

PLANNING COMMITTEE
4th June 2018

**SUMMARY OF ADDITIONAL CORRESPONDENCE RECEIVED SINCE THE
PUBLICATION OF THE AGENDA AND ERRATA**

Item Number 8/1(a) Page Number 7

NCC PROW Officer: OBJECTS on the following grounds:

- The amended plan shows an extension to the fence across the site frontage and allows for a 1m wide gap for pedestrians close to the boundary with No. 30 School Lane. This [1m gap] would appear to be less than the full legal extent of the PROW and therefore would constitute an illegal obstruction.
- Objects until the full legal extent of the PROW is clarified.

Assistant Director's comments: The objection relates to the amended plan which indicates an extension of the fence across the top of the public right of way (which runs to the east of the site adjacent to 30 School Lane) leaving a 1m gap for pedestrians. The reason the fence is shown is to prevent vehicles from exiting the car park through the existing access to the east (also the Public right of way) in the interests of highway safety. Given the PROW Officer's objection and the fact that the extent of the PROW cannot be determined at this stage, the following condition is suggested which allows for negotiation between parties. Both the Applicant and David Mills (Countryside Access Officer) are happy with this approach.

7. Condition Notwithstanding details shown on the approved plans, prior to commencement of the use of the car park hereby permitted, full details of the boundary treatment adjacent to the PROW (Northwold Footpath 6) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the details agreed and retained thereafter.

7. Reason To prevent an obstruction of the PROW and to restrict access in the interests of highway safety in accordance with Policy CS11 of the Core Strategy 2011 and Policy DM15 of the Site Allocations and Development Management Policies Plan 2016.

Item Number 8/2 (b) Page Number Late pages

Third Party: 1 letter of **OBJECTION** has been received which can be summarised as follows:

- BOAT 1 is the only access to the Point, the Marshes and to Point Cottages. It is constructed with a base of carrstone hogging covered with crushed shells.
- An appeal against the County Council's refusal of the plan has been successful and therefore planning permission for an Anaerobic Digester on this site is now approved. This approval has stringent conditions including the upgrade of the byway, prior to the commencement of work, which will be costly.
- The application submitted to the Borough is very similar to the County application which now has permission. One important difference is that the access route for heavy lorries on the Borough application does not use BOAT 1, but a route from the East into the back of the site via proposed construction of a road across farmland. This route will ensure BOAT 1 is not damaged and mean byway users will not have to encounter heavy vehicles. We would like the Council to stipulate, by planning condition, that the rear access route is built before any work is done to clear the site. We feel it is important that

heavy vehicles do not use the byway for the site clearance and construction phases as well as the operational phase.

- No justification for a 6m opening directly onto the byway. Light traffic can use the current sluice access on the byway. Heavy vehicle access is proposed at the back of the site so there is no need for a 6m access/egress onto the BOAT.
- Fear that if this opening is allowed heavy lorries may use it, causing danger to byway users and damaging the byway surface. The County Council Public Rights of Way Officer has stated that the BOAT is currently unsuitable for sustained use by heavy vehicles.

Agent: In response to Third Party representation, the Agent makes the following comments:

It is noticed that a letter has been sent to members of the committee, requesting the following conditions are imposed on any permission:

1. A condition requiring construction of the farm access road first and preventing HGV's from using Crossbank Road during the construction and operational phases and,
2. A condition preventing the establishment of the proposed 6M wide 'secondary access' from the site onto Crossbank Road.

We have reservations regarding these suggested conditions. Flexibility is required to use Crossbank Road for a limited number of HGVs during the construction phase. There is no intention to use Crossbank Road during the operation phase for feedstock delivery and digestate. It is also intended to use the farm access road during the construction phase after the road has been completed. The road will take at least 1 month to construct and in the meantime groundworks at the AD site would need to commence.

The amount of exported material has been significantly reduced to a total of 81 thirty tonne loads. There is the opportunity to stockpile held this material within the edges of the construction site until the farm access road has been completed. However my client is relying on Crossbank Road for initial traffic on Crossbank Road. If a condition preventing the use of Crossbank Road during the construction phase is imposed, then this may force my client to implement the appeal scheme instead as this does not have such a restriction. Under the appeal scheme all construction and operational traffic would use Crossbank Road.

I would add that the stretch of Crossbank Road owned by the applicant is a byway which is legally open to all traffic including HGVs which quite often use the route. In these circumstances we question whether such a condition would meet the legal tests for planning conditions.

In respect to the secondary access this is required for:

- Emergency vehicles including fire-fighting appliances which may rely on access via Crossbank Road and pumping from the River Great Ouse to supplement on-site supplies;
- Staff/trade vehicles such as electricians vans;
- Other operational reasons from time to time such as when additional on-site vehicle manoeuvring/circulation capacity is required, for replacement of plant items where there would be a conflict with vehicles using the farm access road and for maintenance of the highway frontage and associated landscaping.

In practice the gates of the secondary access would be maintained in a closed position, except where access is required.

A condition that requires its removal would not meet the relevant legal tests. Again, no

equivalent restriction has been imposed on the appeal scheme.

Environmental Quality: Further comments provided as follows:

1. We need to ensure that the proposal does not cause an exceedance of the relevant air quality standards due to operation of the CHP (and potential emergency biogas boiler)
2. We have reviewed the air quality assessment (March 2016) which was provided for both the County (waste) application and for this (non-waste) application. Plant details appear now to have changed, which could alter the findings of the air quality assessment.
3. We requested further information as it appears that the CHP units proposed differ from those in the air quality assessment.
4. No detailed technical specification has been provided for the CHP units to be installed and no stack height calculation
5. As the process is not using waste as a feedstock this currently falls outside environmental permitting. The County proposal (allowed on appeal) would be covered by an environmental permit controlling emissions to air.
6. The CHP may be controlled in the future under the Medium Combustion Plants Directive (MCPD)
7. The March 2016 air quality assessment has not been updated to take account of the 'new' proposed CHP equipment and potential for inclusion of an emergency biogas boiler
8. If an environmental permit is not required, the planning regime will be the only means of control for emissions from the CHP unless it comes under control of the MCPD
9. While it appears unlikely that the proposal would cause an exceedance of air quality standards we are not able to confirm this without the relevant assessment. Therefore a condition has been recommended to require the outstanding information.

Amended condition:

Amend condition 3 to read as follows:

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 as stated in the Construction Management Plan document. The agreed surfacing shall be carried out in accordance with a timetable to be agreed prior to 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.

CORRECTION

The landscaping plans listed in Condition 12 should read as follows:

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 plans:-

- E16809- TLP-002 dated 10th November 2017
- E16809-TLP-003 dated 10th September 2017

- E16809-TLP-004 dated 10th November 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.

Assistant Director comments:

The Environmental Quality Officer comments reflect those made within the main report. Condition 9 covers this particular matter.

The Third Party representation is noted however, it is not considered to be reasonable to prevent the construction traffic during phase 1 of the development (Site clearance) from using the Byway Open to all Traffic (BOAT), as this is the only means of access to the site. Condition 3 ensures the integrity of the BOAT during the site clearance phase. A condition to remove the secondary access onto the BOAT is not considered to be reasonable. In line with the Agent's comments, the BOAT is legally open to all traffic including HGVs and the Applicant has clearly identified that the operational phase of the development will be from the new access track, which is to be provided in phase 2 of construction.