

Our Ref SGB/AB

Alan Hunter
Senior Development Management Officer
Ryedale District Council
Rydale House
Malton
North Yorkshire
YO17 7HH

4th September 2015

Dear Mr Hunter

Re: Variation of Condition 5 of application 14/00709/MFUL as allowed by appeal APP/Y2736/A/2226293 dated 26.05.2015 to allow an increase of 6,500 tonnes of grass silage feed stock per annum to give a total 20,000 tonnes of grass silage feedstock per annum in addition to the 12,150 tonnes of Cattle FYM and 900 tonnes of chick manure per annum.

I write in response to your letter sent on 27th August which asked a series of questions and made statements indicating your position to the S73A application made at Gravel Pit Farm (15/00781/73AM). I have broken up our responses into the same points headings as your letter for clarity.

Point 1 – Ownership of the land.

We have already sent an email (2nd September 2015) discussing the issue. The attachments included a revised copy of Certificate B along with a letter from Mr C Jones stating that he was aware of the Section 73 application, given that he is acting as the liaison between the farm and JFS on the AD scheme. We include copies of all correspondence. His mother, Mrs A Jones was already notified of the application by an earlier letter from Prism, a copy of which is attached.

We trust this brings an end to a debate which by the Council's own admission is a trivial matter.

Point 2 -Request for an odour report for Mr Paul Hunt in relation to grass silage.

Please find attached a letter from REC, our odour consultants, confirming the use of extra grass will not increase the odour from the site. You will appreciate that there are no changes to feedstocks as a result of this application.

Point 3 – Third party concern that maximum amount of feedstock that could be handled by the AD plant has changed.

The quantities of material debated at the hearing were based upon delivering a scheme which produced the quantity of gas and power that it was believed the infrastructure network could accommodate. It will be appreciated that there is no point in producing excess gas or electricity that cannot be accommodated in the local network.



Since the Appeal Hearing (Appeal ref [APP/Y2736/A/2226293](#)) our clients have been in discussions with Northern Gas Networks and a Detailed Network Study has been undertaken. This has indicated a greater consumption of gas locally than was previously identified. There is therefore greater local need for consumption of gas and our clients are simply trying to help meet that need. It is assumed that this will be recognised as a highly sustainable situation?

Point 4 - Has the farm acquired land in the area?

The application site remains unchanged, and we can only suggest that the Council approach the third parties for details of whatever transaction they believe is being referred to. The application was correctly submitted to the Council and there is no need for any of it to be changed.

We are not sure what relevance this line of debate has to the application, or to the legitimate operations of the farmer and his family. It is surprising and concerning to us that the LPA appear to consider this intrusive and unwarranted 'investigation' by third parties into the personal affairs of the Jones family to be material to the application.

We would refer the LPA back to the determination of the previous application which was clouded by a series of erroneous and patently incorrect assertions made by some third parties that were manifestly intended from a position of malice. Despite the financial impact it had on the application and subsequent appeal, my clients are deeply concerned that such deliberately misleading statements made by third parties are being acted upon by officers who appear not to have undertaken appropriate and due diligence.

Point 5 – Third party comments in relation to development creep resulting from the AD Plant.

Prism Planning has not been instructed to carry out any further amendments to Gravel Pit farm in relation to application 14/00709/MFUL. Were any future application to be submitted I am sure that the Council would deal with them on their individual merits at the time they were submitted.

It is not at all unusual or even sinister for approved schemes to be amended. I simply refer you to the procedures the government have introduced over the last few years in recognition of this fact to enable the speedy amendment of applications post approval as well as the recognition of this fact by the Planning Inspector.

Point 6 –Farm site hectares and nitrogen levels claims made by third parties.

With respect to the Council and the objector, the applicants have submitted an initial Digestate Management Plan and an amended Digestate Management Plan, neither of which have been objected to by the Environment Agency, the body with statutory responsibility for assessing this area.

The first DMP has now been formally approved by the LPA.

The farming practice are well aware of their statutory responsibilities and have for a number of years been submitting information on this subject area to the EA. They have a specialist member of staff who is FACTS qualified, uses specialist PLANET software recognised by the EA and has access to SOYL analysis for the farm by individual field. We therefore consider that the applicants have a robust and scientific basis for their analysis and plan preparation. Furthermore the already approved DMP is based upon laboratory analysis of digestate which considers total Nitrogen, Ammonium Nitrogen and Nitrate Nitrogen. The matter is more complex than the objector seems to suggest but our advisors are FACTS qualified to advise on these matters. Our client is not aware that the objector has a similar competence.

It is respectfully suggested that the LPA consider whether any third party objecting to the proposals has access to the same robust scientific data and training. In particular, it is suggested that without corroboration of their concerns by the Environment Agency, only very limited weight should be accorded to their views on this matter.

Point 7 - Will storage capacity increase resulting from the increase in grass silage?

The plant will not require an increase in storage capacity to facilitate the proposed change to condition 5, a point made in the planning submission.

Point 8 - Comments made by third party in relation to Gravel Pit Farms ability to produce grass silage in the quantity specified.

To the best of our knowledge, the third party is not a land use consultant qualified to give credible evidence on this matter and certainly is not familiar with the farm as it currently operates or its ability to grow grass.

The applicants are satisfied that they can grow the crops required on the farm and would not have put the proposal forward had this not been the case.

If reference is made to authoritative agricultural handbooks, the position of the objector is readily exposed as being incorrect. Westerwold ryegrass for example is cited by ABC as being capable of producing 75 tonnes per hectare.

We can only advise the authority and members to decide the application based on the evidence we have provided through accredited specialists, having regard to the fact that the Jones family are experienced farmers with a proven track record of growing crops on their farm without any record of environmental pollution or concern.

In simple terms if we cannot grow the grass we estimate that we can grow, then it will not be available to put into the digester and the risk is entirely borne by the applicant. It is not a concern of local residents and should not be a concern of the Local Planning Authority.

Point 9 - Vehicle movements relating to increased grass silage tonnage.

To be absolutely clear we are proposing using additional grass silage grown on Gravel Pit Farm as shown in the submission. **There will be no increased traffic movements to the farm as a result of this proposal.** The Highway Authority and Highway Agency are both satisfied on this point.

Point 10 - Statement that the council has concerns on approving a revised Digestate Management Plan (DMP).

In relation to this concern could you please provide Prism with the full legal response in relation to the point? We say this because your statement does not seem to accord with the clear advice contained within the Practice Guidance. In support of our view, we have found that relevant guidance from the National Practice Guidance offers a solution to your issue:

"To assist with clarity, decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. In granting permission under section 73 the local planning authority may also impose new conditions – provided the conditions do not materially alter the development that was subject to the original permission and are conditions which could have been imposed on the earlier planning permission."



So although the condition for a DMP condition has already been discharged, the guidance allows you to leave this condition off on approval and simply impose a new condition simply requiring compliance with the revised DMP plan we have provided you. The new condition could simply state that all Digestate needs to be disposed of in accordance with the revised DMP which is based upon a DMP already approved by the LPA. We trust you will consider this point and the national advice most carefully.

Point 11 - Ownership of field 44 and other land. (see DMP)

Field no 44 is not owned by either the applicants or the Jones family but is rented through a secure rolling 5 year agricultural tenancy and has been farmed by the Jones family on this basis since they took over the farm in 2010. This is intended to be a long terms arrangement between the two parties.

We are advised that the other fields referred to are in the ownership of the Jones family and it is not understood why this is being questioned. It appears to be yet another example of a seemingly malicious campaign of erroneous mis-information being supplied to the Planning Authority.

Point 12 - Land at Gravel Pit farm is to be shown on a blue line map.

We note your reference to requiring plans of Gravel Pit farm as part of this S73 application. We would respectfully refer you to the provisions of Statutory Instrument 2015 No 595, Part 3, para 7(c) which sets out the general requirements for the submission of valid applications. This paragraph specifically excludes S73 applications from the requirements to provide plan. I would therefore respectfully suggest that the LPA can proceed to determine the planning application as submitted and would advise that the information previously submitted was sufficient for the Planning Inspector to determine the original application and for the Council to determine and approve the Digestate Management Plan.

On behalf of my client, I must express some surprise and a degree of disappointment that the application is being subjected to such a forensic and disproportionate degree of scrutiny by officers of the Council which is putting my clients to an unnecessary amount of work and attendant cost.

This is a simple proposal to use an additional amount of grass, grown on the farm to produce more gas for the local network, following rising local demand in the area. The principle of this development has already been exhaustively and forensically scrutinised in public via the appeal process with the in principle objections of some local residents has been set aside. With the greatest respect to officers and those residents this application does not represent an opportunity to try to re-examine or call into question matters that have already been settled and the nature of the investigation into this application could be considered to be unreasonable. I hope that it will not be necessary to explore this issue once more in the context of another appeal.

Yours sincerely

Steve Barker BSc (Hons) MRTPI DMS
Managing Director
Prism Planning

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