

<b>APPLICATION NO</b>	<b>PA/2017/1041</b>
<b>APPLICANT</b>	Mr L Dodds, Bio Waste Solutions Ltd
<b>DEVELOPMENT</b>	Planning permission to construct a lagoon for storage of digestate in connection with AD Plant, and for erection of security fence and tree planting to eastern boundary and creation of overflow lorry parking area
<b>LOCATION</b>	Bio Waste Solutions, Bonby Lane, Bonby, DN20 0PJ
<b>PARISH</b>	Bonby
<b>WARD</b>	Brigg and Wolds
<b>CASE OFFICER</b>	Andrew Law
<b>SUMMARY RECOMMENDATION</b>	<b>Grant permission subject to conditions</b>
<b>REASONS FOR REFERENCE TO COMMITTEE</b>	Objection by Saxby All Saints Parish Council

## **POLICIES**

**National Planning Policy Framework:** Paragraph 7 states that there are three dimensions to sustainable development: economic, social and environmental.

Paragraph 11 states that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

Paragraph 14 states that at the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking. For decision-taking this means approving development proposals that accord with the development plan without delay.

Paragraph 17 states that within the overarching roles that the planning system ought to play, a set of core land-use planning principles should underpin both plan-making and decision-taking.

Paragraph 19 states that planning should operate to encourage and not act as an impediment to sustainable growth. Therefore, significant weight should be placed on the need to support economic growth through the planning system.

Paragraph 28 states that planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development.

Paragraph 56 states that the Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

Paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability.

Paragraph 120 states that to prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account. Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

Paragraph 121 further advocates that sites must be suitable for their new use taking account of ground conditions and land instability and that after remediation, as a minimum, land should not be capable of being determined as contaminated land.

Paragraph 122 states that local planning authorities should focus on whether the development itself is acceptable use of the land, and the impact of the use, rather than the control of processes or emissions which are subject to approval under pollution control regimes.

#### **North Lincolnshire Local Plan:**

RD2 (Development in the Open Countryside)

RD7 (Agriculture, Forestry and Farm Diversification)

LC7 (Landscape Protection)

LC12 (Protection of Trees, Woodland and Hedgerows)

DS1 (General Requirements)

DS11 (Polluting Activities)

DS13 (Groundwater, protection and Land Drainage)

DS15 (Water Resources)

HE9 (Archaeological Evaluation)

T1 (Location of Development)

T2 (Access to Development)

#### **Supplementary Planning Guidance (SPG3) (Design in the Open Countryside)**

## **North Lincolnshire Core Strategy:**

CS1 (Spatial Strategy for North Lincolnshire)

CS2 (Delivering More Sustainable Development)

CS3 (Development Limits)

CS5 (Delivering Quality Design in North Lincolnshire)

CS16 (North Lincolnshire's Landscape, Greenspace and Waterscape)

CS17 (Biodiversity)

CS19 (Flood Risk)

CS20 (Sustainable Waste Management)

CS25 (Promoting Sustainable Transport)

## **CONSULTATIONS**

**Highways:** No objection to the proposal. The proposals should not increase the number of HGV's accessing the site, as this will be governed by the tonnage input that is restricted by condition and the site permit. Recommend a condition preventing the use of the overflow lorry parking area by vehicles not associated with on-site activities.

**Trees and Landscape:** The application is within the open countryside and it is important that screening of the proposed development is undertaken. The application gives an indication of tree planting along the east of the site but does not identify species. Any screening should be in keeping with the rural landscape and therefore needs to be of native hedge species. A mixed rural hedge should be secured if the council is minded to grant planning permission with its location and species mix to be agreed with the LPA.

**HER (Archaeology):** No further archaeological work is required in connection with the current proposals. The council's tree officer has recommended additional hedgerow planting to provide screening. Any landscaping scheme involving woodland planting to the north of the AD plant could impact on buried archaeological remains but a single hedgerow line along the northern boundary of the site would be acceptable. The council's archaeologist will need to be consulted on any landscaping proposals submitted in connection with the AD plant and associated works.

**Ecology:** No further survey work will be required. Planning conditions are proposed to minimise harm to protected species and habitats and to secure biodiversity enhancement.

**Environmental Health:** The storage of digestate in a lagoon can only operate under an environmental permit issued by the EA. This sets out controls that will be put in place to control emissions to air, land and water. Environmental Health initially objected to the application due to concerns that insufficient information had been submitted to detail how odour would be controlled. The applicants have subsequently submitted details of a cover for the lagoon and a detailed odour management plan. Environmental Health have removed their objection to the application on the basis of this additional information,

confirming that the development will have no unacceptable impact on residential amenity as a result of odour.

**Environment Agency:** Initially objected to the proposed development due to concerns that insufficient information had been provided in respect of the construction of the digestate lagoon to demonstrate that it would not pose an unacceptable risk to groundwater. In response to the concerns raised by the EA, the applicants have submitted a Qualitative Environmental Risk Assessment, a Fugitive Emissions Plan, an Accident Management Plan and construction details of the lagoon. The EA has confirmed that the information contained in these additional documents addresses their concerns regarding risks to groundwater and they have formally withdrawn their objection to the application.

**Humberside Fire and Rescue:** No comments to make.

## **PARISH COUNCILS**

**Bonby Parish Council:** No objections to the proposed lagoon provided that it complies with the strict containment of odour and all risks of overflow are monitored. It is felt that significant external monitoring and internal controls are required to ensure compliance at all levels. There are no objections to the security fencing subject to significant planting.

**Saxby All Saints Parish Council:** Object to the proposed development for the following reasons:

- Tree planting conditioned under the original consent has not been carried out and mature trees have been removed to allow for expansion of the site.
- The proposal will pose an unacceptable risk of pollution and contaminate groundwater supplies and is therefore a significant threat to public health. The site lies upon a principle aquifer and an open slurry lagoon is a disaster waiting to happen.
- The open digestate lagoon will emit significant noxious odours which will carry to residential homes and villages. Such odours will impact upon the quality of life and amenity of walkers, cyclists and riders who enjoy the natural beauty of the Wolds.
- The provision of a lorry park will increase the number of vehicles able to access the site, exacerbating an already congested lane.
- The lorry park will by its nature create a risk of pollution and contamination of the environment and groundwater supplies through the leakage and discharge of oil and diesel.

## **PUBLICITY**

The application has been advertised via site and press notices. One letter of objection has been received raising concerns that the AD plant appears to have been planned with a complete lack of foresight and that the digestate lagoon will result in smell. The proposal is considered to represent industrialisation by stealth.

## ASSESSMENT

### Site

The application site is a parcel of agricultural land located directly adjacent to an existing waste facility, comprising a Thermophilic Aerobic Digestion (TAD) plant and a recently consented Anaerobic Digestion (AD) plant. The site is approximately 1.4 kilometres to the northeast of Bonby and access to the site is via Bonby Lane, a small C-class road linking Brigg Road to the northeast and Middlegate Lane to the southwest. The surrounding area is predominantly agricultural in nature, the application site being surrounded by arable fields, except to the south-east where it abuts the existing waste facility. Field boundaries are mostly defined by hedgerows and there are small strands of plantation woodland to the north and west.

### Proposal

Planning permission was granted at appeal on 18 November 2015 for the installation of an anaerobic digestion plant and ancillary infrastructure on the adjacent site, including the installation of a 6.9 kilometre gas pipeline and compressor compound. This application seeks planning permission for the construction of a lagoon for the storage of the digestate, which is the product of the AD process, prior to it being used as fertiliser on agricultural land in the surrounding area. The application also seeks consent for a hard paved overflow lorry parking area to serve the consented AD plant and for the erection of security fencing to enclose and secure the site as an extension to the wider TAD and AD plant site.

The proposed lagoon measures approximately 65 metres by 47 metres, with a maximum depth of 7 metres and a capacity of 11,196 cubic metres. The lagoon will be surrounded by a raised earth bank which will be topsoiled and sown with grass. The banks will be constructed from material obtained during excavation of the lagoon and the lagoon will be covered with a polythene cover to prevent odorous emissions from being discharged. The proposed fencing will stand 3 metres in height and will be constructed of green wire mesh. The fencing will run along the northeast and northwest boundaries of the site and will also run along the northwest side of the AD plant access, where it will incorporate gates to allow access into the AD plant and also access to adjacent farmland to the northeast. The site layout plan shows a band of tree planting running along the northeast boundary of the site to provide screening of the site and to replace tree planting which was required along the northeast boundary of the AD plant.

**The main issues in the determination of this application are whether the proposed development is acceptable in principle and whether it will have an unacceptable impact with respect to the character of the area, groundwater, residential amenity or highway safety.**

### Principle

Policies RD2 of the North Lincolnshire Local Plan and CS3 of the North Lincolnshire Core Strategy are the most relevant development plan policies in establishing the principle of development proposals in the open countryside. Policy CS3 states that development outside of defined development boundaries will be restricted to that which is essential to the functioning of the countryside. This includes uses related to agriculture or forestry or other uses that require a countryside location or contribute to the sustainable development of the tourist industry. Policy RD2 is similarly restrictive and defines a specific list of types

of development that are considered to be appropriate in countryside locations. Amongst others, policy RD2 identifies development which is essential to the efficient operation of agriculture and forestry, and development for the diversification of existing agricultural businesses as being appropriate types of development in these locations.

The proposed development is directly linked to agriculture as it will allow for the storage of bio-fertiliser (liquid organic waste) which will be spread on adjacent agricultural land as a replacement to artificial fertilisers, when ground conditions create the greatest agricultural benefit for spreading. As such, it is considered that the development is broadly in accordance with policies RD2 and CS3 and is acceptable in principle. Compliance with policy RD2 is also dependent on the impact of the development with regards to character, amenity and highway safety. These issues, amongst other material considerations are assessed in detail below.

In addition to the above, the National Planning Policy Framework is also a material consideration in the determination of planning applications. The proposed development forms part of the recycling of feedstock supplied to the AD unit in the form of digestate which is then applied to the arable land as a bio-fertiliser, replacing the use of synthetic, fossil based fertilisers. The investment in the proposal will also contribute to the wider economy during the lagoon's procurement, and construction. Therefore, it is considered that the proposal accords with the provisions of the NPPF, in particular the presumption in favour of sustainable development and section 3 which seeks to support a prosperous rural economy and the sustainable growth and expansion of all types of business and enterprise in rural areas.

## **Character**

The lagoon is located directly adjacent to the consented AD plant, which produces the digest that the lagoon is designed to hold. It is also located adjacent to agricultural land upon which the digestate is to be spread. This minimises the transportation necessary for storage and spreading of the digestate. The surrounding area is predominantly agricultural in nature, characterised by intensive arable farming with limited boundary features and landscaping and is divided by hedgerows and small stands of plantation woodland. This landscape is broken up by scattered farmsteads and agricultural structures, including the adjacent AD plant site, which the lagoon will ultimately form part of.

The proposed lagoon is of low profile and will be effectively screened by the proposed earth bunds, which will be seeded with grass. This landscaping will provide natural screening of the lagoon and will mitigate its visual impact. It is also proposed to provide a band of new tree planting to the northeast of the lagoon to screen it, and the AD plant, and mitigate its impact on the open countryside. The proposed lorry parking and fencing will also be screened by the proposed landscaping and will be viewed in the context of the existing and consented waste operations. Furthermore, the lagoon is similar in design and appearance to irrigation and slurry lagoons that are commonly found on agricultural holdings in rural areas. For these reasons it is considered that the proposed lagoon will have no unacceptable impact on the character or appearance of the area.

## **Amenity**

The council's Environmental Health department has identified that this type of development has the potential to give rise to odour which may impact upon nearby receptors. However,

they go on to identify that there is a separation distance in excess of 1km to residential properties, which is considered to offer significant protection to local residents. In addition, the only material that will be stored will be processed digestate from the on-site AD plant. Provided the plant is operating effectively and in accordance with its environmental permit, the digestate should not be unduly odorous as a product.

Notwithstanding the above, and in response to initial concerns raised by the Environmental Health team with regards to the level of information provided in respect of odour, the applicant has provided details of a polythene cover designed to prevent the discharge of odorous emissions from the lagoon and a detailed odour management plan setting out controls that will be put in place to prevent odour nuisance. Both the council's Environmental Health department and the EA has considered this additional information and have confirmed that it has resolved their concerns and that they have no outstanding objections to the proposal.

Conditions have been recommended which require the lagoon to be constructed in accordance with the submitted plans, including the polythene cover, that the odour management plan is adopted and implemented at all times and that the lagoon is only used for the storage of digestate from the adjacent AD plant. These conditions will ensure that the proposed odour mitigation measures are put in place and that the use of the lagoon is restricted. Subject to these conditions it is considered that the proposed lagoon will have no unacceptable impact on the amenity of neighbouring properties as a result of odour. Notwithstanding the above, it should be noted that the lagoon will be subject to an environmental permit which, in addition to the suggested planning conditions, will control emissions to air, land and water.

## **Highways**

There will be limited traffic generated by the construction of the lagoon, as a lot of the soil that is excavated will be used in the construction of the banks and for landscaping of the site. The operation of the lagoon will not result in additional vehicle movements as the AD plant will be generating the digestate and this will be taken from the site and spread on adjacent agricultural land regardless. The lagoon merely allows the digestate to be stored on site and spread on land when it is most beneficial rather than it having to be used continuously.

The council's Highways department has raised no objection to the proposed development but have suggested a condition to restrict the use of the overflow lorry parking area so that it can only be used by vehicles associated with the AD plant. This will ensure that the development does not generate additional HGV movements in the future as a result of non-associated traffic using this area. Subject to this condition, it is considered that the proposed development will have no unacceptable impact on highway safety.

## **Groundwater**

The application site lies above a principle aquifer and as such is located in a sensitive area with regards to groundwater. The EA initially raised concerns with the proposed development due to a lack of information with regards to the construction of the lagoon and any mitigation measures related to the protection of groundwater. Subsequently the applicant has provided a Qualitative Environmental Risk Assessment, a Fugitive Emissions Plan, an Accident Management Plan and a plan showing construction details of the lagoon.

The EA has confirmed that the information provided in these additional documents adequately addresses their initial concerns regarding pollution risks to groundwater.

The Risk Assessment provides detail on pollution mitigation measures and lagoon construction. The Emissions Plan further clarifies that the lagoon will have two HDPE liners, which the EA confirms is what is required in sensitive locations such as the application site and also details the leak detection system. The lagoon plan illustrates these measures. Weekly maintenance checks will be undertaken and incident response and further pollution mitigation is covered in the Accident Management Plan.

The EA, as the statutory body responsible for the protection of groundwater, has formally removed their initial objection to the proposal on the basis of the mitigation measures set out above. It should be noted that the EA will regulate the site under an environmental permit. On this basis it is considered that the proposed development poses no unacceptable risk of groundwater pollution.

## **Conclusion**

For the reasons outlined above, the proposed development is considered to be compliant with the relevant development plan policies and will have no unacceptable impact in respect of visual appearance, residential amenity, highway safety or groundwater pollution. As such, the development is acceptable and this application should be supported.

## **RECOMMENDATION      Grant permission subject to the following conditions:**

1.

The development must be begun before the expiration of three years from the date of this permission.

Reason

To comply with section 91 of the Town and Country Planning Act 1990.

2.

The development hereby permitted shall be carried out in accordance with the following approved plans: PA/2017/1041 BLOCK PLAN, Drawing No. 8 "Proposed Cross Sections", 147-01

Reason

For the avoidance of doubt and in the interests of proper planning.

3.

No development shall take place until proposals for landscaping have been submitted to and approved by the local planning authority. The proposals shall include indications of all existing trees and hedgerows on the site, and details of any to be retained, together with measures for their protection during the course of development.

Reason

To enhance the appearance of the development in the interests of amenity.

4.

All the approved landscaping shall be carried out within twelve months of development being commenced (unless a longer period is agreed in writing by the local planning authority). Any trees or plants which die, are removed or become seriously damaged or diseased within five years from the date of planting shall be replaced in the next planting season with others of similar size and species to those originally required to be planted, unless the local planning authority agrees in writing to any variation.

Reason

To enhance the appearance of the development in the interests of amenity.

5.

No development shall take place until a Biodiversity Management Plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include:

- (a) details of nest boxes and bat boxes to be installed in trees or hedgerows;
- (b) proposed timings for the installation of the above features in relation to the completion of each building;
- (c) details for the creation and on-going management of areas of wild bird seed arable habitat;
- (d) details for the planting and aftercare of native trees and shrubs;
- (e) details of measures to be taken during the construction phase of the proposal, to avoid harm to nesting birds and other protected species or priority species;
- (f) monitoring methods and remedial measures to be carried out as required.

Reason

To conserve and enhance features of recognised nature conservation importance in accordance with policy CS17 of the Core Strategy.

6.

The Biodiversity Management Plan shall be carried out in accordance with the approved details and timings, and the approved features shall be retained thereafter, unless otherwise approved in writing by the local planning authority. Prior to the operation of the anaerobic digestion plant, the applicant or their successor in title shall submit a written report to the local planning authority with evidence of compliance with this condition.

Reason

To enhance features of recognised nature conservation importance in accordance with policy CS17 of the Core Strategy

7.

Prior to the lagoon being brought into use it shall be installed with a cover system as detailed in drawing 147-01, dated September 2017, and the cover retained in perpetuity thereafter.

Reason

To protect the amenity of neighbouring properties in accordance with policy DS1 of the North Lincolnshire Local Plan.

8.

The lagoon hereby permitted shall only be used for the storage of digestate arising from the adjacent anaerobic digestion plant.

Reason

To define the terms of the permission and to protect the amenity of neighbouring properties in accordance with policy DS1 of the North Lincolnshire Local Plan.

9.

Prior to the first use of the lagoon hereby permitted, the Brigg Lane Biogas AD Facility Odour Management Plan, dated September 2017, shall be implemented and shall be adhered to thereafter.

Reason

To protect the amenity of residential properties in accordance with policy DS1 of the North Lincolnshire Local Plan.

10.

The overflow lorry parking facility shall be used by vehicles associated with the on-site AD plant only and at no times shall it be used for the parking of vehicles that are not directly related to the on-site operations.

Reason

To ensure that the development does not result in increased HGV movements along Bonby Lane without proper assessment in the interest of protecting highway safety in the area.

**Informative**

In determining this application, the council, as local planning authority, has taken account of the guidance in paragraphs 186 and 187 of the National Planning Policy Framework in order to seek to secure sustainable development that improves the economic, social and environmental conditions of the area.

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