

**Application No. 16/01180/FULL**

**Agenda Item**

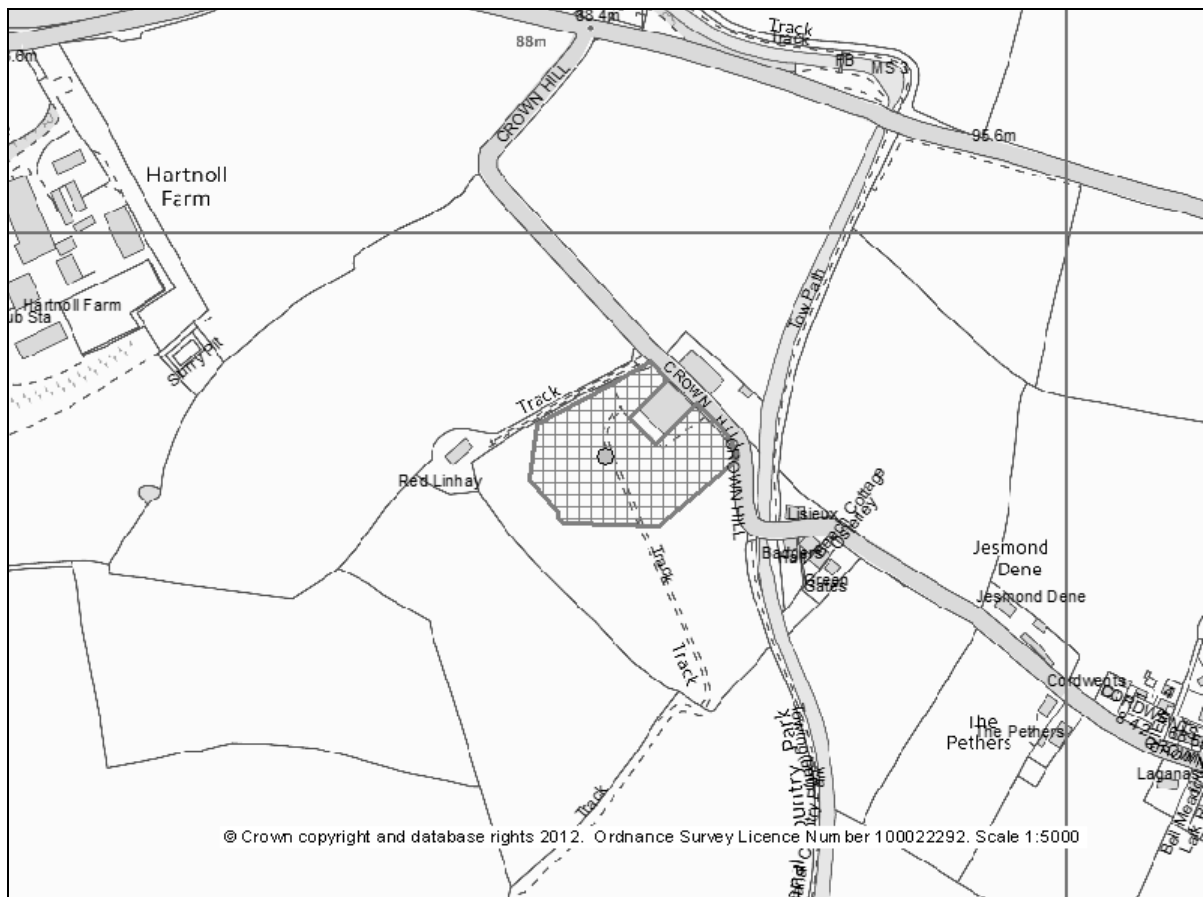
**Grid Ref:** 112764 : 299621

**Applicant:** Mr David Manley

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

**Proposal:** Variation of condition  
2 of planning  
permission  
15/01034/MFUL to  
allow substitute plans

**Date Valid:** 26th August 2016



**AGENDA ITEM**

**PLANNING COMMITTEE**  
**4<sup>th</sup> January 2017**

**REPORT OF THE HEAD OF PLANNING AND REGENERATION**

**16/01180/FULL - VARIATION OF CONDITION 2 OF PLANNING  
PERMISSION 15/01034/MFUL TO ALLOW SUBSTITUTE PLANS -  
LAND AT NGR 299621 112764 (RED LINHAY) CROWN HILL  
HALBERTON**

**REASON FOR REPORT:**

To determine the planning application.

**Relationship to Corporate Plan:**

The emerging corporate Plan sets out four priorities including the economy, community and the environment, upon which this application has a bearing.

**Financial Implications:**

The Council must be in a position to defend and substantiate each of its reason for refusal.

**Legal Implications:**

Planning decisions must be made in accordance with the development plan unless material considerations indicate otherwise. The starting point for decision making is therefore the policies within the development plan.

**Risk Assessment:**

If Committee decide to refuse the application for reasons that cannot be sustained at appeal there is a risk of a successful appeal costs claim against the Council for reasons of unreasonable behaviour.

**Consultation carried out with:**

1. **HALBERTON PARISH COUNCIL** 28th September 2016  
The PC strongly opposed any variation to the existing plans
2. **BURLESCOMBE PARISH COUNCIL** 6th September 2016 -  
Burlescombe Parish Council have no comments to make on this application.
3. **BUTTERLEIGH PARISH COUNCIL** No reply
4. **CULLOMPTON TOWN COUNCIL** No Reply
5. **SAMPFORD PEVERELL PARISH COUNCIL** No reply
6. **TIVERTON TOWN COUNCIL** no reply

7. **UFFCULME PARISH COUNCIL** No reply

8. **WILLAND PARISH COUNCIL** 14th September 2016

At the meeting of the Planning Committee on 8 September 2016 it was agreed by Willand Parish Council that they unanimously object to this further application and strongly recommend that the Planning Authority stand firm by its current decision for the site which has already been manipulated and amended a number of times.

This company has a number of sites in the area and most, if not all, of the sites have been subjected to amendments having been built in a different manner to that approved. Changes in technology or amended advice have been cited as reasons on a number of occasions which tends to suggest that incorrect or incomplete information had been provided by the applicant and accepted by officers.

The additional structure on the site had been refused by the Planning Authority and the amendment to condition 2 is seen as trying, yet again, to amend a decision by the authority in order to give the potential for increased capacity and stop enforcement action. The wish to remove condition 23 tends to support this view.

If the restriction on output capacity is removed, then there is the potential to increase output and later argue for feedstock transport restrictions to be removed allowing even more traffic movements on roads unsuitable for such use. Willand speak with some experience having had Devon County Council permit a doubling + of feedstock tonnage through a section of the village. There is a potential of more to come to a site in the area where the original application was submitted and approved only to find that one of the feedstock sources had not been secured to the capacity stated.

The latest objection submission by Dr Bratby surely warrants close attention and given suitable weight when compared to that provided by the applicant.

9. **HISTORIC ENVIRONMENT SERVICE** No Reply

10. **DEVELOPMENT SERVICES MANAGER (PROPERTY SERVICE)** No Reply

11. **LEAD LOCAL FLOOD AUTHORITY** No Reply

12. **NATURAL ENGLAND** 13th September 2016 -

Natural England currently has no comment to make on the variation of condition 2 and the removal of condition 23.

Natural England currently has no further comment. Should the proposal be amended in a way which significantly affects its impact on the natural environment then, in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again.

Before sending us any further consultations regarding this development, please assess whether the changes proposed will materially affect any of the advice we have previously offered. If they are unlikely to do so, please do not re-consult us.

13. **GRAND WESTERN CANAL** No Reply

14. **HIGHWAY AUTHORITY** 13th September 2016 -

The Head of Planning, Transportation and Environment, on behalf of Devon County Council, as Local Highway Authority, has no objection to the proposed development.

15. **DEVON, CORNWALL & DORSET POLICE** 1st September 2016 -

No comments at this time.

16. **RIGHTS OF WAY OFFICER EAST** No Reply

17. **ANIMAL & PLANT HEALTH AGENCY** No reply

18. **ENVIRONMENTAL HEALTH 13th September 2016 -**

Contaminated Land - No objection.

Air Quality - No objection.

Environmental - No objection.

Drainage - No objection.

Noise and Other Nuisances - No objection.

Housing Standards - N/A

Licensing -No comments.

Food Hygiene - N/A

Private Water Supplier - No comment.

Health and Safety - No objection to this proposal enforced by HSE.

#### **8<sup>th</sup> November 2016**

The comments made on the 12th September were specified as I believed that there would be no increase in the sound levels from the site with the proposed substitute plans and removal of condition 23 relating to power capacity. Taking this into consideration I would recommend that the same condition applied to 15/01034 is applied to this application.

Noise emissions from the Red Linhay Anaerobic Digester site at the nearest noise-sensitive locations are not to exceed the decibel levels stipulated below, day or night.

Daytime Noise Level 07.00am – 23.00pm shall not at the boundary of any noise sensitive premises exceed the decibel level 41 dB (LAeq1hr)

Night-time Noise Level 23.00pm – 07.00am shall not when measured at 3.5m from the façade of any noise sensitive premises exceed the decibel level 33 dB (LA90 15min).

Daytime (Evening) & Night-time Noise Level 19.00pm – 23.00pm the Maximum Instantaneous Noise Level shall not when measured at 3.5m from the façade of any noise sensitive premises exceed 55 dB(LAFmax) evening (19.00-23.00hrs) and night-time (23.00–07.00hrs).

\*(From the noise data supplied)

The average daytime background noise level is 36 dB (LA90 1hr) plus 5 dB exceedance

The average night-time background noise level is 28 (LA90 15min) plus 5 dB exceedance

However, now having studied the acoustic report there are a number of items that require further clarification:

1. The technical specifications for the CHP units and chillers super enclosure are required in order to demonstrate that it has the capacity to apply the necessary noise mitigation.
2. The technical specifications for the transformer enclosure is required in order to demonstrate that it has the capacity to apply the necessary noise mitigation.
3. The technical specifications for the gas compressors enclosure are required in order to demonstrate that they have the capacity to apply the necessary noise mitigation.
4. The technical specifications for the triolet pit coverings are required in order to demonstrate that they have the capacity to apply the necessary noise mitigation.
5. The technical specifications for the triolet motors enclosure is required in order to demonstrate that it has the capacity to apply the necessary noise mitigation.
6. The technical specifications for the dryer belt motors enclosure is required in order to demonstrate that it has the capacity to apply the necessary noise mitigation.

7. The technical specifications for the conveyor belt/s are required in terms of noise and vibration in order to demonstrate that they will not have any impact on the sites noise environment.

8. The results of the assessment indicate that with the above noise mitigation in place the noise levels at P1 will be 30dB(A) and at P2 24dB(A). Further information is required on the statistical parameter and time period used.

Without this information I would recommend that the application is refused.

Following the submission of further information as set out in the planning application including the provision of acoustic boxes and panels the Environmental Health have been further consulted and their response is

**7<sup>th</sup> December 2016**

I do not require any further details on the levels of mitigation and I am happy with the information that has been sent. I have no objections to this application.

## 1.0 RECOMMENDATION

1.1 Grant permission subject to conditions.

## 2.0 PROPOSED DEVELOPMENT

2.1 Planning permission was granted in 2015 for the erection of an anaerobic digester at this site. Development is underway, however this application seeks to vary the approved plans condition to allow a number of alterations to the approved scheme. The table below sets out the approved elements of the scheme under planning permission reference 15/01034/MFUL, with any alterations to the respective elements now proposed, shown in bold.

### 2.2 Approved development 15/01034/MFUL

- A digester tank: height 8m, diameter 25m and capacity 3926 cubic metres with a gas collection dome above of height 5.5m. overall height from excavated site is 13.5m – **No change**
- A digestate storage tank: height 8m, diameter 25m and capacity of 3926 cubic metres – **No change**
- A buffer tank: height 4m and diameter 9m – **No change**
- A control cabin housing the control panels for the anaerobic digester: 12 long, 3m wide, and 2m high – **No change**
- 1 x CHP unit (combined heat and power unit): 13.5m long and 3 m wide contained in an acoustic box including a chimney of 7m - **2 x CHP units – second unit to be provided inside the container originally permitted as an office. To include external exhaust. (Retrospective)**
- Control building 14m long x 7m wide x 3m high – **No change**
- Gas compressor building 8m x 3.5m x 3m high – **No change**
- Transformer, HV switch each 2.5m x 2.5m x 2.4m high – **No change**
- LV panel 12m x 2.5m x 2.5m high – **No change**

- Office 13.5m x 2.5m x 2.5m high – **Location of office changed to CHP unit as above. Additional 2 office/welfare buildings 6m x 2.5m x 2.8m high located adjacent to the Weigh Bridge. (Retrospective)**
- Solids feeder 9m x 4m x 4m high – **No change**
- 2 x Dryers 43m x 6m x 3.5m high - **Single larger dryer 30m x 7m x 3.7m to replace the approved two units. To include the addition of a dried digestate storage bunker with cover 6.4m x 6.1m x 5.3m height, Feeder hopper 7.7m long, 3m depth and 3.9m high and 2 conveyors one 7.6m long connecting the feeder hopper to the dryer and a 10m long conveyor to be located from the dryer to the storage bunker.**
- Gas flare 6m x 3m x 4.8m high - **The relocation of the flare from its present approved location to the south of digestate tank to a location north west of the anaerobic digester. The flare will be 6m x 3m x 4.8m high consisting of an enclosed flame area in steel. (Retrospective)**
- A separator frame and clamp: 9m long, 7m wide, and 5.5m high – **No change**
- Feedstock clamps comprising 2 bays: 60m x 30m x 4m high proposed to hold material – **No change**
- A concrete yard for vehicular movements – **No change**
- A GRP kiosk to house metering circuit breaker – **No change**
- New element - **The inclusion of a pit mounted Weigh Bridge 19m x 3.8m located toward the entrance of the site (Retrospective)**
- New element - **Additional 2 office/welfare buildings 6m x 2.5m x 2.8m high located adjacent to the Weigh Bridge.**

The application as originally submitted sought to remove Condition 23 on the previous permission. This aspect of the application 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 Anaerobic Digester (AD) will be fed by a maximum of 13,925 tonnes of feedstock per annum (the same figure as 15/01034/MFUL) comprising the following as set out in the Odour Management Plan submitted with this application and 15/01034/MFUL:

- Cow slurry - 2,000 tonnes
- Farmyard manure - 1,000
- Chicken manure - 2,000 tonnes
- Maize - 4,444 tonnes
- Grass Silage – 2981 tonnes
- Beet – 1500 tonnes

The manures will be sourced from Swanhams Farm located approximately 4.25 km east of Halberton and Rix Farm located immediately north of the A361 between Tiverton and Bolham. The maize, grass and beet silage will be sourced from a number of local sites named by the applicant as Hartnoll

Farm, Manley Lane, Maunders and 'Plots' all located within approximately 3km of the AD site and Wellington Farm which is located approximately 20km away. There is no change to the previously approved scheme over this.

The resulting products from the AD plant are digestate, heat and biogas which generate electricity via the CHP. The heat will be used on site to heat the digester and control cabin. The digestate will be in two forms, liquid and solid and used as a soil conditioner/fertiliser on land at Hartnoll Farm and Manley Lane. The electricity will be used to run the plant itself and the rest exported to the National Grid.

### **3.0 APPLICANT'S SUPPORTING INFORMATION**

- 3.1 Plans  
Noise information  
Odour Management plan

### **4.0 PLANNING HISTORY**

- 4.1 08/00282/PNAG Prior notification for the erection of an agricultural storage building - No objection  
12/00585/PNAG Prior notification for the erection of an agricultural storage building  
PRIOR APPROVAL REQUIRED - LETTER SENT 17TH MAY 2012 - No objection  
12/00630/FULL Erection of an agricultural livestock building - PERMIT - June 2012  
13/01605/MFUL Erection of a 500kW anaerobic digester and associated works with 4 silage clamps - NON MATERIAL AMENDMENT GRANTED 24TH MARCH 2015 - PERMIT  
13/01605/MFUL/NMA Erection of a 500kW anaerobic digester and associated works with 4 silage clamps - Non Material Amendment to amend the route of a buried high voltage cable – PERMIT  
15/01034/MFUL Erection of a 500kW anaerobic digester and associated works with 2 silage clamps PERMIT

### **5.0 DEVELOPMENT PLANS**

#### **5.1 Mid Devon Core Strategy (Local Plan 1)**

COR1 - Sustainable Communities  
COR2 - Local Distinctiveness  
COR5 - Climate Change  
COR18 - Countryside

#### **Mid Devon Local Plan Part 3 (Development Management Policies)**

DM1 - Presumption in favour of sustainable development  
DM2 - High quality design  
DM5 - Renewable and low carbon energy  
DM6 - Transport and air quality  
DM7 - Pollution  
DM8 - Parking  
DM22 - Agricultural development  
DM27 - Development affecting heritage assets

### **6.0 REPRESENTATIONS**

- 6.1 There have been 20 objections to the latest proposal, summarised as follows:
  - Manipulating the system to obtain permission
  - Increase in smells and probably increased traffic
  - Inconsistency within the odour report

- Removal of the 500kw ceiling will require the increase in material when capacity is not met.
- They should have got their figures correct and so reduce the amount of material to ensure no more than 500kw
- How can Environmental Health have no objections as there are 6 areas which are currently too loud.
- Scant regard for Planning Controls
- More noise will be created
- Storage of manure on site
- Industrialisation of the area
- Proposed new housing at Cordwents will be adversely impacted
- Impact on the Grand Western Canal

## 7.0 MATERIAL CONSIDERATIONS AND OBSERVATIONS

### 7.1 The primary material considerations in assessing this application are:-

1. Policy
2. Access and transport
3. Landscape and visual impacts and the Canal Conservation Area
4. Impact on neighbouring residents
5. Other impacts
6. Additional 500kw CHP unit
7. Planning balance

### 7.2 Policy

#### Mid Devon Core Strategy (LP1)

Policy COR1 seeks to ensure that growth is managed so that development meets sustainability objectives, brings positive benefits, supports the diverse needs of communities and provides vibrant, safe, healthy and inclusive places where existing and future residents want to live and work.

Policy COR2 seeks to sustain the distinctive quality, character and diversity of Mid Devon's environmental assets, preserve Mid Devon's landscape character, and promote the efficient use and conservation of natural resources of land, water and energy.

Policy COR5 seeks to contribute towards targets for the reduction of greenhouse gas emissions and support the development of renewable energy capacity in locations with an acceptable local impact including, visual, on nearby residents and wildlife.

Policy COR18 seeks to control development in the open countryside and specifically permits renewable energy developments.

#### Local Plan Part 3 (Development Management Policies)

Policy DM1 states that the Council will take a positive approach to sustainable development and approve wherever possible proposals that improve the economic, social and environmental conditions in the area.

Policy DM2 requires development to demonstrate a clear understanding of the site and surrounding area and to take into account impacts on local character and landscapes, biodiversity and heritage assets, impacts on neighbouring uses and appropriate drainage solutions.

Policy DM5 is designed to maximise renewable and low carbon energy development while ensuring that adverse impacts are addressed satisfactorily. It states that proposals for renewable or low carbon energy will be permitted where they do not have significant adverse impacts on the character, amenity and visual quality of the area, including cumulative impacts of similar developments, within the parish or adjoining parishes.



Policy DM6 requires development proposals that would give rise to significant levels of vehicular movement to be accompanied by a transport assessment to include mitigation measures.

Policy DM7 permits development where the direct, indirect and cumulative effects of pollution will not have an unacceptable negative impact on health, the natural environment and general amenity.

Policy DM22 permits agricultural development where it is reasonably necessary to support farming activity on the farm or in the immediate agricultural community, where it is located to minimise adverse effects on the living conditions of local residents and to respect the character and appearance of the area, and where it will not have an unacceptable adverse impact on the environment or the local road network.

Policy DM27 Seeks to protect heritage assets and their settings, including Conservation Areas recognising that they are an irreplaceable resource.

### **National Planning Policy Framework (NPPF)**

The NPPF has a presumption in favour of sustainable development which requires development which accords with the development plan to be approved without delay. It specifically requires planning to encourage the use of renewable resources, for example, by the development of renewable energy and requires significant weight to be placed on the need to support economic growth through the planning system.

The NPPF sets out core planning principles which include: seeking to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings, and; supporting the transition to a low carbon future in a changing climate, encouraging the reuse of existing resource and encouraging the use of renewable resources (for example by the development of renewable energy).

The NPPF suggests that developments should be located and designed where practical to accommodate the efficient delivery of goods and supplies.

The NPPF states that local planning authorities should not refuse planning permission for buildings or infrastructure which promote high levels of sustainability because of concerns about incompatibility with an existing townscape, if those concerns have been mitigated by good design (unless the concern relates to a designated heritage asset and the impact would cause material harm to the asset or its setting which is not outweighed by the proposal's economic, social and environmental benefits).

The NPPF states that local planning authorities should help increase the use and supply of renewable energies and design their policies to maximise renewable developments whilst ensuring that adverse impacts are addressed satisfactorily, including cumulative impacts. It states that applicants should not need to demonstrate the overall need for renewable energy and requires local planning authorities to approve applications where the impacts are (or can be made) acceptable.

The NPPF states that planning policies and decisions should aim to mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions; recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established; and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason.

## **7.3 Access and Transport**

The application site is located approximately 1.5km west of Halberton and 5km east of Tiverton. The site is positioned south of Crown Hill. The applicant states that the site has been chosen for its proximity to the land which will provide the necessary feedstocks and the land over which the digestate can be spread.

The Transport Statement (TS) (set out in 15/01034/MFUL) states that vehicles related to the proposed AD plant would travel to and from the application site via Post Hill only. This is the same route taken by traffic generated by existing agricultural activities at Hartnoll Farm for the delivery of grain to the two storage barns and products for conditioning/fertilising land. This Transport statement is still relevant to this variation and will be part of the saved documents relating to this proposal as it is not proposed that the amount of feedstock would be altered by the current proposal and the application does not seek to vary the condition which relates to the source and amount of feedstock.

On this basis, the Highway Authority raises no objections to the proposal.

There will be no changes to the amount of traffic to and from the site to that already approved under 15/01034/MFUL.

#### **7.4 Landscape and Visual Impacts and the Canal Conservation Area**

The proposed changes to the approved plans are generally minor operational re-organisation and rationalisation of the working plant. The application seeks to retain the flare located to the north western corner of the site which will obscure its view within the landscape. The change of two dryers for one will have no intrinsic impact on the landscape or provide any adverse visual impact on the area. The inclusion of the two office buildings and weighbridge are required for the operation of the site, and are not highly visible in the landscape. This aspect of the application is also retrospective. The two conveyors and bins will be set against the existing concrete wall of the silage clamp.

The change to the original office area to house an additional CHP unit will be seen in context of the existing machinery and will have no adverse visual impact on the landscape or surrounding conservation area.

However after consideration of the noise assessment submitted it was clear from this initial information that further structures are likely to be required to cover some of the machinery on site to reduce the noise emissions to acceptable levels. Details have now been supplied of the style, size, height, mass of materials proposed and their locations. It is considered that the inclusion of these panels and containers will have no demonstrable visual impact on the Grand Western Canal Conservation Area or the wider landscape.

#### **7.5 Impact on Neighbouring Residents**

##### **Odour**

Concerns have been raised by objectors with regard to potential increase in odour as paragraph 9 of the applicants odour management plan states "Poultry manure is transported in a covered trailer and then stored appropriately to avoid odour release (under cover). Animal manures will only be stored on site for a maximum of 2 days before being used."

It has always been the intention that no farm yard manure of any type will be stored within the application site except within the sealed digestate storage tank, as set out in condition 8 of planning permission 15/01034/MFUL. There is to be no change to this condition.

The introduction of the additional CHP unit and the other changes will have no impact on the odour associated with the site over and above what has been established and to be controlled by the Environment Agency and their legislation. The additional CHP unit will only be run when the other CHP unit is under repair or undergoing maintenance.

##### **Noise**

The main sources of noise relating to this development are the related traffic movements from operations and the construction period, the unloading of materials on site, the running of the CHP units, the running of the dryer, conveyors and triolet (receptor vessel for the transfer of feedstock into the Anaerobic Digester) and the pumping of digestate to land.

The majority of these noise emissions have been considered in the previous planning approval 15/01034/MFUL. The additional items subject of this application have been considered by Iac Acoustic in their report submitted in support of the application who have suggested that further

acoustic measures are required in order to reduce noise emissions to acceptable levels, these include-

- 1 The need for a super enclosure to enclose both CHP units and chillers to reduce noise by 20dB(A)
- 2 The need for an enclosure around the transformer to reduce noise by 15dB(A)
- 3 The need to reduce noise from the gas compressor building by 20dB(A)
- 4 The need to reduce noise from the Triolet pit.
- 5 The need for an enclosure around the Triolet motors to reduce noise by 15dB(A)

These additional elements are set out in the information submitted as part of this application, they include 1. 2m acoustic absorber panels around the NE and S parameter of the CHPs (specifications provided)

2. Low level enclosures around the small, ground mounted, triolet motors (photos provided)
3. Internal panelling in the gas compressor building (no visual impact)
4. CHP fans removed from roofs of containers and ground mounted by the main digester tank (at lower level of the site - less visual impact).

These elements are shown on the submitted plans along with technical specifications which have been provided, and assessed by Environmental Health as being appropriate and relevant to control noise levels.

There is now on objections from Environmental Health.

## 7.6 Other Impacts

The operation of the biogas plant would be fully automated from an on-site central control panel which would monitor information transmitted from instruments around the plant. Marches Biogas (the technology provider) would provide a remote monitoring service via internet which allows changes to be made to the system remotely, while advice can be given over the phone. However an office building shown on the plan will be used as a maintenance office/workshop.

While the application states that the AD plant is designed to accommodate a variety of solid and liquid feedstock types to give the plant a greater degree of flexibility in the future, the application seeks permission for maize, beet, silage, slurry and chicken/farmyard manure only. Should the applicant wish to use different feedstock types in the future, an application to vary the planning permission would be required.

## 7.7 Additional 500kw CHP Unit

The installation of the second CHP unit on site without planning permission was considered previously at Planning Committee on 6<sup>th</sup> July 2016 at which time enforcement action to seek its removal was authorised. This application was validated on the 26<sup>th</sup> August 2016 with the second CHP unit on site being included within it. Accordingly it is appropriate to reconsider this issue in light of the application and supporting information that accompanies it.

The implications of not having a second CHP unit on site have been stated by Greener for Life (GFL), in that operating various other plants over the last 2 years and specifically Menchine Farm AD Plant, which is similar to Red Linhay, they understand the adverse environment and operational issues of having only a single CHP unit. In particular the amount of down-time and the ability to maximise the production of renewable energy. It is understood that the main reason for the additional CHP unit is to allow for increases in efficiency and to ensure that during maintenance and breakdown of the CHP unit the system will still provide output.

It has been raised that the inclusion of a further CHP unit is to provide additional output; initially the application was to also include the removal of condition 23 which limits the maximum output to 500kw averaged over a month period. This no longer forms part of the application having been withdrawn and the output of the site will remain 500kw averaged over a month.

If more than 500kw will be produced by the quantities of feed stock approved then a solution could be

to reduce the amount of material placed into the digester to ensure there is only 500kw produced, specific conditions are in place to ensure that the output is retained at that approved.

The Authority consider that with the systems in place to monitor gas production, that the site could easily be operated to ensure it remains within gas production parameters to ensure there are minimal losses of gas due to over production. The tank is designed to allow for variations of gas production and with good monitoring processes the correct mixture of material can be placed into the system to ensure an appropriate level of production.

The need to provide a second unit for periods of repair or breakdown is considered to be reasonable. However this should only be considered if the units are restricted for use only when the other is not operating in order that the power generation limits within Condition 23 are met.

## 7.8 Planning Balance

In general the alteration to changes in the location and type of equipment within the site has little impact on the overall scheme and have mainly been submitted to regularise outstanding items that were not covered within the previous application.

The changes/additions as set out and contained in this application do not represent any further detrimental impact on local amenity. It is confirmed that there will be no changes to feedstock volumes or traffic movements.

Fears have been raised as to future increases in materials and trips to the site if the additional CHP unit is installed, as the plant would not be operating at optimum capacity. There is concern that further feed stocks will be sought to bring the site up to full capacity. This application does not include any increases in feedstock and the two CHP units will not be run simultaneously so this cannot be deliberated as a material consideration in this instance.

On the 31<sup>st</sup> August 2015 the Chief Planner Steve Quartermain issued a letter entitled Green Belt protection and intentional unauthorised development, which has now been incorporated into the Government's Planning Practice Guidance. This letter/statement introduces a planning policy to make intentional unauthorised development a material consideration that would be weighed in the determination of planning applications and appeals.

Although there is no specific definition set out to define intentional, it is the view of Officers, that during the process of the various planning applications associated with this site, numerous developments have been undertaken which have required regularising and that the applicant has intentionally pressed forward with unauthorised development on the site in knowledge of the lack of planning permission. The latest being the re-siting of the items set out in this application. The applicant has relied upon the ability to submit retrospective applications to resolve outstanding issues.

The Government is concerned about the harm that is caused where the development of land has been undertaken in advance of obtaining planning permission. In such cases, there may be little opportunity to appropriately limit or mitigate the harm that has already taken place. Such cases can involve local planning authorities having to take expensive and time consuming enforcement action. The use of retrospective planning applications to regularise modifications undertaken by applicants has been a long standing means of ensuring developments are brought back to acceptability and is acknowledged in the Planning Practice Guidance.

Whilst some weight can be attributed to the fact that elements of the development have knowingly been undertaken without the benefit of planning permission, the amount of weight given to this is deemed to be limited and does not override the other material considerations which conclude that the development is acceptable.

Since the granting of the earlier consent some of the conditions have been discharged and the conditions listed below reflect that situation.

## 8.0 CONDITIONS

1. The date of commencement of this development shall be taken as the 26<sup>th</sup> August 2016 when the application was registered by the Local Planning Authority.
2. The development hereby permitted shall be carried out in accordance with the approved plans together with approved reports and statements listed on the decision notice. Elements of the anaerobic digester and associated works not varied by the approved plans, reports and statements submitted with this application shall be carried out in accordance with the approved plans, approved reports and statements under application 15/01034/MFUL.
3. The colour and finish of the building materials to be used (including the digester dome) shall be retained in accordance with the details as submitted and approved in writing by the Local Planning Authority on 27<sup>th</sup> October 2016 pursuant to 15/01034/MFUL.
4. Within 1 month of the date of this approval a Construction and Operational Environment and Traffic Management Plan shall have been submitted to and approved in writing by the Local Planning Authority.

The plan shall include details of:

1. hours of working;
2. hours of deliveries; including details of any importation of digestate associated with commencement of operations.
3. dust suppression management measures;
4. traffic management
5. vehicle routing to and from the site;
6. programme of works
7. parking for vehicles of site personnel, operatives and visitors;
8. storage of plant and materials;
9. loading, unloading and movement of plant and materials within the site.
10. facilities for cleaning wheels on exiting vehicles

All works and operations shall take place in accordance with the approved details during construction and operation phases of the development. The date the plant first becomes operational ("Operational" shall mean the first production of electricity to be exported to the grid) shall be confirmed in writing to the Local Planning Authority no more than one week following that date.

5. The passing bay on Crown Hill shall be completed in accordance with the details shown on plan '00030-GFL-Hartnoll-Passing bay' approved under planning permission 13/0160/MFUL within 3 months of the date the AD plant becomes operational ("Operational" shall mean the first production of electricity to be exported to the grid) and be so retained. Written confirmation of the date the AD plant first becomes operational shall be submitted to the Local Planning Authority within 1 week of this date.
6. The anaerobic digester facility hereby permitted shall not be brought into operation ("Operational" shall mean the first production of electricity to be exported to the grid) until a drainage scheme has been implemented in accordance with details that shall have been previously submitted to and approved in writing by the Local Planning Authority. Such scheme shall include details of the provision for the disposal of clean surface water by a Sustainable Urban Drainage System, and separate provision for disposal of foul waste and dirty surface/ yard water. The scheme shall include specifications and a timetable for implementation. The water management system shall be completed in accordance with the approved details and retained and maintained for that purpose at all times.
7. There shall be no storage of chicken and farmyard manures or slurry within the application site except within the liquids buffer tank and feeder hopper (triolet) serving the AD digester approved as part of this planning application.

8. All hedgerows within or on the boundary of the site located to the north west of the site and east adjacent to the highway shall be retained and maintained to a minimum height of 2 metres. Any trees or plants that die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
9.
  - i) The feedstock and approved quantities for the anaerobic digester shall be slurry, farmyard and chicken manure, grass and arable crops only, originally sourced from the sites named in Transport Statement of application 15/01034/MFUL only (Hartnoll Farm 62.13ha, Manley Lane 37.60ha, plots 41.48ha, Maunders 7.71ha, and Wellington 23.55ha 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.
  - ii) The ultimate destination for the digestate from the anaerobic digester shall be to the sites named in the Transport Statement of application 15/01034/MFUL Hartnoll Farm 62.13ha, Manley Lane 37.60ha, plots 41.48ha, Maunders 7.71ha 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.
  - 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.
10. Prior to installation, details of any external lighting including a lighting assessment which should include the following information:
  - o A description of the proposed lighting scheme together with hours of operation;
  - o A layout plan of the proposed development site showing the lighting scheme together with light spread, spill and intensity;
  - o Details of the proposed equipment design;
  - o An assessment of the impact of the proposed lighting upon ecology; neighbouring properties, roads and character of the site and its surroundings;
  - o Details of any proposed measures to mitigate or compensate for the possible impacts of the proposed lighting

shall be submitted to and approved in writing by the Local Planning Authority. Any approved external lighting shall be installed in accordance with the approved details and shall be so retained.
11. The storage of digestate or other hazardous substances must be within properly constructed bunded areas of sufficient capacity and containment, details of which are to be submitted to and approved in writing by the Local Planning Authority prior to the first storage of any digestate outside the digestate storage tank, separator fibre clamp and the dryer storage bunker. Such approved scheme shall be so retained.
12. A revised Tree Planting scheme and Landscaping Scheme shall be submitted to and approved in writing by the Local Planning Authority, and shall include details of any changes proposed in existing ground levels (including the Bund). All planting, seeding, turfing or earth reprofiling comprised in the approved details of planting and landscaping scheme shall be carried out within the next planting season following completion of the archaeological works,

October-March whichever is the sooner. Any trees or plants which 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, unless the Local Planning Authority gives written consent to any variation.

13. Noise emissions from the Red Linhay Anaerobic Digester site at the nearest noise-sensitive locations are not to exceed the decibel levels stipulated below, day or night.

Daytime Noise Level 07.00am - 23.00pm shall not at the boundary of any noise sensitive premises exceed the decibel level 41 dB (LAeq1hr)

Night-time Noise Level 23.00pm - 07.00am shall not when measured at 3.5m from the façade of any noise sensitive premises exceed the decibel level 33 dB (LA90 15min).

Daytime (Evening) & Night-time Noise Level 19.00pm - 23.00pm the Maximum Instantaneous Noise Level shall not when measured at 3.5m from the façade of any noise sensitive premises exceed 55 dB(LAFmax) evening (19.00-23.00hrs) and night-time (23.00-07.00hrs).

\*(From the noise data supplied)

The average daytime background noise level is 36 dB (LA90 1hr) plus 5 dB exceedance

The average night-time background noise level is 28 (LA90 15min) plus 5 dB exceedance

14. Once the plant is fully operational, the operator shall provide a further noise assessment demonstrating that the screening and acoustic panelling/boxes are adequate and provides enough protection to ensure that the typical minimum background sound level 22dB (LA90 15min) is not breached from the operation of the plant. This assessment must be submitted to the planning authority within 3 months from the Operational commencement of the AD unit ("Operational" shall mean the first production of electricity to be exported to the grid). A copy of the findings from the assessment and all recorded data and audio files obtained as part of the assessment shall be provided to the Local Planning Authority (in electronic form) within 28 days of completion of the analysis.

Where the assessment information confirms that the noise levels from the operation of the plant are above the typical minimum background sound level 22dB (LA90 15min) within any amenity areas 3.5m from the façade of any noise sensitive properties, the operator shall carry out works to mitigate such effects to comply with the noise condition, details of which shall have first been submitted in writing and approved in writing by the local Authority.

The assessment and any such noise mitigation works shall be completed within 6 months from the date of notification and be so retained. The date of notification is the date the operator is informed in writing by the Local Planning Authority detailing the inadequate screening.

15. The emergency flare stack shall not be operated for maintenance or for testing purpose except between 0700 and 1700 hours on any day (not including Bank Holidays).
16. Heavy and light Goods vehicles along with plant under the control of the operators which deliver waste, remove digestate or biofertiliser or operate at the site (the site is the area set out on the approved location plan outlined in red) shall only use non-intrusive broadband (white noise) vehicle noise alarms and/or reversing cameras. On such vehicles, there shall be no use of single or multi-pitch reversing beepers.
17. Written notification confirming the cessation of operations is to be given to the Local Planning Authority 3 months prior to the cessation of the use of the Anaerobic Digester plant hereby approved.
18. On the cessation of the use of the Anaerobic Digester plant hereby approved, the site shall be cleared of all buildings and structures, hardstandings bunds and any wastes within a period of six months from the date of cessation. After removal of the above, the surface of the site shall be regraded and be covered with topsoil to a depth of 500mm within a period of three months.

The site shall then be planted in accordance with details to be agreed in writing by the Local Planning Authority.

19. The agreed discharge of condition 20 associated with 15/01034/MFUL with regard to the amended shape of the bund and stock proof fencing shall be undertaken and completed prior to the development becoming first operational ("Operational" shall mean the first production of electricity to be exported to the grid) and the landscaping scheme shall be completed in accordance with the agreed details within the first planting season following the development becoming first operational. Once provided the bund and landscaping scheme shall be so retained. Any trees or plants which 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, unless the Local Planning Authority gives written consent to any variation.
20. The visibility splay at the site entrance shall be provided and laid out in accordance with plan 13425/T03 approved under planning permission 13/001605/MFUL within 1 month of the date of this permission with no obstructions within the visibility area over 1m above the adjacent carriageway level. It shall thereafter be so maintained for that purpose.
21. Within 1 month from the date of approval, details are to be provided in writing to the Local Planning Authority of the location and type of electronic system to be installed to monitor the number and type of vehicles entering and leaving the anaerobic digester site. Such approved system is to be installed and operational prior to the first operation ("Operational" shall mean the first production of electricity to be exported to the grid) of the anaerobic digester site. Such results of the monitoring system shall be submitted to the Local Planning Authority quarterly or within any other frequency as requested by the Local Planning Authority. The approved system is to be so retained.
22. 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.
23. The Local Planning Authority shall be afforded access at reasonable times to all on site monitoring systems associated with the operation of the AD plant hereby granted.
24. Within 1 month from the date of this permission, details are to be submitted to the Local Planning Authority of the location and specification of physical barrier to be provided to prevent vehicles bypassing the weighbridge to the lower part of the site. The physical barrier shall be erected prior to the first operation of the site in accordance with the details which shall first have been agreed in writing by the Local Planning Authority and shall thereafter be so retained. ("Operational" shall mean the first production of electricity to be exported to the grid).

## 9.0 REASONS FOR CONDITIONS

1. In order to establish a legal commencement date for the development to enable the development to be monitored by the Local Planning Authority.
2. For the avoidance of doubt and in the interests of proper planning.
3. To ensure the use of materials appropriate to the development in order to safeguard the visual amenities of the area and the character and appearance of the conservation area in accordance with Mid Devon Core Strategy (Local Plan Part 1) Policy COR2 and Mid Devon Local Plan (Development Management Policies) DM2 and DM27.
4. To safeguard the amenities of the area and occupiers of nearby buildings in accordance with DM2 of the Local Plan Part 3 (Development Management Policies).



5. In the interest of highway safety and to ensure that adequate passing facilities are available for vehicles attracted to the site in accordance with DM2 and DM22 of the Local Plan Part 3 (Development Management Policies).
6. To ensure adequate facilities are provided for the disposal of surface water from the development in accordance with Policies DM2, DM22 and DM27 of the Local Plan Part 3 (Development Management Policies).
7. To reduce odour levels within the site and to prevent pollution of the water environment in accordance with Policy DM7 of Local Plan Part 3 (Development Management Policies).
8. In the interest of the visual amenity of the area and to protect the setting of the Grand Western Canal in accordance with Policies DM2, DM22 and DM27 of the Local Plan Part 3 (Development Management Policies).
9. 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 DM5 and DM22 of the Local Plan Part 3 (Development Management Policies).
10. To protect the rural character of the area in accordance with Policies COR2 of the Mid Devon Core Strategy (Local Plan Part 1) and DM5, DM22 and DM27 of the Local Plan Part 3 (Development Management Policies).
11. To prevent pollution of the water environment in accordance with Policy DM7 of Local Plan Part 3 (Development Management Policies).
12. To ensure the archaeological works are completed prior to the planting of the screening to minimise disturbance to the planting scheme and to provide further screening for the site and assist with reducing any potential noise.
13. To minimise the potential for pollution and disturbance to local amenity, in accordance with Policy DM7 of the Local Plan Part 3.
14. To minimise the potential for pollution and disturbance to local amenity, in accordance with Policy DM7 of the Local Plan Part 3.
15. To minimise the potential for pollution and disturbance to local amenity, in accordance with Policy DM7 of the Local Plan Part 3.
16. To minimise the potential for pollution and disturbance to local amenity, in accordance with Policy DM7 of the Local Plan Part 3.
17. To ensure the Local Authority are made aware of the impending cessation of the use to enable proper consideration of the removal of the items on the site.
18. To achieve a satisfactory landscape/restoration.
19. In the interest of the visual amenity of the area in accordance with Policies DM2, DM22 of the Local Plan Part 3 (Development Management Policies).
20. To provide adequate visibility from and of emerging vehicles.
21. In the interest of highway safety and consideration of the impacts on the environment, neighbouring residents due to the number of movements to and from the site and in order to accord with Policies DM5 and DM22 of the Local Plan Part 3 (Development Management Policies).

22. To ensure the AD plant is in accordance with that as set out in the application and supporting information and in order to ensure that the impacts of the development are acceptable.
23. 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.
24. To ensure all vehicles entering and leaving the site pass over the weighbridge 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.

## **SUMMARY**

While a number of objections have been received in response to the consultation on this proposal, it is not considered that the introduction of the additional CHP unit, the sound attenuation measures, weighbridge, office and resitting of various items within the site will harm the environment, the landscape, neighbouring residents and the Grand Western Canal to a degree to warrant refusal of the application when balanced against the benefits. The Anaerobic Digestion plant will process farm wastes into a product which will assist in improving land management techniques and will generate a source of renewable energy. The impact on the Grand Western Canal is considered to be limited and is considered to be outweighed by the benefits of the proposal. Any harm likely to arise from this proposal can be adequately mitigated by the imposition of conditions. It is considered that this proposal will not cause significant harm and that the benefits of granting planning permission outweigh any limited harm that may be caused. Accordingly the application is in accordance with Mid Devon Core Strategy (Local Plan Part 1) Policies COR1, COR2, COR5 and COR18, Local Plan Part 3 (Development Management Policies) DM1, DM2, DM5, DM6, DM7, DM8, DM22 and DM27, Devon Waste Local Plan policy WPC1 and the National Planning Policy Framework.

|   |   |
|---|---|
| <b>Contact for any more information</b> | Daniel Rance, Ext 4929  |
| <b>Background Papers</b>                | 15/01034/MFUL   |
| <b>File Reference</b>                   | 16/01180/FULL   |
| <b>Circulation of the Report</b>        | Cllrs Richard Chesterton<br>Members of the Planning Committee |