed areas on which it is proposed to lay stone.

68. Stoning the present grassed areas would firstly involve excavating considerable volumes of material which it is proposed to place on the inside of the earth bund that runs along the southern side of the site, without increasing its height. The sections on the submitted plan give an idea of the areas of the bank that would be covered and therefore denuded of the existing established vegetation.
69. Thereafter the approximately 2,500 tonnes of stone that is already stockpiled on the site would have to be crushed to a workable size and then placed in the excavations. This would result in a very substantial area of 'industrial looking yard' all round the existing 3,000m² building, thereby increasing the unsympathetic appearance of the present development in the countryside.
70. Accordingly, even without the access improvements, I consider the proposed stoning of the current grassed areas would be harmful to the appearance of the surrounding area. In this connection, Local Plan Policy SG5(v) seeks to avoid harm to the appearance of the area, very much in line with the aims of national planning policy to protect the appearance of the countryside set out in PPS7.

Residential Amenity

71. The plant necessary to carry out the excavations, stone crushing and placing would all make significant noise. The Council suggested a condition that would prevent audible noise at the site boundary outside the working day. Whilst acknowledging that the complete work may be possible in little more than a week, I consider suitable noise limits would still be necessary, even during the working day, in order to prevent undue disturbance, for instance at the Wombleton Caravan Park where, as noted in Appeal A, the background noise levels are very low.
72. If the stone is to be crushed, particular care would be needed to avoid undue dust emissions from the site but, with adequate precautions, that should be possible.

Other Matters

73. The Appellant explained that he had been seeking a source of stone to infill the grassed areas for some time and that he took the opportunity to acquire the currently stockpiled material when it became available from other development sites in the area. He argued that stoning the grassed areas would make the manoeuvring of HGVs in and out of the building as part of the potato business operations much easier. Whilst it might improve the access, the business has apparently operated for years and I am not convinced of any pressing need at present for such increased manoeuvring space.
74. In the absence of planning permission for the stoning operations, the Council is likely to pursue enforcement action to have the stockpiled stone removed from the site. This would clearly require a significant number of HGV trips to some other location and, as detailed in my consideration of Appeal A, the immediately surrounding highway network is far from suitable for such vehicles. However, that could be a controlled one-off operation and, once complete, the appearance of the countryside would be preserved.

Conclusions

75. There would be very little highway safety benefit from the access improvements but, if carried out, they would harm the appearance of the area, at least for a while. With or without the access works, stoning the present grassed areas would denude the southern bund of its established vegetation for a period and also create a much larger industrial-style yard around the existing building, thereby also harming the appearance of the area. Proper sound levels are also required in order to set an appropriate daytime noise limit to protect residential amenity in the area. Against these considerations, I see no material benefit to the lawful use of the site in stoning the proposed areas the possible need to remove the stone off-site could be managed without greatly harming highway safety.
76. For the reasons given above, I conclude that the appeal should be dismissed.

J I McPherson
INSPECTOR

GENERAL DOCUMENTS

- G1 Letter of Notification and the List of the Persons Notified
G2 Attendance Sheets for 15 & 16 July 2009

APPEAL A – PELLET SCHEME DOCUMENTS

- A1 **Appellant's Bundle of Appeal Documents**
1. Planning Application and Original Site Location Plan
 2. Decision Notice and Committee Report
 3. Covering Letter & Revised Site Location Plan
 4. Report on Community Involvement
 5. Policies on Renewable Energy and Climate Change
 6. Noise Assessment
 7. Further Noise Comments
 8. Transport Assessment
 9. Further Traffic Information inc draft S106 etc
 10. Design Intent Statement
 11. Revised Design Intent Statement
 12. Design & Access Statement
 13. Report on Biodiversity
 14. Correspondence with the Environment Agency
 15. Report by Gammel Engineering on the Proposed Development
 16. 2 Artist's Impressions of the Site
 17. Comparison of Propose and Existing Traffic
 18. Committee Report and Decision re Site Access Application
 19. Regional Site Context
 20. Planning Permission for Existing Potato Store (7 Sept 1994)
- A2 Application Plans
- | | | |
|-----------------------|-------------|---------------|
| 1. Location Plan | LAN 095.1 | (in doc A1.1) |
| 2. Details - Existing | 2-0010EP002 | A |
| 3. Details - Existing | 2-0010EP003 | A |

	4. Proposed Site Plan	2-0010PP001D	B
	5. Proposed Main Production Area	2-0010PP002	A
	6. Plan - Proposed Office Layout	2-0010PP003	A
	7. Proposed Site Elevations	2-0010PP004	A
	8. Proposed Weighbridge, Berm and Wood Processor	2-0010PP005	A
	9. Proposed Site Entrance	2-0010PP006D	B
	10. Details - Existing	2-0010EP001	A
A3	Revised Red Line Plan – LAN 095.1 dated 07/05/08		
A4	Copies of Relevant Development Plan Policies		
	RSS Policy YH1 – Overall Approach		
	RSS Policy YH2 – Climate Change and Resource Use		
	RSS Policy YH3 – Working Together		
	RSS Policy YH6 – Local Service Centres and Rural and Coastal Areas		
	RSS Policy YH7 – Location of Development		
	RSS Policy E1 – Successful and Competitive Regional Economy		
	RSS Policy E5 – Safeguarding Employment Land		
	RSS Policy E6 – Sustainable Tourism		
	RSS Policy E7 – Rural Economy		
	RSS Policy ENV5 – Energy		
	RSS ENV6 – Forestry, Trees and Woodlands		
	LP Policy AG4 – Farm Diversification		
	LP Policy AG5 – Re-use of Rural Buildings		
	LP Policy EMP10 – Small Industrial/Business Developments within Settlements		
	LP Policy EMP11 – Industrial/Business Developments in the Countryside		
	LP Policy ENV6 – Tree Preservation Orders		
	LP Policy ENV7 – Landscaping		
	LP Policy T3 – Access to the Local Highway Network		
	LP Policy T4 – Accesses onto 'A' Roads		
	LP Policy RE3 – Combustion Plants for Electricity Generation from Burning Crop Residues.		
A5	1. Permission for 16 Timber Clad Static Holiday Units at Fosters Scrapyard		
	2. Permission for the retention of 118 caravan pitches etc at Wombleton Caravan Park		
A6	Highway Authority's Comments on the Appellant's Transport Statement		
A7	Appellants' summary of the data in the Transport Statement		
A8	Photos of Timber Delivery HGV on the Local Road Network		
A9	Comparison of Previous and Proposed Vehicle Movements by Dr Walker		
A10	Sustainability Presentation by Dr Doyle		
A11	Council's Summary of Permitting etc Requirements		
A12	Letter from HSE to Mr Lane		
A13	Draft Section 106 Obligation		
A14	Appeal Decision A/06/2017543		
A15	Statement from the Appellants about the Enforceability of and the Changes to be made to the S 106 Obligation		

- A16 Council's Suggested Conditions
- A17 Council's further Suggested Conditions
- A18 Plan marked at Site Visit with possible Noise Monitoring Locations

APPEAL B – ACCESS SCHEME

DOCUMENTS

- 1 Application Plans
 - 1. Site Location Plan
 - 2. Improvements to the Site 2008-9-28 Site Plan
Entrance, Lean-to Extension
and Stone Infilling
 - 3. Ditto 2008-9-28 Building
- 2 Written Costs Application by the Appellants
- 3 Written Costs Response by the Council
- 4 Contaminated Land Desk Study