

<b>Parish:</b>	<b>King's Lynn</b>	
<b>Proposal:</b>	<b>County Matters Application: Erection of anaerobic digestion facility (to process up to 19,250 tonnes of biomass/slurry) including reception/office building and workshop, two digesters two storage tanks, combined heat and power plant, energy crop storage area and ancillary plan. Engineering works to resurface a section of the Byway open to all traffic</b>	
<b>Location:</b>	<b>Land N of Outfall S Off Transmission Cables W Off Road Cross Bank Road King's Lynn Norfolk</b>	
<b>Applicant:</b>	<b>Mikram Ltd</b>	
<b>Case No:</b>	<b>17/01072/CM (County Matter Application)</b>	
<b>Case Officer:</b>	<b>Mr C Fry</b>	<b>Date for Determination: 29 June 2017</b>

**Reason for Referral to Planning Committee** – Raises issues of wider concern

**Case Summary**

The site is located on scrubland to the east of Cross Bank Road, approximately 2km to the north west of King's Lynn town centre and some 200m to the north of the defined built environment.

The application seeks consent for an Anaerobic Digestion plant, producing up to 0.9 MW of renewable energy per annum (providing the equivalent power for 2,000 households).

The facility would comprise a reception building, a workshop, 2 low profile rectangular digester tanks, 2 storage tanks, a combined heat and power plant, feedstock clamp, flare stack, ancillary plant and new vehicular access. A bio-gas boiler has also been specified within the process building.

Members may recall a previous County Matter application, 16/01145/CM, for a very similar proposal albeit producing slightly more renewable energy.

The application is made to Norfolk County Council as the Minerals and Waste Planning Authority; the Borough Council as Local Planning Authority is a consultee.

**Key Issues**

The main issues raised by the application are:-

- Principle of development;
- Landscape and Visual Impact;
- Traffic;
- Noise & Odour; and
- Flood Risk.

## **Recommendation**

**NO OBJECTION** subject to the resolution of issues regarding landscape, flood risk and the safety of the high users of Crossbank Bank Road.

## **THE APPLICATION**

The site is located on scrubland to the east of Cross Bank Road, approximately 2km to the north west of King's Lynn town centre and some 200m to the north of the defined built environment.

The site measures approximately 0.8 hectares.

Access to the site is from Cross Bank Road, which leads directly to Edward Benefer Way and the A148.

An existing mature hedgerow and intermittent trees separate the site from Cross Bank Road to the west. The River Great Ouse occupies a wide channel to the west of Cross Bank Road and King's Lynn sewage works lies to the north west of site, across the river. Industrial buildings are located to the south east, the closest being PIL Membranes. The eastern boundary of the site adjoins open farmland.

The site is located some 500m from the closest dwelling, and approximately 800m from The Wash National Nature and 1.7km from the closest European designated site, RAMSAR, or SSSI. It lies within Flood Zone 3.

The application seeks consent for an Anaerobic Digestion plant, producing up to 0.9 MW of renewable energy per annum (providing the equivalent power for 2,000 households).

The facility would comprise a reception building, a workshop, 2 – 4.8m high digester tanks, 2 storage tanks, a combined heat and power plant, feedstock clamp, flare stack, ancillary plant and new vehicular access. A bio-gas boiler, has also been specified within the process building.

The previous proposal produced approximately 12,000 tonnes of cereal crop matter per annum which was supplemented by 2000 tonnes of animal waste making a total of 14,000 tonnes per annum. With this proposal the tonnage is proposed to increase by 5,250 tonnes so the plant has a maximum throughput of 19,250 tonnes per annum. This will be achieved by an increase in slurry transportation.

The facility would be staffed by 2 full time employees (or equivalent), who would be responsible for the day to day management of the facility.

This is a resubmission to Norfolk County Council, who refused the application on the basis that:- the proposal failed to determine whether the proposed development during its construction and operation would be acceptable in terms of its impact upon the safety of those users of Cross Bank Road in the Fisher Fleet and Dock Areas; the failure to provide sufficient information of the construction phase of the development to enable determination of the impact upon the amenity of local residents and businesses; the application had failed to provide information in regards to the flood risk sequential test to demonstrate that there are no other reasonably available sites appropriate for the proposed development in a lower risk flood zone.

## SUPPORTING CASE

The application is accompanied by the following documents:

- Planning Statement;
- Ecology Report;
- Transport Statement;
- Noise Assessment;
- Air quality Assessment;
- Landscape and Visual Impact Assessment; and
- Flood Risk Assessment.

The Planning Statement is summarised as follows:-

- Feed stock will be brought onto site via Cross Bank Road, which will remain a BOAT. The existing surface will be upgraded and passing places will be provided.
- A 2.5m wide, type 1 surface section will be provided on the western side to be used by pedestrians and for horse riding.
- The remaining 3.5m wide section on the eastern side would be metalled for use by vehicles. Vehicular access will be extended as a metalled surface within the western site boundary.
- Deliveries to service the facility will take place between the hours of 0900 and 1700 Monday to Friday and 0900 to 1300 on Saturday. No deliveries will take place on Sundays and Bank Holidays.
- There will be 6.67 HGV movements a day (to and from – total 13.34) during the harvest period and 4.02 return movements outside of the harvest.
- If an access were to be used over the a culverted drainage ditch to transport the maize and digestate instead then there would be no movements on the highway during the harvest period and 2.2 return (4.4 individual movements) outside of the harvest.
- During the construction phase, work will only be carried out Monday to Friday over a 9 month build process.
- There will be 500 vehicle loads used in the construction phase, creating 1000 individual movements during this period. This will equate to an avg. of 2.7 vehicle visits per day (5.4 movements) during the construction phase.
- Landscaping will involve planting along the site boundaries
- Lighting will only be activated outside of operating hours for emergency maintenance procedures.
- There will be significantly less spoil removal compared to the previous application
- The number of HGV movements has been significantly reduced from 3,000 to 1,000 HGV movements.
- The creation of a link to an existing agricultural track in the local fields supplying maize and receiving digestate at North Lynn Farm.
- There is an option to pump digestate straight from the facility onto the adjacent field.
- The proposal is not affected by any procted species issues
- It is over 900m from the nearest residential properties
- It is close to the applicant's main business premises and centre of operations, thereby offering significant operational benefits;
- The proposed use is not classed as flood sensitive development under the NPPF on flooding.
- It would not be visually intrusive given the design and low profile nature of the development and the landscaping proposals.

- The choice of materials is designed to minimise visual impact. Key structures which will be finished in dark green (RAL 6005).
- A wooden noise barrier will also be installed to further
- The development would employ sustainable urban drainage techniques.

The development would help to supply renewable energy to 2 companies

## PLANNING HISTORY

16/01145/CM: OBJECTION:- COUNTY MATTERS (NCC – C/2016/2011 – REFUSED 3/4/17): Erection of anaerobic digestion facility (to process up to 14,000 tonnes of cereal crops/slurry) including ancillary reception/office building and workshop, two digesters, two storage tanks, combined heat power plant, energy crop storage area, flare stack, ancillary plant and improvements to proposed access (widening and resurfacing).

15/02144/CM: Application Withdrawn: 27/01/16 - County Matters Application: Erection of anaerobic digestion facility (to process cereal crops/food waste) including ancillary reception/office building and workshop, two digesters, two storage tanks, combined heat power plant, energy crop storage area, flare stack, ancillary plant and new vehicular access - Land N of Outfall S Off Transmission Cables W Off Road, Cross Bank Road, King's Lynn, Norfolk

12/01681/FM: Application Permitted: 05/02/13 - The grounds will be used as a temporary means to support solar PV panels, which will generate electricity for the use of the national grid. Small storage blocks will accompany the alteration to house electrical equipment and will as such not include any extension or demolition - Mickram Limited - Cross Bank Road, King's Lynn, Norfolk, PE30 2HD – Lapsed without implementation.

## RESPONSE TO CONSULTATION

The application is to be determined by Norfolk County Council as the Minerals and Waste Local Planning Authority. The Borough Council has not, therefore, carried out its own consultation.

However, the following comments have been sent to the County Council

**Environmental Health & Housing** despite receiving information from The Planning Group Ltd, dated 20th June 2017, we still have concerns regarding the impact of increased noise from deliveries to site, odour from deliveries to site, and dust from the construction phase impacting on local residents, however, both the environmental quality team and community safety neighbourhood and nuisance team are able to remove their objection to this application subject to conditions being attached.

It is noted that the Environmental Permit to be issued by the Environment Agency will regulate emissions to air, odour, noise from the site during the operational phase and therefore planning conditions have not been recommended to control these potential impacts.

Condition 5 is recommended as the Construction Management Plan submitted as part of the planning application lacks the specific information needed to protect residents from noise and dust during construction and will need to be updated.

Conditions suggested regulate the delivery hours, the total number of deliveries, offsite noise management plan to protect residents along Crossbank Road, offsite odour management plan and construction management plan.

**King's Lynn Civic Society: OBJECTION** we feel as though this is an inappropriate proposal for this location and we feel there are still many vague aspects to the information provided. The importation of bio-mass will impact upon main roads into and through Lynn and the surrounding urban areas. It is difficult to think of a more restricted catchment area for such a plant anywhere else in West Norfolk.

Odours from trucks will be problematic (as demonstrated when the shellfish factory exports waste shells). In addition Edward Benefer Way already suffers from congestion and this will be exacerbated in future by the new Lynn sport access.

The proposed plant will have a significant adverse impact on this gateway to Lynn and the coastal path route – not least, impacting on the safety of pedestrians and cyclists who may be using the route.

Other matters include; whether Dow will sign up to the electricity given a likely take over in the near future; hot water and steam, exported off site via an underground cable connection; maize will come from further afield than the nearest farmland;

## **REPRESENTATIONS**

The application is to be determined by Norfolk County Council as the Minerals and Waste Local Planning Authority. The Borough Council has not, therefore, carried out its own consultation.

## **NATIONAL GUIDANCE**

National Planning Policy Framework – sets out the Government's planning policies for England and how these are expected to be applied.

National Planning Practice Guidance - Provides National Planning Practice Guidance, in support of and in addition to the NPPF

National Planning Policy for Waste (2014)

Waste Management Plan for England (2013)

National Anaerobic Digestion Strategy and Action Plan (2011)

## **LDF CORE STRATEGY POLICIES**

**CS01** - Spatial Strategy

**CS06** - Development in Rural Areas

**CS08** - Sustainable Development

**CS10** - The Economy

**CS11** – Transport

## **CS12 - Environmental Assets**

Norfolk Minerals and Waste Local Development Framework Core Strategy and Minerals and Waste Development Management Policies Document Plan Document 2010-2016 (2011) (NWMDP)

- **CS7** – Recycling, composting, anaerobic digestion and waste transfer stations
- **CS13** – Climate Change and renewable energy generation
- **CS14** – Environmental Protection
- **CS15** – Transport
- **DM 1-** Nature Conservation
- **DM3** – Groundwater and surface water
- **DM4** – Flood Risk
- **DM8** – Design, local landscape and townscape character
- **DM10** – Transport
- **DM12** – Amenity
- **DM13** – Air Quality

Norfolk Minerals and Waste Local Development Framework Waste Site Specific Allocations DPD (2013)

- **WAS05** – Land at Estuary Road, King's Lynn

## **SITE ALLOCATIONS AND DEVELOPMENT MANAGEMENT POLICIES PLAN 2016**

**DM1** – Presumption in Favour of Sustainable Development

**DM2** – Development Boundaries

**DM15** – Environment, Design and Amenity

**DM20** - Renewable Energy

## **OTHER GUIDANCE**

The application is submitted to Norfolk County Council as the Minerals and Waste Local Planning Authority. The Borough Council as Local Planning Authority is not the determining authority: the purpose of this report is to seek the Committee's views on a consultation response.

The main issues raised by the application are:-

- Principle of development;
- Landscape and Visual Impact;
- Traffic;
- Noise & Odour; and
- Flood Risk.
- Other Matters

## **Principle of Development**

The site lies in land defined as countryside in the local plan where Core Strategy CS06 generally seeks to restrict development in line with NPPF policy to preserve the intrinsic beauty of the countryside. However the site lies on the edge of an industrial area, based around King's Lynn Docks.

Outside settlement boundaries, emerging development management policy DM2 details the kind of development that may be acceptable in the countryside and includes renewable energy such as anaerobic digestion, which creates energy from waste or plant materials.

Policy DM20 states that proposals for renewable energy will be assessed in terms of their impact upon:-

- Sites designated for their landscape or ecological value, such as the AONB and SSSIs;
- Landscape;
- Heritage assets;
- Ecological interests;
- Amenity including noise and air quality;
- Contaminated land;
- Water courses;
- Public safety including road safety and users of footpaths, by-ways etc; and
- Tourism and other economic activity.

Subject to the impact of the proposal upon these interests, the proposal is acceptable in policy terms.

## **Landscape and Visual Impact**

The buildings that the development would comprise of are described earlier on in this report. The two digester tanks are 4.8m high, however these tanks are on lower ground than the height of the road, this effectively renders them to be 3.3m above the road level.

The application is accompanied by a Landscape and Visual Impact Assessment. This concludes that there would be limited landscape and visual effects arising from the proposed development and that these would largely be restricted to the immediate surroundings of the development.

It bases this conclusion upon an analysis of the existing landscape, which includes industrial elements in the form of the sewage works on the opposite side of the river and industrial plant at Porvair and Dow to the south as well as pylons and two wind turbines and the sinking of the tallest elements of the AD plant below the existing roadway.

It is noted that the Green Infrastructure Officer to NCC has placed a holding objection in terms of the proposal's impact in terms of landscape as the landscaping scheme appears inconsistent; clarification is sought in regards to the gradient of the eastern bund and the use of wooden fencing boundary treatment.

## **Traffic**

The amount of traffic generated once the plant is operational will depend upon the fuel source for the digester. Three scenarios were considered in the applicant's transport statement in regards to the previous proposal.

- 1) Biomass material (maize) from farmer of adjoining land;
- 2) Delivery of biomass from outside contractor; and
- 3) Animal waste used as fuel.

Members in their deliberations of these scenarios raised traffic issues and felt that the impact upon the users of Crossbank Road and in particular the northern section of Crossbank Road was unacceptable. Further comments made by Members referred to there being no direct field access to the site that would allow direct delivery of the fuel described by the applicant.

NCC had refused the previous application on public safety grounds, particularly the issues raised in terms of the public safety of those using Crossbank Road in the Fisher Fleet and Dock areas.

The proposal is now solely reliant on maize and slurry to fuel the Anaerobic digester. All traffic will go through the port area.

The construction phase of the proposal is expected to last 9 months during which there will be 500 HGV vehicles (1000 movements) involved with construction phase (average 5.4 movements per day). This is a reduction in the number of HGV movements involved with the previous application which was reported at 3000 movements, by virtue of retaining more of the waste spoil from construction on site.

During the operational phase, maize will travel from North Lynn Farm to Crossbank Road by the public highway and slurry will be delivered from several farms around the King's Lynn area. There will be 6.6 vehicles visit the Anaerobic digester per day during the harvest period and 4 vehicle deliveries per day outside of the harvest period and 1 trip per day transporting digestate from site. Deliveries will mainly take place between 09:00 and 17:00 Monday to Friday and 09:00 to 13:00 on Saturday. The transport statement concludes that the ghost island junction of the A1078 (Edward Benefer Way) and Cross Bank Road can accommodate the predicted increase in vehicle movements,

Other alterations include additional space being provided adjacent to the Byway to aid visibility, the surface of the road where it passes beyond Porvair and is currently surfaced with shell fish will be hardened and improved to a haul road up to the access to the digester.

The transport statement considers that much of Cross Bank Road is wide enough to accommodate 2 way HGV movements. Where it is not the statement proposes widening the road on the bend as the road swings round to run parallel to the river with widening to the north of this point so 2.5m of the highway will be provided on the shoreside of the road to be used by pedestrians and horse riders and a 3.5m wide section provided on the eastern side to be used by vehicles.

The applicant suggests that there could be a direct access to North Lynn farms however this does not form part of the proposal.

The Associated British Ports Authority have yet to comment on the proposal at the time of writing this report. In regards to the previous scheme there was an objection from Associated British Ports regarding increased traffic on Cross Bank Road through the port and from members of the public to increased use of the private section of the road.

Notwithstanding these concerns, the Local Highway Authority has no objection to the proposal subject to conditions in regards to the previous proposal, NCC Minerals and Waste Planning refused the previous application on the applicant failing to enable the determination of whether the proposed development during its construction and operation would be



acceptable or whether it would result in an unacceptable impact on the safe use of Cross Bank Road in the Fisher Fleet in terms of the impact upon public safety.

This particular issue is still to be discussed between NCC officers and the agent.

### **Noise & Odour**

On-site process will be covered by a permit from the Environment Agency under separate legislation. A license application will be made but has not been yet. The licensing process will control all emissions from the processes on the site, including noise and odour. The planning process should not replicate other legislation so the committee is advised that an objection would not be sustainable on noise and odour grounds.

The Environmental Health department have produced a joint statement in regards to the off-site noise and odour issues and have no objection to the proposal subject to conditions that restrict delivery times and the number of deliveries per week and a detailed construction management plan and off-site odour plan.

### **Flood Risk**

The site is in Flood Zone 3. The County Council as determining authority needs to be satisfied that there are no sites available at lower risk of flooding (the sequential test) before applying the exception test.

The development is classed as 'Less Vulnerable' in the national Planning Practice Guidance and is acceptable under the exception test provided that the development is accompanied by a site specific Flood Risk Assessment (FRA) that demonstrates the site is adequately protected from the risk of flooding.

NCC refused the previous application on the grounds that it failed the sequential test.

### **Other matters**

#### *Designated Sites and Ecology*

Correspondence to NCC from Natural England indicates that the proposal will not have a detrimental impact upon nationally designated nature conservation sites.

The site is 3km distant from the AONB and has little impact upon views into and out of the area.

In regards to Protected Species, the County's ecologist to NCC has not placed a holding objection, but seeks amendments to the ecology report.

#### *Heritage Assets*

Comments from Historic Environment Service to NCC state that the proposal will not impact on heritage assets.

#### *Contaminated Land*

No comments have been made by the Council's Environmental Health team regarding contamination of the site or the need to remediate.

#### *Water courses*

No objections regarding pollution have been raised by the Environment Agency, which has a statutory responsibility to protect controlled waters.

#### *Public Rights of Way*

The committee will need to consider the impact of the proposal upon the private sections of Cross Bank Road and the users of it, including the public by-way.

The PROW officer has commented to NCC that there would be the need for a temporary closure order to suspend the public use of the route during the construction phase of the development. The private right of using the route is not suspended, however the safeguarding of the private users of Crossbank Road, whilst construction works are taking place, would need to be considered by NCC.

#### **CONCLUSION**

The proposal complies with policy CS06 of the Core Strategy as elaborated upon by emerging policies DM2 and DM20 provided that issues in regards to the safety of the highway users of Crossbank Road, flood risk and landscape are satisfactorily addressed.

In the light of this, it is recommended that the Council as Local Planning Authority does not object to the proposal, subject to the issues above being satisfied.

#### **RECOMMENDATION:**

**NO OBJECTION** subject to the satisfactory resolution in regards to the safety of the highway users of Crossbank Road, flood risk and landscape.