

Item Number: 8
Application No: 14/01073/MFUL
Parish: Sand Hutton Parish Council
Appn. Type: Full Application Major
Applicant: JFS Gravel Pit Farm Biogas Ltd
Proposal: Installation of an anaerobic digestion and combined heat and power plant to include 3 no. tanks, ancillary structures, silage clamps and digestate storage lagoon (resubmission of application ref 14/00709/MFUL previously submitted)
Location: Gravel Pit Farm Sand Hutton Malton YO41 1LN

Registration Date: 30 September 2014
8/13 Wk Expiry Date: 30 December 2014
Overall Expiry Date: 4 February 2015
Case Officer: Alan Hunter **Ext:** Ext 276

CONSULTATIONS:

Head Of Planning Services - NYCC No comments to make in respect of this application
NY Highways & Transportation No objections - recommends conditions
Health And Safety Executive Does not advise, on safety grounds, against the granting of planing permission in this case

Neighbouring Parish Council
Parish Council Objection
NY Highways & Transportation Insufficient information provided - details of further information that is required.

Countryside Officer No objection
Environmental Health Officer No objection subject to conditions
Tree & Landscape Officer Details acceptable
Sustainable Places Team (Yorkshire Area) No Objection
Land Use Planning No comments required
Northern Gas Networks No objection - but comments made
Highways Agency (Leeds)
Highways North Yorkshire

Neighbour responses: Mr Paul McLaughlin, Ms Helen Wood, Mrs LA & Dr KP Lewis, Mr Allen Warren, Mr & Mrs T & S Sykes, Ms Ann Wild, Mr Oliver Blake, Ms Karen Holbrook, Mr Paul Pacitto, Mrs Marianne Miller, Lynne Pearce, Mr Pete Tidball, Mr Peter Stott, Mr michael young, Mrs S A Field, Cllr Clare Wood, Mr R Field, Mrs Helen Lyall, Mr Graham Nigel Baker, Dr Robert And Mrs Caroline Docherty, Mr Nigel Davies, Mr & Mrs K A Freeman, Dr Ian Lyall, Ms Rachael Sutcliffe, Mrs P Fenwick, Mrs Fiona Davies, Mr Charlie & Mrs Michelle Kimmings, Mr/Ms R F Pearce, Mr Alan Black, Mr/Ms B Lumley-Holmes, Mr David Black, Mrs Rosie_Mr.Robert Wilson_Thornton, Mr Richard Steele, Ms Valerie Smith, Mr Brian Atkinson, Ms B J Skiba, Mr philip moss, Mr Colin Garner, Mrs sara esler, Mr & Mrs D Jones, Mr Richard Rycroft, Mrs Justine Fisher, Ms Kathryn Barber, Mrs Gillian Moss, Mr T H Fenwick, Mr & Mrs Burrows, Mrs Ellen Stott, Mrs Vivien Tidball, Mr Mark Shepherd, Mr & Mrs R Miers, Mr/Ms J R Tennant, Mr John Short, Ms Amanda Steels, Mrs christine pacitto, Mr/Ms E A

White, Mrs Suan And Mr Norman Maitland, Mrs Jackie
Argyle, Mr Alastair Firth, Mr Philip Fisher, Dr Phillip
Orton, Mr M Pote, Ms Christine Keller, Mr Ian Scothern,

SITE:

Gravel Pit Farm is located just over 1km west of Sand Hutton and the supporting information to the application states that the application site is part of a collection of farms comprising a holding of some 5,250 acres spread across various sites in the North Yorkshire area. Gravel Pit Farm itself has 800 acres of arable land. The Applicant indicates that there are currently circa 1,900 head of cattle across the holding, with circa 200 currently at Gravel Pit Farm. It is indicated that the difference between the number of cattle at Gravel Pit Farm and the scale of the arable holding means that cattle manure is currently imported where it is used on the land as a fertiliser. The land is used predominately for grain and root crop, hay and silage.

The application site itself is located on a field immediately west of the farmstead. The site extends to 4.37ha and is bounded to the south, east and west by dense conifer plantation. The farm is currently accessed by a farm track from the road which links the A64 to Sand Hutton.

The surrounding area is predominately agricultural, with the farmstead being located approximately 1km from the A64. Less than 1km to the south-west of the farm is the Sand Hutton Applied Innovation Campus – a 27,800m² facility which houses businesses engaged in agriculture, food, biotechnology and science fields, including the HQ of the Good and Environment Research Agency. There are in the region of 850 people employed at the site. Sand Hutton itself is around 10km north-east of York, with a population of just under 200. The village has a distinctly rural feel, characterised by detached houses on generous plots with a substantial spread of mature trees throughout the village. The village is located within the Parish of Claxton and Sand Hutton, with the majority of it being within the Sand Hutton Conservation Area. It contains three listed buildings, including Grade II Listed St Mary's Church, Stank Bridge and Dovecote, as well as the Scheduled Ancient Monument of St Leonard's Church.

PROPOSALS/BACKGROUND:

Members are advised that the following two planning applications have been lodged in respect of the proposed farm scale anaerobic digestion facility at Gravel Pit Farm :

- (i) 14/00709/MFUL – first planning application the subject of a non determination appeal which was submitted on 26th September 2014;
- (ii) 14/01073/MFUL - second planning application lodged on 30 September 2014 .

Members are also advised that only the Secretary of State now has jurisdiction to make a decision on the first planning application which is the subject of the non determination appeal . Ryedale District Council in its capacity as the local planning authority no longer has jurisdiction to make a decision on planning application LPA Ref 14/00709/MFUL. However for the purposes of defending the non determination appeal before the Planning Inspector, the Planning Committee still needs to make a decision on what the position of the Planning Committee would have been had the Council been in a position to make a decision prior to the 26th September 2014 when the appeal was lodged

This report fulfils the following two purposes :

- (1) It makes a recommendation to the Planning Committee on the determination of the second planning application LPA Ref 14/01073/MFUL which the Committee still has jurisdiction to determine ;and
- (2) In relation to the non determination appeal it makes a recommendation to the Planning Committee on the first planning application on the basis of what the position of the Planning Committee would have been had the Council been in a position to make a decision prior to the 26th September 2014 when the appeal was lodged

The two separate applications are both for a proposed farm scale anaerobic digestion and combined heat and power facility at Gravel Pit Farm. The scheme consists of two main digester tanks (fermentation tanks) and a single secondary digester tank. The main digesters measure approximately 31m in diameter with walls 6.2m high surmounted by a gas collecting dome that rises a further 7.8m, giving a total height of 14m to the top of the tanks. The secondary digester measures approximately 27m in diameter with walls 7m high surmounted by a gas collecting dome that rises a further 6.6m giving a total height of 13.6m to the top of the tank. These proposed tanks are to be dug into the ground by 1m.

A digestate storage lagoon is proposed that measures 151m by 86m and has a depth of 3m (1.5m dug into the ground). Giving a capacity of 26,000m³ (18,000m³ net with a 750mm free board). There are also two CHP units housed within acoustically insulated shipping containers, together with a gas clean up plant, gas storage tanks, and a flare stack. The silage clamps will comprise a total of eight individual clamps measuring approximately 44m by 25m each.

The first application (14/00709/MFUL) was submitted to the Council on 26th June 2014.

The original Planning Statement included the following statement:

“Gravel Pit Farm is a mixed beef/arable farm lying approximately ¾ mile (1.2km) to the west of the village of Sand Hutton. The farm extends to approximately 1200 acres (486 hectares).

The beef operations of the farm currently refer to the rearing and finishing of approximately 1000 head of cattle, mainly housed inside all year round and kept on straw. Farm yard manure is currently spread on the farm fields. The farm yard manure is presently supplemented by imported fertiliser. The arable operations refer principally to grain production in addition to hay and silage production.

The feedstock for the digester, farm yard manure from the livestock buildings together with silage and other feedstock from the farm, will be stored within the silage clamp situated to the south of the digester tanks.”

It was therefore evident to Officers that on the submission of the application originally, that the proposed AD plant was to be fed by manure produced at the farm on the site, and feedstocks also produced on the farm. It was stated by the Agent that there are 1,000 head of cattle at the site. On this basis Officers considered this was an on-farm AD Plant and a District matter.

Further requests for information were made in respect of highways matters on 15 August 2014 and subsequently on 26 August 2014. In addition, noise and odour reports were commissioned by the applicant in response to comments from various consultees and neighbours. These were received in the first week of September 2014.

In the meantime the Council were seeking legal advice as to the jurisdiction of the application. Concerns were raised locally as to number of cattle on the site at present and the limited existing

buildings on site that are capable of housing 1,000 cattle. On the 29 July 2014 the Agent wrote to the Officers stating:

“ Whilst the diligent research of the Parish Council is noted, the Planning Authority will appreciate that this is farm based AD system using farmyard manure (N.B. livestock manure and chicken manure but not slurry) from the livestock buildings together with silage and other arable crops produced on the farm. It is not an AD system which is seeking to use imported waste of type indicated by the Parish Council.”

Despite the Agent maintaining that the proposal was for a ‘farm scale’ AD facility, officers were concerned that the whole of DJ & A Jones holding had insufficient cattle to provide adequate quantities of manure to act as a feedstock therefore requiring the importation of additional FYM from other farms. Officer’s view at the time was that this meant the AD plant was not farm scale and was deemed as a waste facility , and therefore should be determined by North Yorkshire County Council as a ‘county matter’. The Council’s Solicitor wrote to the Agent on 22nd August 2014 setting out this initial view.

On the 27th August 2014, the Agent responded to the Council’s Solicitor disputing that the proposal was anything other than farm scale, citing guidance in the Government’s Anaerobic Digestion Strategy (2011) which states that crops grown specifically for AD are not deemed to be waste and where manures are including with purpose grown crops as a feedstock, the Environment Agency do not consider that to constitute waste. The guidance also indicates that the digestate was not deemed to be waste if used as a fertiliser.

The Agent set out the livestock situation with the landowner’s holding as follows:

- Gravel Pit Farm – 300 head of cattle/800 acres of arable;
- Kilburn - 400 head of cattle;
- Smaws Farm, Tadcaster – 100 head of cattle/50 acres of arable;
- High House Farm, Northallerton – 400 head of cattle/250 acres arable;
- Landmoth Hall, Northallerton – 300 head of cattle/250 acres arable;
- Lowfields, Northallerton – 200 head of cattle.

In addition manures from 340,000 birds per annum, housed at Goosecroft, Northallerton also within the Applicant’s holding would be utilised as feedstock. The Agent subsequently maintained that the application was therefore a District and not a County matter.

On the 29th August 2014, the Council’s Solicitor wrote to North Yorkshire County Council, setting out that the Council maintained its view that the application was a County matter and should be remitted to NYCC for determination. Evidence obtained by officers could only account for 139 head of cattle within the entire holding.

On the 12th September 2014, NYCC responded that it considered the application to be a District not County matter, for the same reasons as the Applicant (i.e. that it was farm scale, all feedstock would derive from the applicant’s holding and all digestate would be utilised within the holding).

On the 19th September 2014, the Council’s Solicitor responded to NYCC, indicating that the evidence before the Council at the time did not correspond to the indication that this was a ‘farm scale’ proposal and considered to be a commercial waste operation.

Subsequently, whilst NYCC were considering their position and taking legal advice, the Applicant appealed to the Planning Inspectorate on 26th September 2014 against the non-determination of the application (14/00709/MFUL) within the statutory 13 week timescale. The application could

therefore no longer be determined by the Council and was held in abeyance throughout the following sequence of events.

On the 30th September 2014 the Applicant submitted the second application which is before Members today (14/01073/MFUL) for the same proposal which was held in abeyance as invalid as Officer's deemed it to be a County Matter.

However, it was noted that the Applicant's statement had been revised to state the following:

'Gravel Pit Farm is a mixed beef/arable farm lying approximately ¾ mile (1.2km) to the west of the village of Sand Hutton and 4 miles (6.5km) north east of the edge of York. The farm is part of an agricultural enterprise that includes a number of other holdings, all of which are farmed as a single collective enterprise. The total farmed area extends to 5250 acres including 3500 acres in the West Riding and 1200 acres around York and Gravel Pit Farm.

The beef operations of the farm currently refer to the rearing and finishing of cattle, mainly housed inside all year round and kept on straw. There are similar beef operations at other holdings within the company and a 40,000- bird broiler chicken unit at a holding close to Northallerton.

In total there is 1,200 acres of arable land within the company in the vicinity of York, of which 800 acres lies at Gravel Pit.

Livestock numbers vary over time but at present the enterprise has approximately 1,900 head of cattle across its operations, the majority of the beef cattle being kept in the York area, including Gravel Pit Farm.

Cattle manure is currently brought to Gravel Pit Farm where it is spread on the arable land as natural fertiliser. The farm yard manure is presently supplemented by imported artificial fertilizer. The arable operations refer principally to grain and root crop production, in addition to hay and silage production.'

Whilst both applications were held in abeyance, NYCC responded to the Council Solicitor's letter of 19th September 2014 on 17th October 2014, maintaining their view that the application was a District Matter.

Following submission of the Appeal, the Planning Inspectorate wrote to the Council, the Applicant and NYCC on 23rd October 2014, indicating that following legal advice, it considered that the application was indeed a 'County Matter'.

Having taking further legal advice the Agent wrote to PINS on 3rd November 2014 setting out their reasons why they considered the application to be a 'District Matter' whilst NYCC also wrote to PINS on 4th November 2014 supporting this view.

Finally, on the 17th December 2014, PINS wrote again to the Council, the Agent and NYCC setting out its final view that the proposal was indeed a 'District Matter' and therefore the non-determination Appeal in respect of the first application would proceed. The second application was thereafter made valid.

The Council must now therefore determine the second application ref 14/01073/MFUL. It cannot determine the first application as it is subject of an Appeal against non-determination. The Council must, however, take a view on what its decision would have been had it been in a position to determine the application. This view will form the basis of the Council's defence at the Appeal if it proceeds as scheduled.

Both proposals must therefore be considered on the basis of the Applicant's proposal for a 'farm-scale' AD facility.

Recommendations in respect of both the second application and the appeal are set out at the end of this report.

HISTORY:

Previous planning history relating to the site:

03/00250/FUL – Change of use of agricultural buildings and land for use as wholesale fruit and vegetable business – Approval

POLICY:

National Policy Guidance

National Planning Policy Framework (NPPF)

National Planning Policy Guidance (NPPG)

National Anaerobic Digestion Strategy and Action Plan (NADSAP)

Ryedale Local Plan Strategy (2013)

Policy SP1 – General Locations for Development

Policy SP9 – Land Based Economy

Policy SP13 – Landscapes

Policy SP14 – Biodiversity

Policy SP16 – Design

Policy SP17 – Managing Air, Land and Water Resources

Policy SP18 – Renewable and Low Carbon Energy

Policy SP19 – Presumption in Favour of Sustainable Development

Policy SP20 – Generic Development Management Issues

APPRAISAL:

The main issues in the consideration of both applications are:

- Principle of the development;
- Pollution/Amenity (Odour, Noise);
- Highway safety;
- Landscape and visual impact;
- Biodiversity;
- Flood Risk/Water Pollution

Principle of Development

Paragraph 93 of the NPPF makes clear that planning plays a key role in “supporting the delivery of renewable and low carbon energy and associated infrastructure.” Paragraph 96 goes on to state:

“In determining planning applications, local planning authorities should expect new development to:

- *comply with adopted Local Plan policies on local requirements for decentralised energy supply unless it can be demonstrated by the applicant, having regard to the type of development involved and its design, that this is not feasible or viable; and*
- *take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption.”*

It goes on to state at paragraph 98 that when determining planning applications, local planning authorities should not require applicants to demonstrate overall need (noting that even small-scale

projects provide a valuable contribution towards cutting greenhouse gas emissions) and approve applications if its impacts are, or can be made, acceptable.

Policy SP18 of the Ryedale Local Plan Strategy (2012) states that development which generate renewable and/or low carbon sources of energy providing proposals:

- Can be satisfactorily assimilated into the landscape or built environment;
- Would not impact adversely on the local community, economy or historical interests, unless their impact can be acceptably mitigated;
- Would not have an adverse impact on nature conservation, unless their impact can be acceptably mitigated;
- Would not have an adverse impact on air quality, soil and water resources, unless their impact can be acceptably mitigated.

Policy SP9 states that Ryedale's land-based economy will be sustained and diversified with support for new buildings that are necessary to support land-based activity and a working countryside, including for farming, and appropriate new uses for land including energy production.

The utilisation of manure and crops produced on existing farms through anaerobic digestion can play a role as one of the most efficient processes in the capture and treatment of waste material and can help play a role in reducing greenhouse gas emissions, regardless of the small scale nature of 'farm based' schemes (paragraph 98, NPPF). In addition the use of digestate as a fertiliser for spreading on agricultural land again offers benefits as it is nitrate rich, however, it does not result in odours like the conventional spreading of untreated manure. Finally the biogas resulting from the AD process has clear, significant benefits in that it provides a low carbon form of heat and power which contributes towards reducing emissions.

The proposed AD plant would utilise raw materials which are currently a by-product of farming practices to generate heat and power to Gravel Pit Farm through the Combined Heat and Power Plant. It considered that AD technology is at the forefront of the Government's drive to increase the provision of renewable energy whilst also dealing with waste products. The proposed development accords with the "presumption in favour of sustainable development" set out in the NPPF and Policy SP19 of the Ryedale Local Plan Strategy. The principle of the development is therefore considered acceptable in accordance with Policy 18, subject to the consideration of the various potential environmental impacts discussed below.

Pollution/Amenity (Noise/Odour)

Policy SP20 states that, *"new development will not have a material adverse impact on the amenity of present or future occupants, the users or occupants of neighbouring land and buildings or the wider community by virtue of its design, use, location and proximity to neighbouring land uses. Impacts on amenity can include, for example, noise, dust, odour, light flicker, loss of privacy or natural daylight or be an overbearing presence."*

In terms of amenity impacts, the two likely sources of impacts arise from noise and odour. From a physical/visual impact, the application site is over 1km from the closest residential properties of Sand Hutton. Given the scale and siting of the proposed development, is unlikely to result in loss of privacy or be overbearing on local residents.

A Noise Impact Assessment prepared by Resource and Environmental Consultants (REC) Ltd (dated 5th September 2014) was submitted in respect of the first application. The report concluded that the assessment identified that the total noise rating level from the proposed plant falls below the adopted noise criteria at the closest dwelling and as such there is no need for mitigation measures. The Assessment examines the impact from the proposed AD/CHP facility at the closest residential

receptor – located beyond the southern boundary of the Site equidistant back from the road relative to White Syke Farm. The main source of noise was from distant road traffic using the A64.

The Council's Environmental Health Officer commented on 23 December 2014 that the noise assessment did not provide details of the conditioning plant, the noise characteristics of and an assessment of any potential impacts. In addition, it was indicated that the assessment did not consider the exposure of noise on Gravel Pit Farm itself. Further information was therefore requested.

Members are advised that a number of detailed noise impact issues are still outstanding. Prism Planning, the planning agents for the applicant have been requested to supply further information. The recommendations in this report are subject to the receipt of satisfactory noise impact information.

If this information is not available at the time of the Planning Committee the planning application will need to be deferred.

An updated Noise Assessment dated 8th January 2015 was submitted to the Council which contains updated information on the noise impacts of the gas conditioning plant. Subsequent comments have been received from the Council's Environmental Health Officer on 29 January 2015 indicating there are no objections subject to conditions restricting feedstock to animal manure and crops only and requiring their storage only in the feedstock clamps, main and secondary digestion tanks and the digestate storage lagoon.

In respect of odour, an Odour Assessment prepared by REC Ltd dated 5th September 2014 was submitted to the Council in support of both the original and subsequent application. The Odour Assessment sets out potential odour emissions being defined based upon the proposed plant operation and monitoring undertaken of materials similar to those used on site which were represented within a dispersion model. The Assessment quantified impacts at sensitive receptor locations in the vicinity of the site. The results compared with the EA odour benchmark level and the significance of impacts was assessed in accordance with IAQM guidance.

The Assessment concludes that predicted odour concentrations were below the relevant EA odour benchmark level at all receptor locations. The significance was defined as negligible at all but one sensitive receptor. The overall odour effects as a result of the proposed development are considered by the Assessment to be low.

The movement, management, storage and disposal of manure is a common operation within farming enterprises. Given that the quantities of waste utilised by the proposed development are already brought onto the site, or could be brought onto the site without planning control, it is considered that subject to conditions controlling this, that odours are unlikely to be beyond existing levels and therefore unlikely to have a significant detrimental impact on the amenity of surrounding residents. Any odours arising from the movement and storage of the raw materials would be similar to the normal experience of this type of agriculture and is considered acceptable within the proposed location.

In terms of the 'end-product', the digestate is inert and does not result in malodours. Indeed its use for spreading on arable land would actually reduce existing odour levels whereby raw manure is currently spread.

It is anticipated as a result of the additional information that the Council's Environmental Health Officer will raise no objection on odour grounds subject to conditions restricting feedstock to animal manure and crops only and for the storage of feedstock and digestate to be restricted to the feedstock clamps, digestion tank and storage lagoon. The EHO has noted that the Environmental Health Officer at Hambleton DC has advised that there are no odour complaints received in respect of two

operational AD plants in the district at Newby Wiske and Dalton. If any concerns are raised by the Council's EHO then these will be reported to Members prior to the meeting.

The EA have indicated that an environmental permit under their regulation will be required for the use of manure as part of the feedstock. The purpose of the environmental permit is to offer regulatory control over the management of the operation and to limit the potential for emissions in respect of odours, noise, groundwater pollution etc. National Policy Guidance (National planning Policy for Waste 2014) makes clear in paragraph 7 that local authorities in determining planning applications should, "*concern themselves with implementing the planning strategy in the Local Plan and not with the control of processes which are a matter for the pollution control authorities.*"

Highways

Policy SP20 states that "*access to and movement within the site by vehicles, cycles and pedestrians would not have a detrimental impact on road safety, traffic movement or the safety of pedestrians and cyclists.*"

North Yorkshire County Highways officers initially did not raise any objection in principle when the Council initially understood that all feedstock would be sourced from Gravel Pit Farm. The first highways comments indicated such, although the local highway authority requested further information in respect of a number of areas namely:

- Whether the excavated material from the development would be re-used on site or exported off-site.
- Noting concerns that Gravel Pit Farm did not have sufficient ability to produce the quantities of feedstock required for the AD plant, and sought clarification on whether material would need to be imported.
- Whether the export of gas would be via pipeline or tinkered off-site.

The Agent for the application subsequently submitted information in response to Highways Officer's original queries. Firstly, that there would be no export of material from the site and that the lagoon would be created on a cut and fill basis. Secondly, that slurry is already imported onto the farm, that cattle currently housed off-site would be housed on-site and that there would be a reduction in the current importation of fertiliser as a result of increased cattle numbers of the farm. Thirdly, that gas would be exported via pipeline. The Agent claimed that the scheme would be traffic neutral on that basis, even potentially a traffic reduction. No figures on existing and proposed vehicle movements were provided to support that position.

The Highway's officer subsequently raised further questions on the basis of the Agent's response, namely:

- Query over the optimum level of soil conditioning given that slurry was already being imported;
- What would happen in a situation where Gravel Pit Farm had reached maximum exposure to the digestate spreading, with digestate continuing to be produced?

Highways Officers requested that the Applicant be able to demonstrate that the whole operational activity can rely on the ability of Gravel Pit Farm to be capable of providing and dealing with the process and thereby demonstrate sufficiently that the reduction in traffic movements would occur.

The Agent subsequently responded indicating that "manure brought onto the site at the moment will all be used on the site having undergone the AD process."

Again, however, no details or figures of the quantities of waste imported into the site currently or as a result of the proposal was provided to allow Highways Officer's to make a full assessment of the

vehicle movements associated with the proposed development and the impact this would have on the surrounding highway network.

No further discussion over highways matters occurred as events surrounding whether the application was a 'District' or 'County' matter held the application in abeyance. No further highways information was submitted before the Applicant appealed against non-determination. At the time of the Appeal there remained significant concerns over highways matters.

Following submission of the Appeal and the subsequent judgement of PINs that the development was a 'District' matter, NYCC Highways provided further comments on 22 December 2014 requesting again, further clarification on highways matters to allow the authority to make a formal recommendation. Whilst again noting that the Applicant has indicated that the development will be traffic neutral or even result in a reduction of traffic movements, traffic movement figures to support that claim were requested again. The Highways Officer stated:

“Clearly we need to identify what the likely highway impact will be from the development, the applicant has suggested there may be a net reduction when considering the current operations on the farm, it would help to have some traffic movement figures backing this up. The Statement of Case refers to cattle manure being brought to Gravel Pit, this is supplemented by imported artificial fertilizer and then there is occasionally export of manure from the farm, on a weekly average how many HGV movement does this generate.

For the proposed development, how much feedstock does the proposed installation require? Confirmation that the existing operations on the farm can supply this, what tonnage of material. Or if not, how much feedstock is it estimated will need to be brought to site, there is reference to maize or silage being required, where could this come from what does this mean in transport movements. How much digestate will be generated, this is all to remain and be used on site?

Finally there are traffic movements associated with construction, a figure of between 192 and 240 HGV movements over a 6 month construction period has been provided, does this include the excavation works required to form the lagoon and digester tanks. It is assumed the construction traffic would be routed to the site via the A64/Sand Hutton junction.”

The Agent responded on the 9th January 2015 stating that the scheme is “*designed around the use of waste manure from cattle and chickens that is already used on the farm, together with the use of some of the grass silage grown on the farm as a break crop in their normal arable rotation.*” The Agent thereafter confirmed that none of the feedstock will be coming to the AD site from off the farm specifically as a result of the application and they were happy for a condition to that effect.

The Agent provided maximum feedstock quantities for the AD plant as follows:

- Cattle Farm Yard Manure (FYM) – 12,150 tonnes per annum tpa
- Chicken Manure – 900 tpa
- Grass Silage – 13,500 tpa

The Highways Authority still considered that further information was required in their subsequent response of 15 January 2015. The Officer requested that figures (i.e. tonnages) of the current farm operations and the proposed operations are clearly set out to allow Officers to make a reasonable assessment of the net change to confirm whether the Applicant's claim that the scheme would be traffic neutral or traffic reducing was correct. Confirmation of the annual output of the AD system (i.e. digestate) was also sought to allow an assessment of whether the material would need to be exported.

Finally on the 20 January 2015, the Agent responded to Highways Officer indicating as follows:

- 100% of the feedstocks will be sourced from crops grown at Gravel Pit Farm, as well as manure deposited on Gravel Pit Farm as part of the farms collective operations across its bases previously identified.
- Silage production at Gravel Pit Farm varies year-on-year.
- Approximately 2,430 tonnes per annum of FYM from approximately 200 cattle is produced from Gravel Pit Farm.
- No chicken manure is produced from Gravel Pit Farm.
- Approximately 2,000 tonnes per annum of silage is imported to the site.
- Approximately 9,720 tonnes per annum of FYM is imported to the site from 800 cattle across the farms operations.
- Approximately 900 tonnes per annum of chicken manure is imported to the site from the farms operations.
- Articulated HGV's are used to import and export manures and silages with approximate loads of 29 tonnes, therefore 9,720 imported tonnes per annum equals less than 1 trip per day over a year.
- The importation of chicken manure results in 31 vehicle trips per annum.
- The imported material comes from:
 - Smaws Farm, Tadcaster – 20 miles
 - Landmouth Hall, Kirby Sigston – 36 miles
 - High House Farm, West Harlsey – 41 miles
 - Goosecroft Farm, East Harlsey – 42 miles
 - North Lowfields Farm, Kirby Fleetham – 47 miles
- The current arrangements for the importing of material would continue.
- The sources of the feedstock would be the same and importation would carry on as currently.
- Approximately 800 acres would be utilised at Gravel Pit Farm for spreading.

The Highways Authority have now formally commented on the application following the receipt of all the information deemed necessary to judge highways impacts.

The Applicant has advised the feedstock for the digester is likely to comprise cattle and chicken manure along with silage. Whilst current operations on the farm could generate some of the feedstock required there is also some import of cattle, chicken manure and silage to the site, used for traditional slurry spreading which could be redirected to the digester. On average this existing importation generates in the region of a single HGV delivery per day. However the proposals for the farm include an increase in cattle and production of silage on site which the applicant has indicated has the potential to replace much of the current import arrangements, therefore reducing the number of traffic movements. It is also proposed that all of the digestate produced would be used on site and therefore on this basis the local highway authority has no objections to the proposal and would recommend a number of conditions.

Conditions are sought in respect of precautions to prevent mud on the highway.

Whilst the Agent does not consider the control over feedstock quantities necessary, it is considered in this instance that a condition which restricts the amount of feedstock brought to the site to be specifically used in the AD process to the maximum annual throughput of the AD plant is necessary and meets the tests in Para 206 of the NPPF in order to ensure that no feedstock is unnecessarily stockpiled on the site and that vehicular movements do not exceed an acceptable level. It is acknowledged that feedstock can be imported and exported from the farm to an unlimited level without control from the planning process where it is not being used in the AD process and the condition will be worded to ensure that remains the case.

The Agent has indicated that he does not believe a routing condition would meet the tests of paragraph 206, of the NPPF i.e that it must be:

- necessary;
- relevant to planning and;
- to the development to be permitted;
- enforceable;
- precise and;
- reasonable in all other respects.”

However, in the 2013 Appeal involving the same Agent at High Hedley Hope Farm in Durham the Inspector found that “to minimise the need for traffic to use the unclassified road system, a condition requiring a routing scheme would seem sensible”, and imposed a condition accordingly stating:

“Prior to the commencement of the development hereby permitted an HGV routing protocol shall be submitted to and approved in writing by the Local Planning Authority. This protocol should include routes to and from the development site judged acceptable, the method of imparting this information to drivers visiting the site and details of action to be taken in the event of breaches. Thereafter, the agreed protocol shall be exercised both during the construction and operational phases of the development. “

In addition, in a recent appeal in South Molton, Durham (ref: APP/X1118/A/14/2226565), the Inspector considered a condition requiring adherence to an agreed HGV routing protocol to minimise the risk of potential conflict between highway users as reasonable and could be controlled by condition.

It is considered that in order to prevent vehicles associated with the development proposed travelling through Sand Hutton and having a detrimental impact on highway safety, such a condition is imposed here. It is acknowledged that the Council do not have control over material currently used as part of the farming operations. It does, however, have control over the importation and exportation of material associated with the proposed development and therefore the condition is recommended accordingly.

In order to ensure that the proposed development remains ‘farm scale’ and does not result in a commercial operation whereby feedstock is sourced from outside of the farm’s wider holding purely for commercial purposes, which could result in significant impacts on the highway network, it is considered prudent to impose a condition restricting the types of feedstock to Farm Yard Manure (FYM), chicken manure and grass silage and only allowing the feedstock to be used in the AD plant from the following locations:

- Smaws Farm, Tadcaster
- Landmouth Hall, Kirby Sigston
- High House Farm, West Harlsey
- Goosecroft Farm, East Harlsey
- North Lowfields Farm, Kirby Fleetham

This approach has been offered by the Applicant and also used as best practice in neighbouring authorities on similar projects, notably Hambleton District. This will ensure that the highways impacts are considered acceptable.

Further to that, given the Applicant’s indication that all digestate will be utilised as fertiliser at Gravel Pit Farm, it is considered prudent again in the interests of Highway Safety to impose a condition which prevents digestate resulting from the AD process to be exported from the site unless otherwise agreed by the Council. Finally, in respect of the gas produced from the AD process, it is considered prudent to again ensure that this is not exported from the site via tanker unless otherwise agreed by the Council.

The Highways Agency have raised no objections to the proposals.

It is therefore considered that it has only been since the second application was submitted and only from the 20 January 2015 that the Highway Authority have been in receipt of sufficient information to make a formal assessment of the potential highways impacts resulting from the proposed development. It is considered that subject to the conditions as outlined above, the proposed development will not have a significant detrimental impact upon the surrounding highway network.

Landscape and Visual Impact

Policy SP18 states that schemes for renewable or low carbon energy will be approved where they can be satisfactorily assimilated into the landscape.

The site is well screened from the south and west from public views by the existing woodland belts, and from the east by woodland blocks that screen the site from Sand Hutton Village. The northern boundary of the farm is currently formed by a strong hedge along the A64 which currently excludes views of the site. However, as the site is the same ground level as the A64, views of the domes at 16m will be likely from the road.

The Council's Landscaping Officer advised in August 2014 that a condition requiring the submission of a scheme for a new tree belt to be introduced on the north boundary of the site to screen views of the site from the A64 would be required. Otherwise there were no landscaping objections. On January 6th 2015 a revised landscaping plan was submitted by the Applicant including tree planting on the northern boundary. The Landscaping Officer has subsequently agreed that the revised landscaping proposals are considered acceptable and providing that the planting is carried out in accordance with the submitted scheme, there will be no significant adverse landscape or visual impact from the proposed development.

Biodiversity

Policy SP18 states that schemes for renewable or low carbon energy production must not have an adverse impact on nature conservation, unless their impact can be acceptably mitigated. A Phase 1 Habitat and Protected Species Assessment has been undertaken by Naturally Wild Consultants Ltd, the first assessment dated 16 June 2014. Officers considered that some provision for biodiversity enhancement should be included within the development in line with Policy SP14 and paragraph 109 of the NPPF which says the planning system should contribute towards enhancing the environment through minimising impacts on biodiversity and providing net gains in biodiversity where possible.

The Phase 1 concludes that the development will not have a significant adverse impact on protected species subject to mitigation measures including the maintenance of the trees on the western boundary of the site, the creation of grass areas to mitigate for that lost through the development, no de-vegetation or management works during the bird nesting season, management procedures to advise visitors and workforce of ecological obligations and a low level lighting scheme.

A revised Phase 1 Ecology assessment was submitted in January 2015, which along with the revised landscaping scheme included amenity grassland to aid habitat enhancement. The Council's Ecologist subsequently indicated that this was considered acceptable. It is therefore considered that the proposed development will not significantly adversely impact upon biodiversity providing the mitigation measures outlined in the Phase 1 Ecology report are implemented and a condition to that effect is recommended.

Flood Risk/Water Pollution

Policy SP18 states that the renewable energy developments should not have an adverse impact water resources, unless their impact can be acceptably mitigated.

- Design and Access Statement received by the LPA on 30/09/14
 - Planning Statement received by the LPA on 30/09/14
 - Noise Assessment received by the LPA on 30/09/14
 - Odour Assessment received by the LPA on 30/09/14
 - Flood Risk Assessment received by the LPA on 30/09/14
 - Phase 1 Ecology Report Rev 2 dated 13/01/15
- 3 No feedstock shall be used in the development hereby approved other than farmyard manure, chicken manure and grass silage.
- 4 No feedstock shall be used in the development hereby approved other than that sourced from the following locations:
- Smaws Farm, Tadcaster, LS24 9LP
 - Landmoth Hall, Kirby Sigston, DL6 3TF
 - High House Farm, West Harsley, DL6 2PR
 - Goosecroft Farm, East Harsley, DL6 2DW
 - North Lowfields Farm, Kirby Fleetham, DL7 0SY
- 5 The annual input of feedstock into the development hereby approved shall not exceed the following, unless otherwise agreed in writing by the Local Planning Authority:
- Cattle FYM – 12,150 tonnes
 - Chicken Manure – 900 tonnes
 - Grass Silage – 13,500 tonnes
- Records, including weights, of all feedstock brought to the site in association with the proposed development shall be retained for at least two years and be available for inspection by the Local Planning Authority upon request.
- 6 No digestate resulting from the development hereby approved shall be exported from Gravel Pit Farm unless otherwise agreed in writing by the Local Planning Authority.
- 7 No feedstock and/or digestate associated with the development hereby approved shall be stored on site other than in the feedstock clamps, main and secondary digestion tanks, and digestate storage lagoon.
- 8 The landscaping of the site shall be carried out in accordance with the approved landscaping plan reference 148.01 received by the Local Planning Authority on 06/01/15 and all landscaping shall be maintained in accordance with the approved landscaping plan for the lifetime of the development hereby approved.
- 9 There shall be no access or egress by any vehicles between the highway and the application site until details of the precautions to be taken to prevent the deposit of mud, grit and dirt on public highways by vehicles travelling to and from the site have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. These facilities shall include the provision of wheel washing facilities where considered necessary by the Local Planning Authority in consultation with the Highway Authority. These precautions shall be made available before any excavation or depositing of material in connection with the construction commences on the site and be kept available and in full working order and used until such time as the Local Planning Authority in consultation with the Highway Authority agrees in writing to their withdrawal.
- 10 Unless otherwise approved in writing by the Local Planning Authority, there shall be no development until details of the routes to be used by HGV traffic associated with the development have been submitted to, and approved in writing by, the Local Planning Authority in consultation

with the Highway Authority. Thereafter the approved routes shall be used by all vehicles connected with construction on the site.

- 11 All mitigation measures set out in the Phase 1 Ecology Report prepared by Naturally Wild Consultants Ltd dated 13/01/15 shall be implemented and retained in accordance with the details set out in the report for the lifetime of the development hereby approved.
- 12 No gas resulting from the development hereby approved shall be tankered off-site unless otherwise agreed in writing by the Local Planning Authority.

Background Papers:

Adopted Ryedale Local Plan 2002
Local Plan Strategy 2013
National Planning Policy Framework
Responses from consultees and interested parties

CONCLUSIONS & RECOMMENDATIONS (14/00709/MFUL)

In respect of the first application, Members will note that despite requests for further information from NYCC Highways on 15 August 2014 and 26 August 2014, it was not until the 27th August 2014 before the Council were informed that feedstock for the facility would not be solely derived from Gravel Pit Farm itself (Agent's letter of 27th August 2014 setting out farms within the landowner's holding from which manure would be imported into the site for utilisation as a feedstock). No information in respect of quantities of manure imported, quantities of fertiliser imported or material exported was provided to the Council to allow a full assessment of the potential highways impacts prior to the submission of the non-determination appeal on 26th September 2014.

RECOMMENDATION: Had the Council been in a position to make a decision prior to the 26th September 2014 when the appeal was lodged, the application would have been **REFUSED** for the following reason:

1. The Local Planning Authority are in receipt of insufficient information regarding the existing and proposed vehicular movements associated with Gravel Pit Farm and therefore are unable to determine that there would not be a significant detrimental impact on highway safety contrary to Policy SP1 and SP20 of the Ryedale Local Plan Strategy (2013).

Authority is therefore requested from Members to contest the Appeal on the basis of the above reason for refusal.

However if Members have since resolved to grant planning permission under planning application 14/01073/FULM, then Authority for Officers to seek agreement to withdraw the Appeal is requested.