

AGENDA ITEM NO: 8/2(b)

Parish:	King's Lynn	
Proposal:	Erection of anaerobic digestion facility to process up to 19,250 tonnes of biomass including reception/office building and workshop, two digesters, two storage tanks, combined heat and power plant, energy crop storage area, and ancillary plant.	
Location:	Land North of Riverside Business Centre Cross Bank Road King's Lynn Norfolk	
Applicant:	GMT Biogas (Lutra Ltd And Mickram Ltd)	
Case No:	17/02338/F (Full Application)	
Case Officer:	Mr C Fry	Date for Determination: 2 March 2018

Reason for Referral to Planning Committee – Referred by the Executive Director as raises issues of wider interest.

Neighbourhood Plan: No

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, processing up to 19,250 tonnes of biomass per annum.

The facility would comprise of 2 digesters, 2 digester storage units, dry digestate collection, Combined Heat and Power engines, a bund wall, an administration portacabin, car parking, a feeder, operations building and a larger administration building.

Traffic serving the development will enter the site from a new access provided from Estuary Road.

Members may recall a previous County Matter application, 16/01145/CM, which was for an anaerobic digester plant that the Committee objected to for the processing of 14,000 tonnes (inc. animal waste). That application was refused by Norfolk County Council, but subsequently upheld on appeal i.e. an anaerobic digester is permitted on this site already.

This application differs in so far as providing access to the site via a new unmade trackway from Estuary Road and no longer involves the importation of waste. The total annual tonnage of biomass is proposed to be increased from 14,000 tonnes to 19,250 tonnes, an increase of 5,250 tonnes on the approved scheme. As the proposal no longer involves the importation of animal slurry (waste materials), the Borough Council is now the determining authority.

Key Issues

The main issues raised by the application are:-

Principle of development and Planning History
Landscape and Visual Impact;
Traffic;
Noise & Odour;
Flood Risk.
Other Material Considerations

Recommendation

APPROVE

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 currently achieved from Cross Bank Road, which leads directly to Edward Benefer Way and the A148.

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, including DOW Chemicals and KL Technologies. 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 Reserve 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 9 Gigawatts per annum which is equivalent to the needs of approximately 2,000 households.

The facility would comprise the following:-

- Feedstock clamp (79m x 31m x 5m) a concrete block wall structure, which will by virtue of the topography of the site, effectively be 3.5m above road level.
- Operational area - process building (7m x 7m x 4.2m max - this will be clad in Juniper Green), a solids feeder, a dry digestate collection facility. A biogas boiler is contained within the process building.
- Primary and Secondary digesters both scaling 17m x 17m x 4.8 high, in RAL 6005 "Moss Green".
- 2 x digestate storage tanks in RAL 6005 "Moss Green" scaling 25 x 15.5m in total and are 4.8m high
- 1. CHP plant which is a combination of 2 x Combined Heat and Power plant engines in containers 6.75m x 2.44m x 2.59m high
- Access ramp for the CHP engines

- Staff car parking and an administrative building

The proposal also involves the provision of a new vehicular access across 350m of farm land off an existing farm road at North Lynn Farm onto Estuary Road and Edward Benefer Way.

The County Matters application that has been approved on appeal has less tonnage, 14,000 tonnes, but includes animal slurry with all traffic going through the port area (APP/X2600/W/17/3174764.) A copy of this appeal is attached.

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

SUPPORTING CASE

The application is accompanied by the following documents:

- A Construction Management Plan
- Heritage Statement
- Lighting Scheme
- Energy end user agreement (Unilateral Undertaking)
- Noise Assessment
- Air Quality Assessment
- Ecology appraisal
- Visual Report
- Flood Risk Assessment
- Surface Water Treatment
- Transport and Access Statement
- Planning Statement

The Planning Statement is summarised as follows:-

- The proposal to use the BOAT for feedstock traffic has now been removed in response to objections from Norfolk County Council in regards to the County matter application. These feedstocks will be via the new agricultural field track.
- Crossbank Road will only be used by site staff and occasional maintenance vehicles.
- 8 individual movements by HGV's outside of the harvest period will take place and this includes the feedstocks and export of digestate.
- There will be 22 individual movements during the maize harvest period but none of which will use the public highway (new farm track)
- 6,000 tonnes of beet pulp will be from Wissington Sugar Factory (beet pulp is not waste according to the Environment Agency and NCC Minerals and waste department). Deliveries will be in 30 tonne capacity HGVs 7,250 of straw will be supplied from local farmers in 18 tonne HGVs and 6,000 tonnes of maize will have no vehicle movement on the highway and will delivered from the farmland immediately adjacent the site.
- Vehicles during the construction phase of the digester facility will be from the new access track with deliveries timed to avoid disruption. It is expected there will be 1000 individual movements during this period (of which will be 902 HGV movements), which given the amount of tonnage will be 5 vehicular movements a day.
- Lighting outside of normal hours will be activated for the use of emergency maintenance procedures.

- Foul drainage is not required for staff as portable provision can be made, but if necessary the applicant will accept a planning condition in respect of foul drainage.
- The site lies within flood zone 3a, according to the EA flood map.
- The site is closest to its end users who will utilise the heat and electrical energy from the scheme and to whom a cable connection can be readily made.
- It is close to the main agricultural field area which will supply the maize energy crop and will receive the digestate
- Readily accessible from the proposed agricultural access road which would link the site to the Estuary Road.
- It is unconstrained by any statutory environmental/landscape or heritage designations and is not considered to be in an area of high scene quality.
- No protected species issues; it is 900m from the nearest residential properties
- It would not be visually intrusive and is capable of being accommodated within this linear site given the size and shape of the proposed AD plant.
- Key structures will be finished in a dark green (RAL 6005 - "Moss Green") New planting will be planted along the site boundaries.

PLANNING HISTORY

17/01072/CM:- 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- refused

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). Appeal upheld APP/X2600/W/17/3174764 dated 17th April 2018

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

Coastal Partnership The proposal lies outside of the AONB in an industrial area therefore we have **NO OBJECTIONS** to the visual impact on landscape on the AONB.

There may be some viewpoints from the AONB back to the facility; therefore we support the planners to work to alleviate visual pressure through conditions providing sympathetic

screening and choice of materials, colours and design. Also to ensure that the development does not gradually encroach into the AONB with associated infrastructure.

Would have been useful to see some more detailed visualisations of what the plant will look like.

Environment Agency: NO OBJECTION subject to condition; an Environmental Permit maybe required for the operations of the site.

Emergency Planning I would suggest that the occupiers should sign up to the Environment Agency Flood Warning system, install services at high levels to avoid the impacts of flooding and a flood evacuation plan should be prepared to take into account a receipt of the different warning levels; evacuation procedures and routes.

Cadent Gas Do not make any specific comment in regards to supporting or objecting to the application and offer informative notes to the developer.

Historic England have responded that they do not wish to offer any comments.

PROW We welcome the removal of all construction and subsequent processing traffic using the adjacent unsurfaced PROW known as the Byway Open to All Traffic 1 to this application for using the BOAT for light traffic only. I must enforce that the BOAT is not suitable for HGV traffic. To support this we request that the entrance designed for traffic off the BOAT should not be suitable for HGVs. The screening vegetation alongside the BOAT should continue to be included.

A section of the proposed haul route is coincident with the PROW known as footpath 2. The full legal extent of this footpath must remain open and accessible for the duration of the development and subsequent occupation. There should be no inconvenience caused to walkers and we would advise that signs be erected for drivers warning of the potential presence of pedestrians.

Arboricultural Officer: NO OBJECTION; condition as per plan.

Norfolk Fire and Rescue: A fire hydrant will need to be installed capable of delivering a minimum of 20L of water per second or where no piped water supply is available an alternative arrangement is proposed.

Environmental Quality and Community Safety Neighbourhood Nuisance (combined response)

The applicant will need to confirm with the EA whether the combined heat and power will require an Environmental Permit when permitting relations are amended to include medium combustion plant directive.

The applicant is required to provide the stack height and technical details of the CHP. A technical specification should be provided of the Cento CHP units and the air quality assessment should be revised to assess the impact of predicted emissions from the proposed 2 units, taking into account the stack height

No information has been provided in respect to the technical details of the emergency biogas boiler and its implications should be assessed in the Air Quality Assessment.

A condition would need to be attached in regards to any dust suppression during the operational phase.

During the construction phase dust can be managed through the Construction Management Plan. The Construction Management Plan and Construction Environmental Management Plan will need to be conditioned.

There should not be any adverse impact on residential amenity given the site's location, bunding and proposed acoustic fencing and mitigation measures in the construction and operational phase.

The no. of HGV movements during the operational phase is not excessive and the proposed hours of delivery are reasonable and it is recommended that the hours of delivery are conditioned.

Traffic will have to pass properties on Estuary Road, Meadow Close and North Lynn Farm. Again, control measures have been identified and recommended in the Construction Management Plan, the Construction Environmental Management Plan (CEMP) and the Transport Statement and Access review document. These need to be conditioned.

Surface water drainage will be contained within the site. Provided the recommendations in terms of checking and maintenance of the overall system/scheme are adhered to as per the surface water treatment document, no concerns are raised. Please condition.

Condition lighting as per the plan and please condition foul water drainage.

Natural England: NO OBJECTION

Lead Local Flood Authority: Has responded stating **NO COMMENTS** comments to make.

NCC Highways: NO OBJECTION; the highway network is capable of catering for the additional traffic and the route is acceptable. It should be noted that the junction with Edward Benefer way and Estuary Road is signalised, Estuary Road is wide and has continuous footways on both sides linking back to Edward Benefer Way. The officer's assessment only considers the suitability of the adopted highway road network to cater for the development.

Conservation Officer: NO OBJECTION

KLACC: OBJECTION on the grounds of flood risk; more information needed in regards to the location and construction of the road which runs across the field, impact the proposal would have on historic buildings, still processing beet pulp, the economic benefits of the scheme in relation to loss of amenity.

Civic Society: OBJECTION; wrong site for an anaerobic digester and we continue to have significant concerns regarding the claims relating to operational sustainability of the scheme.

The applicant has clearly utilised considerable resources to bring together this new application. Yet many of our concerns about the practicality and true operational impacts of a digester at this site still appear to depend on agreements and arrangements to be made after planning consent.

A sustainability test should really require the long term viability to be secure.

Internal Drainage Board: Provides standing advice.

Representations

17 letters received objecting to the application on the following grounds:-

- Will the plans be put up on the website.
- If the swing bridge is out of action, then traffic will have to go to Bentinck dock and this would be a problem now with safety and security issues
- Smells can drift from the plant over ½ a mile away.
- The is near a national nature reserve, an area of peace and solitude and this would lead to an infilling in the area.
- Increase HGV traffic on Estuary road, which is already congested with HGV is waiting to get into Dow Chemicals
- Noise, air and light pollution to residential properties.
- Dangerous especially with an infant school at the top of estuary road.
- Adverse effect on existing road users on Edward Benefer Road.
- No HGVS should be allowed on Saturdays.
- Growing of maize on arable land will drain it of its inherent qualities.
- What measures will be put in place to ensure that the applicant does not use the BOAT for HGV traffic.
- Why is the access from BOAT 6m wide.
- The construction traffic will need to use the BOAT to remove the scrub and establish a site compound and works area.
- Figure 17 of the construction management plan show no 6m access in the bund wall adjacent to the BOAT.
- Section 8.0 of the Construction Management Plan states "the existing site access to the public highway would be used to bring plant and machinery onto the site. Does this refer to the BOAT as it's the only existing access?"
- The BOAT is not suitable for HGV traffic
- Is there any evidence that British Sugar will supply the 6k tonnes of sugar beet and how will it be stored and when will it be delivered?
- Where is the straw and maize to come from?
- What control is there over the feedstock quantities?
- The supporting statement proposes 6-7k tonnes of liquid digestate and 2k of dry digestate will be generated how will this be calculated. According to the bio-gas website around 90-95% of material that goes into the feed is indigestible.
- 4,000 tonnes of surplus material will be excavated from the site. Will this affect integrity of the sea wall flood defence?
- Reducing overheads for companies and profitability for the end users should not be a planning consideration
- If the farmer does use the BOAT and Crossbank Road why hasn't this been accounted for?
- "Beet pulp is categorised as a waste product" according to the transport statement and the air quality assessment refers to animal waste.
- Transport statement refers to the BOAT being located on lower land but this is not the case.
- Has the sequential test been applied?
- Anaerobic digesters have the ability to cause explosions.
- Affect wildlife
- Affect views and landscapes and encouraging industrial sprawl.
- Concerns raised that the applicant will not abide by pre-commencement conditions
- Flood Risk and major accidents could occur
- No proof of commitment from either of the proposed "end user"
- Rodents on the site
- The site is too narrow and adjacent to the Public Byway.
- Impossible to quantify how many lorries will come and go from the site.
- Why not use solar panels which would be more acceptable

- Bringing sugar beet from Wissington is not green
- Devalue property
- Decrease saleability
- Less enjoyment of living where we chose to
- Potential difficulties for emergency vehicles.
- Who maintains the BOAT?
- Risk of explosions
- Stench from digestate spreading.
- The validity of the recent appeal in permitting an AD plant is questionable when comparing to this application as the access routes are different.

LDF CORE STRATEGY POLICIES

CS01 - Spatial Strategy

CS02 - The Settlement Hierarchy

CS06 - Development in Rural Areas

CS08 - Sustainable Development

CS10 - The Economy

CS11 - Transport

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

DM21 - Sites in Areas of Flood Risk

NATIONAL GUIDANCE

National Planning Policy Framework (NPPF)
 Planning Practice Guidance (PPG)

PLANNING CONSIDERATIONS

The main issues raised by the application are:-

- Principle of development and Planning History;
- Landscape and Visual Impact;
- Traffic;
- Noise & Odour;

- Flood Risk.
- Other Matters

Principle of Development and Planning History

The site lies in land defined as countryside according to the local plan proposal map contained within the Site Allocation and Development Management Policies Plan 2016. Core Strategy Policy 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, Policy DM2 of the Site Allocation Development Management Plan Policies Plan details the kind of development that may be acceptable in the countryside and includes renewable energy such as anaerobic digestion, which creates energy from 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.

The site currently benefits from permission for an Anaerobic Digester granted under Appeal reference APP/X2600/W/17/3174764 for the erection of an anaerobic digestion facility (to process up to 14,000 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 plant following Norfolk County Council's refusal to C/2/2016/2011. The differences between the approved appeal digester are and this application are summarised as follows:-

- No animal slurry is proposed to be used
- The annual tonnage has increased by 5,250 tonnes (total of 19,250 tonnes per annum).
- With the exception of site clearance, the construction and operational vehicles will access the site via a new access road proposed from Estuary Road.
- An operations building
- Fire Water Store
- Admin Building

Landscape and Visual Impact

The proposed digesters and digestate storage are located on the southern half of the site in close proximity to the admin building, fire water store and staff car parking area. To the north of the digesters and storage area is the operations building, feeder and dry digestate collection. Approximately half of the site is a storage clamp (concrete area with enclosed wall for the storage of materials).

The new service road follows a route from Estuary Road and runs north past KL Technologies and then diverts west across agricultural fields to the east boundary of the main application site (storage clamp area). In order to soften the appearance of the development planting is provided between the storage clamp and the agricultural fields that lie to the east and a bund with native hedgerow planted alongside the enclosed wall to the complex. This will act to soften the appearance of the processing area from the BOAT.

Over and above what has been allowed on appeal, the provision of the new access road is seen in conjunction with industrial units and the admin building and the fire water store are seen in conjunction with KL industries. The native planting information is contained on the planting plan 10-09-2017 which details a mix of weeping willow, blackthorn and hawthorn hedging at appropriate densities according to the Arboricultural Officer.

It is therefore concluded that subject to the landscaping being carried out in accordance with the submitted details and upkeep of the landscape there would be no detrimental landscape or visual impacts from the proposal.

Traffic

A lot of third party objections received relate to traffic numbers, accesses and highway safety during the construction and operational phases of development.

Traffic associated with the development is broken down into the construction and operational phases. As part of the construction phase there will be the provision of a new access route from the private section of Estuary Road. To inform the application a Transport Planning Statement has been submitted which has been supplemented by additional information from the agent.

Operational

The employee and visitor access to the site will be provided via Cross Bank Road and the BOAT.

The HGV route will be from Estuary Road. The HGV route will be a minimum of 4m wide with passing places along its length to allow HGVs to pass each other.

6,000 tonnes of beet pulp will be delivered to the site in 30 tonnes capacity HGVs. Total 200 – HGV movements (Appeal 200 HGVs – no increase)

7,250 tonnes of straw will be supplied by local farmers in 18 tonne capacity HGVs. Total 403 – HGV movements (Appeal 111 – increase of 292 movements)

The beet pulp and straw will be delivered throughout the year on the following basis:

- 300 working days per year
- Beet pulp in 30 tonne loads
- Straw in 18 tonne loads
- Monday through to Saturday i.e. 6 days
- Monday to Friday opening hours - 09:00 - 17:00 hours
- Saturday opening hours 09:00 - 13:00 hours

6,000 tonnes of maize will be delivered from the farmland immediately adjacent the site. Given the location of the maize there will be no vehicle movement on the local highway as it will be delivered to the site from the field or stored locally on the farm. The deliveries from the farm will be to the site over a 30 day period over the early harvest March period, in 18 tonne

loads. The harvest period deliveries will last for 5 weeks with deliveries only occurring Monday through to Saturday. The deliveries from the farm land will be following these parameters: -

- 5 week period/30 days harvest
- 18 tonne loads
- Monday to Saturday only
- Monday to Friday 09:00 - 17:00 hours
- Saturday openings hours 09:00-13:00 hours.

Total - 333 – HGV movements (Appeal 200 HGV movements – increase of 133 movements)

9000 tonnes of Digestate will be delivered to the adjacent farm outside of the harvest period on the following basis:

- 274 working day year (outside of the harvest period)
- 18 tonne loads
- Monday through to Saturday i.e. 6 days
- Monday to Friday operating hours - 09:00 -17:00 hours
- Saturday operating hours 09:00-13:00 hours.

Total 500 HGV movements (Appeal 500 HGV movements – no increase)

The total number of HGV movements involved in this operation phase is 1436 compared to 1011 involved in the approved appeal scheme. In total the number of HGV movements involved in the operations of the AD plant has increased by 425.

The public highway section of Estuary Road is for the vast majority of its length a minimum of 7.3m wide and has footway both sides of carriageway. The public highway stops at the end of the access to Dow Chemicals. The un-adopted highway extends past the bungalows in Meadow Close before serving KL Technologies and North Lynn Farm. This un-adopted road is a bridleway Footpath 2. The transport statement states that the existing un-adopted highway has verges on both sides of this section of the carriageway.

The new section of farm track road is provided beyond the properties on Meadow Close and will run parallel with the road that serves KL Technologies. The road will be 4m wide on the straight sections, 4.5m wide on the bends and will have 2 passing places that result in the road being 7.3m wide. To provide the road there will need the culverting of an IDB drain.

Construction phase

This consists of 4 phases

1. The initial site setup

The initial site setup involves temporary offices, excavators, dumper trucks, fencing deliveries, generators and soil removal which will be 92 HGV movements.

2. Farm road construction, deliveries and removal of materials

Aggregate to the site, fencing and additional materials will involve a further 55 movements

3. Bund Wall and Tanks

Concrete delivery, Bund Walling, Additional materials, tanks materials, Combined Heat and Power Plant of which there will be 293 HGV movements.

4. Site Completion

Temporary officer, excavators, dumper trucks, fencing and generators 11 movements of which all will be HGV's.

The Construction Management Plan details that deliveries in regards to the construction phase will be restricted to between 08:00 to 17:00 hours Monday to Friday only.

The total number of HGV movements involved in the construction phase involved in this application is 451 compared to the approved scheme of 500 HGVs. This is 49 less vehicle movements than that approved at the appeal.

The Highways Officer does not object to the proposal (in respect to the public elements of the scheme). NCC Highways have consistently not objected to the use of Crossbank Road and the Inspector in relation to the AD plant considered that there were no highways issues or conflicts with the operations of the port. In respect to this proposal using Estuary Road, the officer considers that the junction of the A1078 Edward Benefer Way and Estuary Road is a signalised junction and Estuary Road is wide and has continuous footways on both sides linking back to Edward Benefer Way, and as such there are no highway safety issues with the HGVs entering the site on this route.

The Public Rights of Way (PROW) officer has welcomed the removal of all the construction and subsequent passing traffic using the adjacent unsurfaced public right of way BOAT, but contrary to the statements that have been provided by the agent, that all HGVs in the construction and operational phase will enter the site from Estuary Road, 81 HGV movements will need to come onto the site from Crossbank Road in the initial set up phase (phase 1) as the new farmtrack would not have been provided at this stage (phase 2).

The Public Rights of Way officer has stated that the BOAT is not suitable for HGV traffic and that the entrance designed for traffic off the BOAT should not be suitable for HGVs. This comment has been made by the officer as it is detailed on the plans the provision of a 6m wide access from the site onto Crossbank Road.

Since the Public Right of Way officer's comments, the applicant's appeal of an AD plant with all construction and operational traffic using the BOAT has been successful. The Inspector imposed a condition in respect to the maintenance and integrity of the BOAT. The condition requires, prior to site clearance, that a detailed scheme for the improvement of the BOAT will be submitted to County Council that requires the following:-

- (i) the surfacing and other materials to be used at all stages during the construction period, including the commissioning of the development.
- (ii) the surfacing materials that shall be in place before the development hereby permitted is first brought into use.
- (iii) the arrangement proposed for access during the improvement works to the BOAT, which shall identify whether or not the closure of the road is required during these works and, if so, the mechanism proposed to achieve it; and
- (iv) the mechanism proposed to dedicate the resulting additional surfaced width of crossbank road as a BOAT.

No additional surface width of Crossbank Road is proposed within this application, accordingly (iv) of the inspector's condition would not be relevant to this application. However, the surfacing and other materials to be used at stage 1 of the construction phase

of this proposal and details in regards to any proposed access arrangements to continue whilst using the BOAT during phase 1 would be a reasonable condition to impose.

In response to 3rd party representation, it is not considered necessary to reduce the 6m wide access from the site onto Crossbank Road. The applicant's intention is for large vehicles to service the site from the new farm track and not from the BOAT. Had the applicant wish to serve the development from the BOAT then there would be no intention to provide the new access.

In regards to the un-adopted section of Estuary Road, this has traffic movements associated with Meadow Close and KL Technologies and pedestrians who use it as footpath 2, a Public Right of Way (only 100m of the un-adopted section forms footpath 2). The Public Rights of Way officer requires this section to remain open and accessible for the duration of the development and operation phase. The PROW officer has advised that there would need to be signs erected for drivers warning of potential presence of pedestrians. A condition could be similar to that in respect to the BOAT i.e. arrangement for access during the construction of the farmtrack can cover these issues.

Noise & Odour

Third party objectors are concerned about noise and odour from both the construction and operational phases.

The AD plant that was successful on appeal required an Environment Agency Permit; however this was because the proposal involved waste materials.

The CSNN team have considered that the Construction Management Plan and Construction Environment Management Plan (CEMP) are sufficient to protect the amenity of residential receptors in proximity to the site and on those located on the site access route and in proximity to the site. Within the Conservation Management Plan and Environment Management Plan, construction working hours are detailed to be restricted to 8am – 5pm Monday to Friday and not on a Saturday or Sunday, and HGV deliveries will be timed as to avoid HGVs backing up waiting to deliver materials to the site. Additionally silent piling techniques – i.e. vibration free piling will be used.

During the operational phase, as referenced in the noise assessment, the AD facility would be in keeping with the general noise climate of the area which is between 3dB and 13db below background noise level. The CSNN team considers that the number of vehicles involved in servicing the plant and the times of their delivery (09:00-17:00 Monday to Friday and Saturday 09:00-13:00 only) in an already industrial area, would not cause a dis-amenity that would warrant a refusal of the application. Additionally an acoustic fence is to be installed on top of the bund.

In regards to odour generated, the Air Quality Assessment states that the site is a low source odour potential. Additionally the proposal has an ineffective pathway for odour flux to high sensitivity receptors i.e the nearest residential neighbours would not be affected by odours. Odorous emissions from the digestate would be low according to the Air Quality assessment. The CSNN team has not raised any objection to the proposal in regards to odour emission, as the crops are to be delivered on an as and when required basis and therefore nothing should be stored for long periods of time and unlike the appeal application, no waste will be used. Furthermore the prevailing wind direction is from the south west direction, away from the receptors.

The proposal is therefore conditioned in accordance with the Construction Management Plan, the Construction Environmental Management Plan (CEMP) and the Transport Statement and Access Review document.

Drainage

Surface water will be collected in a sump and used in the processes on the site. This is acceptable to the EHO officer.

Foul water drainage is only required for staff facilities. Foul water drainage in this regard is proposed to be non-potable i.e. a portaloo. The CSNN and EA team recommend a condition regarding foul water drainage, even though there is to be non-permanent foul water arrangements. It is considered that a condition that restricts foul water drainage to non-potable is imposed, and should the applicant wish to provide any other form of drainage a variation of condition will need to be applied for.

The Internal Drainage Board has not raised an objection to the culverting of the ditch to the east of the site, which is required to enable the new farm access track and will be the subject of the IDBs own byelaws.

Flood Risk

Third party objectors are concerned about the proposal affecting the flood defence bank and general flood risk issues.

The site is in Flood Zone 3 and forms part of the flood defence bank. The proposed bund wall is higher than the existing flood defences.

The proposal is considered to be a "less vulnerable" use according to the NPPG and such types of development within Flood Zone 3 are required to pass the sequential test only.

In respect to the AD plant that benefits from consent, the Inspector placed weight on the proposed AD plant needing to be on this site as the main driver for the proposal is to provide energy to KL Technologies and Dow Chemicals who are located immediately adjacent to the site. It did not seem to be particularly unusual scenario to the Inspector that there were no formal power supply agreements in place with Dow or KL industries, but because the companies indicated a willingness to enter a formal power supply agreement, it was considered that there was no reason to consider other alternative sites. The Inspector considered that the Unilateral Undertaking with Dow, KL Technologies which was submitted at appeal but not entered into by DOW or KL at the time was not required and the matter could be secured by a suitably worded condition. This approach was also considered acceptable to NCC.

Accordingly, with the AD plant subject of this application also providing the same end users with power, it is considered that the proposal passes the sequential test. The same Unilateral Undertaking has been submitted with this application which has not advanced any further than that submitted at the appeal to C/2016/2011. Accordingly a similarly worded condition like that imposed on the Appeal decision in respect to formal agreement will be imposed.

Whilst a less vulnerable use within this flood zone is not required to pass the exception test, in order to ensure that the proposal is safe for its lifetime, a condition should be imposed requiring the proposal to be carried out in accordance with the Flood Risk Assessment, as recommended by the Environment Agency.

The Emergency Planners comments in regards to a flood evacuation plan and signing up to the EA flood warning system can be attached as informative.

Other matters

Designated Sites and Ecology

Third party objectors raise concerns about the impact the proposal will have on wildlife on the site.

Natural England states that the proposal will not have a detrimental impact upon nationally designated nature conservation sites.

In regards to protected species, the ecology report has recorded that proposed site (including new farm access track) and its surroundings have the potential to support nesting birds, bats (as a commuting route) reptiles and mammals, but subject to avoidance measures and habitat mitigation approaches, there is no need for further protected species surveys or an EPS License.

For bats, all external lighting on site should be at low levels.

Nesting birds: - all vegetation clearance should be undertaken outside of the nesting bird season (bird nesting season generally March-September inclusive). Should works be unavoidable during this period, a nesting bird check is undertaken by a suitably experienced ecologist.

Reptiles: - As a precaution, site clearance will be undertaken under the supervision of an ecologist with habitat clearance works undertaken between March and October to avoid risk of disturbing a hibernating animal.

Mammals - a precautionary approach will be taken in respect to the site clearance and in regards to water voles and the new culvert, an ecologist will supervise the works.

A suitably worded condition in respect to these mitigation measures can be imposed.

Heritage Assets

The nearest listed buildings are those in St Edmunds Terrace and the Old Battery House, which are located around the port area. The buildings are grade II listed buildings and designated heritage assets. With intervening development, and these buildings being approximately 1km away from the plant, the Inspector in the appeal decision considered that the appeal proposal would not result in any harm to the significance of these buildings and would not materially alter their setting.

The site is not seen within the context of the Conservation Area.

The Conservation team have no objection to the proposal.

Air Quality, Contaminated Land, and water pollution

Third party objectors are concerned about air pollution

Notwithstanding details submitted, the EHO has requested details in regards to the actual required stack height for the Combined Heat and Power units, for air quality purposes. The stack height and technical specification of the CHP units will need to inform a revised air quality assessment. Additionally an emergency gas boiler is referenced in the AQA, but no technical specification details have been provided. Fundamentally, it is considered that the

proposal will not result in the creation of a new air quality management area, and accordingly it is considered that such details can be secured by way of condition

The Environmental Health Team do not require any additional information in regards to the both the control of dust during the construction and operational phases, that what has been contained within the Construction Management Plan and Construction Environmental Management Plan. Both the Construction Management plan and Construction Environment Management Plan details the use of wheel washing facilities and no stockpiling of excavated earth during the construction phase of development. In the operational phase (referenced in the Construction Management Plan) dust control measures include the damping down of vehicles with water, and avoiding stock piles of materials, as referenced in the Construction Environment Management Plan.

No comments have been made by the Council's Environmental Health team regarding contamination of the site or the need to remediate it. The Inspector did not impose any conditions in regards to contaminated land surveys and remediation.

The inspector imposed a condition for the provision and implementation of controls to protect the water environment. However, this application has been accompanied with a surface water treatment document that details an impermeable membrane under the concrete surface to prevent contaminants leaching through into the water course surface water and surface water being directed towards a sump adjacent to the bund wall. The EA commented that regular inspecting and maintenance of the concrete surface and impermeable membrane in the treatment area is required to ensure that no polluting material escapes. Plant maintenance and backup is detailed in section 2.4 of the document, which states that the entire plant will be covered by a maintenance agreement. A condition is therefore imposed that surface water treatment will be carried out in accordance with this document.

Should, there be any pollution of the watercourse then it would be an offence under the EA permitting regulations, in discharging non consented pollutants to groundwater.

Tourism and other related economic activity

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

The proposal helps to support existing economic activity by providing significant sustainable energy to two large industrial users.

Risk of explosions

The site is within the consultation distance of major hazard site/pipelines. The LPA through the Health and Safety Executives website have carried out an assessment of the proposal and it has been advised that the Health and Safety Executive do not advise against the granting of permissions in respect to the potential major hazard site/pipeline.

Permitting

The EHOs have requested that the applicant confirms with the EA whether the combined heat and power plant (CHP) element of the scheme requires an environment permit when the Environmental Permitting Regulations are amended to include medium combustion plant. The Environment Agency has also requested further information in this regard. Environmental Permitting is of course separate legislation.

Fire Safety

The inspector did not refer to the provision of water to the site in the event of a fire in his deliberation of the application. However, the fire brigade, as part of this application has request a condition for the provision of a fire hydrant or water storage on site. The water storage tank is shown on the accompanying plans and the agent has confirmed that the water storage facilities will contain at least 45,000 litres of water. Details of the storage tank will be conditioned. The agent has not objected to this being conditioned.

Other Third Party Comments

Third Party comments in regards to alternative renewable energy resources should be proposed in preference and devaluation and saleability of houses are not material planning considerations

CONCLUSION

This application seeks consent for an Anaerobic digester that contains no animal slurry processing compared to the consented scheme, but requests an increase the tonnage processed by 5,250 tonnes (to 19,250 tonnes), consisting of beet pulp, maize and straw which will be served via a new farmtrack which extends from the private road section of Estuary Road.

The application is to be determined by the Borough Council as the products are not considered to be waste products according to Norfolk County Council.

Clearly Members need to consider the fallback position in regards to the planning history of this site, in their deliberations. There is an extant permission for a 14,000 tonne biomass/slurry Anaerobic digester permission that was granted in April of this year on appeal.

Looking at the main issues in turn, firstly, the visual impact of AD plant has already been deemed acceptable, and its visual impact has changed little from the appeal decision.

Although the route has changed from that previously consented at appeal, and there are an extra 425 HGVs involved in the overall process, the traffic implications upon Estuary Road are deemed to be acceptable to the Highways Officer as Estuary Road is wide, has footpaths and is served by a signalised junction.

Turning to amenity issues, the EHO officers have no objection in terms of noise and odour in respect to the construction of the plant and the operational phase of the development subject to conditions.

With conditions to safeguard protected species, the ecological inputs are acceptable. All other issues and impacts can be suitable controlled by condition. In summary therefore, it is considered that the proposal complies with the National Planning Policy Framework, National Planning Practice Guidance, Policies CS06,08,10, 11 of the Core Strategy; policies DM2, DM15,DM20, DM22 of the Site Allocation and Development Management Plan Document 2016.

RECOMMENDATION:

APPROVE subject to the imposition of the following condition(s):

- 1 Condition The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 1 Reason To comply with Section 91 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.
- 2 Condition The development hereby permitted shall be carried out in accordance with the following approved plans:-
 - RC tank layout and details LL04/JPE-01A received 23rd May 2018
 - Section 2 - received 12th December 2017
 - Location Plan - received 5th January 2018
 - Site Sections - received 12th December 2017
 - Site Sections - received 12th December 2017
 - Combined Block Plan - 2017-16/08 received 12th December 2017
 - Administration building - received 154/2390-244
- 2 Reason For the avoidance of doubt and in the interests of proper planning.
- 3 Condition Prior to site clearance, a detailed scheme for the maintenance of the Byway Open to All Traffic (BOAT) will be submitted to the LPA that requires the following details:-
 - the surfacing and other materials to be used to maintain the integrity of the BOAT during the site clearance period of construction such period as stated in the Construction Management Plan document. The agreed surfacing materials shall be in place in accordance with a timetable to be agreed prior the site clearance.
- 3 Reason In the interests of ensuring a safe and suitable access for all users of the byway in accordance with the provisions of the NPPF.
This needs to be a pre-commencement condition as the access to the site for site clearance is currently reliant on using the Byway Open to All Traffic.
- 4 Condition Prior to the site clearance phase of the development, as stated in the construction management plan, details of the arrangement proposed for access for all users of the Byway Open to All Traffic (BOAT) during the site clearance period shall be submitted to and agreed in writing by the Local Planning Authority. The agreed details shall be implemented prior to the site clearance phase.
- 4 Reason In the interests of ensuring a safe and suitable access for all users of the byway in accordance with the provisions of the NPPF.

This needs to be a pre-commencement condition access to clear the site is reliant on vehicles using the Byway Open to all Traffic, which could lead to highway safety users with the other users of the byway.
- 5 Condition Notwithstanding details received in section 7.11 of the Construction Management Plan document, no development in relation to the construction of the farmtrack (phase 2 of the Construction Management Plan) shall take place until details for the provision for the arrangement for the continued use of footpath 2 are submitted and agreed in writing by the Local Planning Authority. The details to secure such arrangements will be secured prior to the construction of the farmtrack.

- 5 Reason In order to ensure a safe and satisfactory access for all users of the Public Footpath 2 of the NPPF
- 6 Condition The construction of the farmtrack shall be carried out in accordance with the details contained in Transport Statement specifically, Typical construction details 151/30/001, prior to phase 3 of the construction as detailed in the construction management plan
- 6 Reason For the avoidance of doubt, to ensure a suitable access and to ensure the farmaccess track is provided in a timely manner in line with the Construction Management Plan
- 7 Condition The construction phase of the development hereby approved shall be carried out and operated in accordance with the following documentation:-
- Construction Management Plan - dated 4th November 2017
 - Construction Environment Management Plan dated 30th December 2016
 - Transport and Access Statement Plan dated 30th November 2017
- 7 Reason In the interests of air quality and neighbour amenity in accordance with the provisions of the NPPF
- 8 Condition No deliveries during the operational phase shall take place outside of 09:00-17:00 Monday to Friday and 09:00-13:00 on Saturdays; no deliveries shall take on bank or public holidays.
- 8 In the interests of neighbour amenity in accordance with the provisions of the NPPF.
- 9 Condition Prior to the installation of the Combined Heat and Power units hereby approved full details of the CHP units will need to be submitted to and approved in writing by the Local Planning Authority. The details need to include;-
- the make and model of the CHP unit including stack design and height;
 - technical specification for the CHP units including the emission data for the CHP units,
 - an addendum statement to the submitted air quality assessment based on the CHP unit (taking into account the stack height)
- 9 Reason In the interests of the amenities of the locality in accordance with the NPPF.
- 10 Condition In the event of the installation of an emergency biogas boiler, as referred to within the Air Quality Assessment that was submitted as part of the application, prior to its installation the following details will need to be submitted to and approved in writing by the Local Planning Authority.
- Scale, siting and appearance of the biogas boiler and associated stack
 - The make and model of the biogas boiler
 - Emission data of the biogas boiler
 - An addendum quality assessment taking into account the implications of the biogas boiler.
- 10 Reason In the interests of the amenities of the locality in accordance with the NPPF.
- 11 Condition Foul water drainage shall be by non-potable means only

11 Reason To ensure that there is a satisfactory means of drainage in accordance with the NPPF.

12 Condition The development shall be carried out in accordance with the following landscape details prior to the first use of the development hereby approved:-

- Plan 10-09-2017 both in terms of specification and aftercare.

The works shall be carried out prior to the use of the development hereby approved or in accordance with a programme to be agreed in writing by the Local Planning Authority. Any trees or plants that die within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species as those originally planted, unless the Local Planning Authority gives written approval to any variation.

12 Reason To ensure that the development is properly landscaped in the interests of the visual amenities of the locality in accordance with the NPPF.

13 Condition No development hereby permitted shall take place unless and until formal mechanisms for the purchase of the power to be generated have been completed with the identified users of that power; such details shall be submitted to the Local Planning Authority prior the development of the commencement hereby approved. The details shall include the provision of secured for necessary infrastructure connections to the identified users of the power to be generated by the development.

13 Reason This condition is required to be a pre-commencement condition, as otherwise the proposal would fail on the sequential test as this location is required for operational purposes to the intended end users.

14 Condition The use of the site shall be restricted to:-

- The anaerobic digester process and associated operations, including the receipt, handling and storage of maize, beet pulp, straw
- The generation of electricity and heat and other ancillary operations associated with the above activities.

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

15 Condition Prior to the first use of the anaerobic digester (AD) plant, full details of the water storage tanks as shown on plan 2017-16/08 hereby approved shall be submitted to and approved in writing by the local planning authority. The details shall include the scale and appearance of the tanks and their carrying capacity shall store a minimum capacity of 45,000 litres.

15 Reason In order to ensure that water supplies are available in the event of an emergency in accordance with the NPPF.

16 Condition The development shall be carried out in accordance with the FRA, Engineering Support Practice Ltd and the following mitigation measures detailed within the FRA:

- The height of the bund and flood gate adjacent to Cross Bank Road shall be a minimum of 300mm above the adjacent access track.

- No development shall take place until a detailed method of work has been submitted to and approved in writing by the local planning authority.
 - Flood protection gates fitted to all entrances.
- 16 Reason To reduce the risk of flooding to the proposed development in accordance with the provisions of the NPPF
- 17 Condition The proposal shall be carried out in accordance with the mitigation measures in section 8.3 of the ecology statement
- 17 Reason In the interest of safeguarding protecting species in accordance with the provisions of the Wildlife Countryside Act 1981 and the NPPF.
- 18 Condition Prior to the first use of the development hereby approved, the surface water drainage scheme shall be provided in accordance with the surface water treatment scheme referenced in Surface Water Treatment document version 2.
- 18 Reason To ensure that there is a satisfactory means of drainage in accordance with the NPPF
- 19 Condition Prior to the first use of the development hereby approved, including any commissioning phase, the on-site parking, servicing, loading, unloading, turning and waiting areas shall be laid out in accordance with the drawing no. 2017-16/08
- 19 Reason To ensure the permanent availability of the parking / manoeuvring area, in the interests of highway safety.
- 20 Condition Prior to the first use of the development hereby approved the external lighting shall be erected in accordance with the submitted lighting plan document submitted.
- 20 Reason In order to minimise light spillage in the interests of visual amenity in accordance with the provisions of the NPPF
- 21 Condition Except as otherwise detailed with the Construction Method Statement, no storage of materials, including feedstock materials, shall take place within the site except within the storage clamp, as shown on the approved plan ref: - 2017-16/08 and any materials stored shall not exceed the height of the site bund wall.
- 21 Reason In the interests of visual amenity and in order to retain control of the development in accordance with the provisions of the NPPF
- 22 Condition Not less than 2 weeks prior written notice shall be provided to the Local Planning authority of the permanent cessation date of the operation of the development hereby approved, or for any temporary cessation of operations in excess of one month.
- 22 Reason To inform the LPA and help ensure the AD plant is removed at the end of its operational life to protect the local environment beyond the lifetime of the permission.
- 23 Condition Not less than 6 months prior to the planned date of any permanent decommissioning of the development hereby approved, proposals for decommissioning the development within an agreed timescale shall be submitted by

the operator to the local planning authority for approval and shall make provision for the reinstatement of the site. The scheme shall be implemented as approved.

- 23 Reason To ensure the AD plant is removed at the end of its operational life to protect the local environment beyond the lifetime of the permission.
- 24 Condition The primary digester, membrane on top of the secondary digester, the CHP units and the storage tank will be finished in RAL 6005 "Moss Green" and thereafter retained in that particular colour.
- 24 Reason In the interests of visual amenity in accordance with the provisions of the NPPF.
- 25 Condition The following building shall not exceed the following dimensions
- Process building - 20m x 14m x 4.2m (h)
 - Digester tank building - 25m x 15m x 4.2m (h)
- 25 Reason For the avoidance of doubt and in the interests of proper planning
- 26 Condition The acoustic fencing as detailed on block plan 2017-16/08 shall be 3.3m in height. The acoustic fencing shall be installed prior to the first use of the Anaerobic Digester facility.
- 26 Reason In the interests of safeguarding neighbour amenity in accordance with the NPPF.