

23/01798/FULL

Proposal: Variation of Condition 9 to allow alternative feedstock types and quantity and Condition 20 to allow the anaerobic digester plant to produce and export 1.1 megawatts of renewable energy of planning permission 17/01142/FULL

Location: Land at NGR 299621 112764 (Red Linhay) Crown Hill Halberton

Site Vicinity Grid Ref: 299621 / 112764

Parish: Halberton 25

Willand Parish Council has considered this application and in the first instance are confused over the application detail. They have also noted the relevant history of the site and the prolonged period of noncompliance with conditions and the apparent lack of any meaningful or practical enforcement action which has allowed the current position to be reached. Before considering the position of the Parish Council it is felt the relevant history needs consideration as set out in the following text. Together with this there are certain aspects of the application documents which need to be commented on.

The application is to amend Conditions 9 and 20 of Planning Permission 17/01142/FULL but it is noted that there is a later application 23/01141/FULL which was granted on the 24th November 2023. That **Proposal** was *Variation of condition 13 of planning permission 22/00868/MFUL (Removal of condition 13 of planning permission 17/01142/FULL - further noise assessments) relating to the submission of a noise assessment.* The Decision Notice states: **MID DEVON DISTRICT COUNCIL HEREBY GRANTS FULL PLANNING PERMISSION FOR THE ABOVE DEVELOPMENT Subject to the following conditions:** There then follows 21 conditions and reasons for them. The relevant conditions to this application have different numbers to 17/01142/FULL but appear to be:

Condition 8 i) *The feedstock and approved quantities for the anaerobic digester shall be slurry (2,000 tonnes), farmyard and chicken manure (3,000 tonnes), grass and arable crops (8,925 tonnes) only, originally sourced from the sites named in Transport Statement(s) of application 17/01142/Full (Hartnoll Farm 62.13ha, Manley Lane 37.60ha, plots 1-13 41.48ha, Maunders 7.71ha, Wellington 23.55ha and Blocks A 19.92ha and B 96ha and shown on plans/aerial photos, Drawing numbers 13425/T04 Revision A 13425/T05 Revision A set out in the approved transport statement date stamped 21st August 2015 under application 15/01034/MFUL and Drawing 3 set out in the approved transport statement date stamped 15th August 2017 and*

ii) The ultimate destination for the digestate from the anaerobic digester shall be to the sites named in the Transport Statement of application 17/01142/Full Hartnoll Farm 62.13ha, Manley Lane 37.60ha, plots 1-13 41.48ha, Maunders 7.71ha Blocks A 19.92ha and B 96ha only and shown on plan/aerial photos Drawing numbers 13425/T04 Revision A and 13425/T05 Revision A set out in the approved transport statement date stamped 21st August 2015 under application 15/01034/MFUL and set out in the approved transport statement date stamped 15th August 2017.

iii) A log book shall be maintained and completed detailing where and when the feedstock(s) for the AD plant have come from and where, when and mode of transport of the digestate leaving the site. The Log book shall record name of farm, plot, supplier, number and gross and net weight of vehicles along with date and time of feedstock delivery / digestate distribution.

iv) No other sites are to be utilised for either feedstock source or digestate destination. Such log book records shall be submitted to the Local Planning Authority quarterly or within any other frequency as requested by the Local Planning Authority.

v) Records of feedstock input into the digester by weight from the hopper (triolet) shall be kept and submitted to the Local Planning authority in writing quarterly or within any other frequency as requested by the Local Planning Authority.

The Reason recorded is: 8. *The application has been considered as a site accepting these feedstock types only and not as a general waste facility and consideration of the impacts on the environment, neighbouring residents and the road network has been made on this basis and in order to accord with Policies DM2 and DM20 of the Mid Devon Local Plan 2013-2033.*

Condition 19 *The permission hereby granted is for a 500kw anaerobic digester only. Power generation from the development shall not exceed 500kw averaged over a quarterly period (such quarterly period to commence from the first Feed In tariff submissions and continue thereafter). Such records of power generation shall be kept and submitted quarterly in writing to the Local Planning Authority.*

The Reason recorded is: 19. *To ensure the AD plant operates in accordance with the parameters and limitations as approved and as set out within the application and its supporting information.*

Although the numbering is different the wording appears similar if not exact but these conditions in 23/01141/FULL would appear to replace those set out in 17/01142/FULL which is the subject of the application being considered. Consideration has to be given as to whether the latest Conditions and numbering take precedence over those used in the application.

There also appears to be a discrepancy between the Transport Statement and the Planning Statement as to when the current owner took over responsibility for the AD Plant. The Transport Statement [paragraph 3] states that the plant has been operated by the applicants since 2021. The Planning Statement [paragraph 1.3] states that the applicant purchased the site from the previous owners in November 2019. This can be supported from MDDC planning files in that a Planning Officer wrote to the applicant in December 2019 advising him as to a failure to discharge a condition.

The Transport Statement [paragraph 39 iii)] draws attention to the fact that removal of the condition on output has been made before. Examination of the Committee Report to Planning Committee on 4th January 2017 shows the following on page 6.

“The application as originally submitted sought to remove Condition 23 on the previous permission. This aspect of the permission has now been withdrawn and no longer seeks the removal of Condition 23.

The permission hereby granted is for a 500kw anaerobic digester only. Power generation from the development shall not exceed 500kw averaged over a quarterly period (such quarterly period to commence from the first Feed In tariff submissions and continue thereafter). Such records of power generation shall be kept and submitted quarterly in writing to the Local Planning Authority.

Therefore even though there will be 2 CHP units capable of providing 1000kw the above condition remains in place only allowing 500kw averaged over a month period.”

The Decision Notice was issued on the 9th of January 2017 and the above-mentioned Condition became Condition 22.

It should be noted that permission for the second CHP was sought purely as a back up for maintenance or in case of breakdown of the main plant, not as an additional plant for permanent increased output.

A Freedom of information request to OFGEM has revealed that the site has been exceeding the permitted output for some years in the figures registered for payments. Some figures have been obtained from MDDC as to what they have been advised of as to output and these are much less and

appear compliant with the condition. It therefore appears that incorrect figures have been provided to substantiate compliance with conditions when there has been a clear breach.

Information supplied in relation to the condition as to input of feedstock and output of digestate from the site were obtained and considerable breaches were detected, including false details of vehicles used and locations involved if they were given at all. These discrepancies and breaches have been brought to the attention of MDDC and now applications by members of the public for this information is being denied.

In the Planning Statement [paragraph 5.18] is the following sentence: *“This could result in a potential for an increase in creation of noise.”* It also refers to the MDDC Environmental Health Team and complaints trying to show that there will not be a problem. This is misleading and it is asked that consideration is given to a report submitted by the Environmental Health Officer in relation to application 23/01141/FULL. Whilst it will be argued that this application only refers to the AD Plant and two conditions it must be borne in mind that immediately adjacent to the plant are other activities such as a large silage clamp, driers and pellet making plant, animal sheds and other farm activity. There is also an application for two biomass boilers and a wood store. All will add to a cumulative noise, dust and other potential harmful effects.

The Transport Statement puts forward suggestions for the routing to be taken by HGV's which will avoid Halberton and Blundell's School. In real effect these HGV's are very large tractors with either silage trailers or slurry type tankers in tow. If these vehicles are to follow the suggested routes via the link road and the Tiverton Easter Urban Extension roads together with the Gornhay Junction it may reduce some problems at known 'pinch points' but in reality will they stick to these routes? The proposed routes will be longer, take more fuel, vehicle wear and tear and driver time. It will therefore cost more and add to the carbon footprint – not reduce it.

Willand Parish Council recommend refusal on the following grounds:

- a) There will be an increase in vehicle movements, including longer journeys, adding to those already taking place in breach of conditions;
- b) There will be the potential for increase in noise, dust and other pollution in the immediate and surrounding areas;
- c) More land will be needed for the production of feedstocks to the detriment of human and animal food production;
- d) Increased harm to the Grand Western Canal and residents in the immediate area.

Any argument that these issues can be dealt with by conditions does not carry weight or credibility as the blatant breach of conditions and the complete lack of enforcement action over the past five plus years has shown.