The Planning Inspectorate

Appeal Decisions

Inquiry held on 25 - 28 April, 3-4, 12, 24 – 25 May & 31 July 2017

Site visit made on 11 May 2017

by Katie Peerless Dip Arch RIBA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 10 October 2017

3 Appeals at Crouchland Farm, Plaistow Road, Kirdford, Billingshurst, West Sussex RH14 0LE

Appeal A: APP/L3815/C/15/3133236

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Crouchland Biogas Limited against an enforcement notice issued by Chichester District Council.
- The enforcement notice, numbered PS/13/00015/CONCOU, was issued on 15 July 2015.
- The breach of planning control as alleged in the notice is as set out in Annex 1 to this Decision.
- The requirements of the notice are as set out in Annex 2 to this Decision.
- The period for compliance with the requirements is six months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (c), (d), (e) and (g) of the Town and Country Planning Act 1990 as amended.

Appeal B: APP/L3815/C/15/3133237

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Crouchland Biogas Limited against an enforcement notice issued by Chichester District Council.
- The enforcement notice, numbered PS/13/00015/CONCOU, was issued on 15 July 2015
- The breach of planning control as alleged in the notice is a material change of use of the land to a mixed use for agriculture and for the purposes of a commercial biogas plant, including the importation of feedstock and waste from outside the farm unit.
- The requirements of the notice are as set out in Annex 3 to this Decision.
- The period for compliance with the requirements is one month for step (i) and six months for steps (ii) – (vi).
- The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (c), (d), (e) and (g) of the Town and Country Planning Act 1990 as amended.

Appeal C: APP/P3800/W/3134445

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Crouchland Biogas Limited against the decision of West Sussex County Council.
- The application Ref: WSCC/042/14/PS, dated 24 June 2014, was refused by notice dated 07 July 2015.
- The development proposed is the upgrade of an existing anaerobic digester facility to enable the export of biomethane to the national gas grid, installation of a new digestion tank, two new CHP engines, digestate lagoon and associated infrastructure.

Decisions

Appeal A: APP/L3815/C/15/3133236

1. It is directed that the enforcement notice be corrected by the deletion of the words *'and the pump house'* and the addition of the words *'the following equipment unless sited within the authorised containers:'* after *'remove from the land'* in the allegations and requirements of the notice and varied by the substitution of 18 months as the time for compliance. Subject to these corrections and variations the appeal is dismissed and the enforcement notice is upheld.

Appeal B: APP/L3815/C/15/3133237

2. It is directed that the enforcement notice be corrected by the deletion of the words *'and the pump house'* and *'for export from outside the farm unit'* and the addition of the words *'the following equipment unless sited within the authorised containers:'* after *'remove from the land'* in the requirements of the notice and varied by the substitution of 18 months as the time for compliance for item (i) of the requirements. Subject to these corrections and variations the appeal is dismissed and the enforcement notice is upheld.

Appeal C: APP/P3800/W/15/3134445

3. The appeal is dismissed.

Main Issues

1. I consider that the main issues in Appeal C and on ground (a) for Appeals A and B and are the effects of the development on:

   (i) highway safety

   (ii) the living conditions of nearby residents

   (iii) the rural character of the area and

   how the location relates to adopted planning policy on the need for and siting of waste facilities.

Procedural matters

2. At the Inquiry it was confirmed that the appellants are not pursuing the appeals on grounds (d) and (e). The Council has also agreed that the enforcement notices should be amended to reflect their acceptance that the reference to a *'pump house'* is an error and should be deleted from the notice. This was the only matter raised under the appeal on ground (b) and, to that extent, the appeal succeeds on this ground and the enforcement notices will be corrected to reflect this.

3. Following the previous Decision[1] that granted a Lawful Development Certificate (LDC) for the export of biogas, it was also agreed that the requirement to cease this activity should be deleted from the change of use enforcement notice. It was also agreed that some of the equipment that is referred to in the notices has now been found to be authorised. This is the gas conditioning equipment sited within the authorised CHP containers. I shall vary the notices accordingly to make clear that this equipment is not included in the notices.

[1] Ref: APP/P3800/X/15/3137735

Ruling

4. At the Inquiry I was asked by the parties to give a ruling on a suggestion by the appellants that the enforcement notice plans should be amended by extending the 'red line' area to follow the planning unit boundary of Crouchland Farm rather than the smaller area enclosing the area where the operational development that is the subject of Appeal A is sited.

5. I decided that the area should remain unchanged because to do so would result in the ground (a) appeal also applying to that area of land and would confirm a mixed use across the whole farm, not just the areas containing the operational development of the AD facility. I considered that the Councils would be prejudiced if they were not able to consider the consequences of this before presenting their evidence.

6. The appellants had not previously claimed that the whole of the planning unit of the farm was in a mixed use and I considered that it was too late to introduce any such argument at that stage in the appeal process. Therefore, to allow the appeal to continue on ground (a) on the basis of what has been alleged by the Council would not be prejudicial to the case they have already made and neither would retaining the boundary as drawn would not prejudice the appellants' position.

7. Success on ground (a) might result in the creation of a separate planning unit, enclosed by the remainder of the agricultural land of the farm. However, this would not change the extent of the 'farm unit' as identified in the Lawful Development Certificate'. If necessary, an additional plan could be attached to the enforcement notice identifying what is meant by 'farm unit' in the notice.

Site and surroundings

8. The appeal site lies within a dairy farm covering some 460 acres in countryside outside the hamlet of Kirdford. In terms of built development, the site includes several large cowsheds and a barn, 2 circular containers for biogas production, a 30m diameter biogas tank, 4 containers, a separator unit and flare and various other equipment associated with the use of part of the site as an anaerobic digester (AD) facility and biogas plant, processing slurry and other feedstock into methane gas.

9. This equipment is sited close to cowsheds in the main farmyard complex but there are, in addition, 3 lagoons situated some distance away which are used for digestate and dirty water storage and are connected to the AD facility by a pipeline. The largest of the lagoons, known as lagoon 3, is included within the enforcement notice area for Appeals A and B and consequently the application site for the deemed planning application under ground (a).

10. Appeal C also seeks planning permission for the additional equipment. Although it also refers to the export of biogas, the LDC Decision has already confirmed that this is lawful and the Council has accepted that the enforcement notice subject of Appeal B should be corrected to reflect this.

Reasons

Ground (a)

The baseline position

11. Much of the appellants' case on ground (a) is predicated on the submission that there are authorised uses of the site that the appellants would employ if planning permission is refused. It is submitted that these would have a greater impact on many of the matters of concern to the Councils and local residents than would occur if planning permission, regulated by conditions, were to be granted and implemented. The appellants say that, in the event that the appeals fail, they would increase the number of cows on the farm to 850, use all the remaining land on the farm to grow crops for feedstock for the AD unit and import all the food for the livestock. The AD unit would then continue to operate at a level that was restricted only by the amount of feedstock that could be produced on the farm and made available from the increased on-site activities.

12. They maintain that there are no planning restrictions that would prevent this scenario and, because they claim it would then be more financially viable to distribute the digestate produced on the farm by tractor and attached tankers, rather than the heavy goods vehicles (HGVs) used at present, this would increase the total number of vehicle movements on local roads.

13. They also claim that a grant of planning permission would be more beneficial to local residents, as attached conditions and the implementation of an agreement under s106 of the Town and Country Planning Act 1990 as amended (TCPA) made between the appellants and the County Council could ensure that their living conditions would be protected. The agreement and conditions would be able to limit noise from the process and restrict the numbers, routing and hours of operation of the deliveries to and from the site.

14. The starting points for the determination of the ground (a) appeals and the consequent deemed planning applications must be the policies included within the Development Plan, unless material considerations indicate otherwise. A fall-back position that is realistic and achievable can be such a material consideration and the weight to be given to any such fall-back would be proportionate to the likelihood of it meeting the above criteria.

15. However, the parties have addressed the matter of the fall-back or baseline position at the outset of their closing submissions and because my findings on this issue will inform how the remainder of my reasoning will follow, I will therefore do the same in this Decision.

16. It will be necessary firstly to determine whether the 'baseline' position in the appellants' vocabulary and the 'fall-back positon' in that of the Councils can be achieved without the need for further consents then, secondly, to consider whether there is a realistic prospect that they would be implemented if planning permission is refused. If the baseline proposals pass these tests, weight can be attributed to them commensurate with the likelihood that they will be implemented. A comparison would then be made between the impacts of the development for which planning permission is sought and the realistic situation likely to occur if the appeals are dismissed.

17. A previous appeal Decision[2] issued a lawful development certificate (LDC) for some of the buildings, equipment and uses that are now authorised on the site and this stands alongside that previously issued by West Sussex County Council (WSCC) on 9 October 2015. It is against this background, and the appellants' stated intentions and their feasibility, that the likely effects of the proposals should be evaluated.

18. It has been suggested by WSCC and Chichester District Council (CDC) that the AD facility, if operating as proposed under the appellants' baseline scenario, would create a separate planning unit and this indicates that a material change of use would occur.

19. The term 'planning unit' is not one that is defined in the TCPA but it is conveniently used when considering whether a material change of use has occurred on a particular site. The leading legal authority on the matter is the case of *Burdle and Williams v SSE and New Forest DC [1972]* which established that whether such a change has occurred is likely to be a matter of fact and degree. Relevant considerations to apply when making such a judgement include the unit of occupation, the degree of physical and functional separation between different uses, the relationship between those different uses and whether one is ancillary or incidental to another.

20. In this case, the AD plant is operated by a company that is separate from that running the agricultural operations on the farm and I consider that this could indicate a functional separation even though in the baseline scenario the AD company would be purchasing feedstock only from the farming enterprise. However, there is nothing that physically separates the areas occupied by the AD operation from the remainder of the farm. It follows that there would been no separate planning unit created.

21. However, the question of the overall use of the planning unit that covers the whole farm site is another matter. A planning unit can be in a mixed or composite use if a former ancillary use has increased to the extent that it becomes a primary use in its own right.

22. The appellants submit that in the baseline situation the AD unit would remain an ancillary use, as its operation is parasitic on the agricultural farming activities. Whilst I accept that the AD unit would have to stop operating were the agricultural use on the farm to cease, this does not mean that the character of the baseline scenario is the same as that of the authorised use.

23. The LDC Decision confirms that the use of the AD facility is ancillary to that of the agricultural use of the land shown on the plans attached to the certificate and that it is only authorised to process feedstock deriving from the farm unit. Ancillary or incidental uses may change, expand or decrease without constituting a material change, so long as they remain subsidiary to the primary purpose of the planning unit as a whole. Intensification of an ancillary use does not necessarily result in a material change that needs a grant of planning permission to authorise it but there can be situations where the level of the use has changed to such a degree that its character has also changed. I consider in the following paragraphs whether that would be the case were the baseline scenario to be implemented.

[2] APP/P3800/X/15/3137735

24. If the baseline scenario were in operation, the overall way the site was used would change the relationship between the two uses so that, rather than the AD unit serving the needs of the agricultural use, a significant part of the agricultural operation on the site would be geared to supporting the AD plant. The existing dairy herd would be more than doubled, with the stated intention of increasing the volume of slurry available for the AD, and the grass pasture used to feed the cows at present would be given over to crops with a higher energy density, all of which would be used to feed the AD.

25. Clearly the production of the crops and the keeping of dairy cows are agricultural operations. However, the original purpose of the AD plant was to provide a sustainable means of dealing with the waste products of the dairy farm and in my opinion, this indicates why the authorised use is ancillary.

26. It is submitted that it is likely that the dairy herd would be increased in any event as this is the most profitable way of running the farm, but this has not, as yet, occurred. If a herd of 850 cows was really the most profitable scenario for the farm business it begs the question why this has not already happened rather than wait for the need to implement the fall-back situation.

27. The appellants point out that the AD unit represents a considerable investment that will be utilised to its maximum in any event and the original planning permissions were sought as part of a farm diversification project in order to provide additional income. However, with reference to the purposes behind the development, my findings on the LDC application noted the following*: 'The new and replacement silos were said to be needed to allow the farm to comply with new NVZ* (Nitrate Vulnerable Zone) *regulations that were to be introduced and which would require increased capacity for the storage of slurry produced on the farm'* and '*the AD facility and biogas plant were constructed to deal with the disposal of waste arising from the land surrounding the Crouchland Farm premises.*….'. This does not support the proposition now put forward that the justification for the proposals was always intended to be primarily to be farm diversification.

28. Nevertheless, it is clear that the unit provides significant income for the farm and I accept that the major capital investment in the parts of the plant which benefit from planning permission means that it is highly unlikely to be abandoned if the appeals fail.

29. However, even if the AD unit only accepts feedstock from the farm, this does not indicate that it necessarily remains the ancillary use taking place on the unit. In the baseline scenario, it seems that providing feedstock for the AD would be the primary purpose for which the agricultural activities on the farm were taking place. The majority of the dairy herd (the additional 500 cows) would be introduced to support the running of the AD unit and all the crops grown on the farm would be utilised in the same way to produce biogas from it. This is the opposite situation from the authorised position where the AD unit serves to meet the need to manage the slurry output from the farm whilst also providing an additional form of income.

30. In my view, the interdependence between, and the increased reliance of the agricultural output on, the operational needs of the AD unit in the baseline scenario would be so different to that in authorised situation, where an AD was permitted to meet the NVZ needs of the dairy herd that, as a matter of fact and degree, these factors would result in a material change of use for which

planning permission would be required. If I am correct in this judgement, then the baseline scenario would not be a fall-back position and would carry no weight.

31. Even if this were not to be the case and the proposed method of working could be implemented without the need for a further planning permission for a change of use there is still a question of whether additional operational development would be needed to allow the AD unit to operate lawfully under the baseline scenario.

32. Although the LDCs make clear which equipment and activities are now authorised, there is still a dispute between the parties as to which operations can practically be carried out on the site without the need for further planning consents. In particular, it is claimed by the objectors that it would not be possible for a complete functioning AD facility to operate using only the authorised equipment, as it does not meet the criteria required for the issue of a permit from the Environment Agency (EA).

33. It is a safety requirement for the plant to have a flare for burning off excess gas in an emergency and without this facility, an EA permit for the AD plant would not be issued. The existing flare does not benefit from planning permission and to overcome this in the baseline scenario, the appellants have submitted that they would use 2 mobile flares and that these would be approved by the EA. However, such a solution has not, apparently, be proposed or tested before and, at the time of the Inquiry, had not been formally accepted by the EA. The Parish Council's expert witness on AD facilities was concerned about the safety of such a proposal and expressed serious doubts about its suitability, despite the appellants' assertions to the contrary.

34. There was much discussion at the Inquiry on the technical feasibility of such mobile flares and their ability to meet the EA's safety requirements and submissions from all parties on the likelihood of the EA accepting them as suitable. The experts in the subject have expressed contradicting views on these matters and the EA did not appear at the Inquiry to give its view on the likelihood of the grant of a permit for them. Despite the appellants' conviction that it will do so, it is ultimately for the EA to take this decision and, until it does, there can be no certainty that such a scheme would be approved.

35. Similarly, to operate as an authorised AD facility, the gas conditioning equipment would need to be relocated within the authorised containers that already have planning permission. The appellants maintain that this is possible but, once again, the current equipment remains without planning permission and there is no certainty that the proposed scheme is viable. The manufacturers of the equipment have produced 'preliminary' engineering drawings for a proposed scheme but it has yet to be conclusively demonstrated this would be practical or that it would meet the EA's requirements for the issue of a permit.

36. The situation at present is therefore that, for the baseline scenario to be operable, further site works and investment in capital equipment and livestock would be needed. Even if an EA permit were to be forthcoming in the future, the fact is that it had not been issued at the time of the Inquiry. Consequently, even if the appellants' baseline scenario were not a material change of use, it could not be implemented at present and whether it could be put into place in the future is still dependent on a number of variables.

37. The relationship between the 2 operating companies, Crouchland Biogas or Crouchland Farms Ltd, is also somewhat unclear and this casts some doubt on whether the appellants would have sufficient control over how the farming operation would operate on land which is outside the appellants' leasehold. The appellants submitted at the Inquiry that a subsidiary company, Farm Fuels Ltd who provide the HGVs for the current operation, are run as in independent operating concern and there is no guarantee that the relationship between the farm business and the appellants would necessarily be any different.

38. Finally, since the last sitting day of the Inquiry, it has emerged that the appellant company and the separate company running the farm business have both gone into administration and are seeking new investment or ownership. The administrators have stated that the business operated by Crouchland Biogas Ltd. will continue to trade as a going concern and that there are sufficient funds available to operate (my emphasis) under both the baseline scenario and the scheme for which planning permission is sought.

39. However, the letter from the administrators does not address the likelihood of funds being available for the further investment that would be needed for the baseline scenario to be viable, such as the purchase of the mobile flares and additional tractors and tankers and the repositioning of the gas conditioning equipment. In addition, there is no word on whether the farm business, which as noted above is also in administration, would be able or willing to invest in an additional 500 cows in order to provide the additional slurry required to bring the AD plant up to the envisaged output.

40. It may be that one or more buyers might be found for the businesses and they would be prepared to undertake this funding, but once again this is a theoretical proposition and there is no certainty that it would materialise.

41. The objectors have raised a number of other reasons why they consider that the baseline position could not be a reality. They relate to the detailed operation of the existing on-site equipment including whether it would be able to process the amount and type of feedstock proposed, the availability of sufficient storage for both the digestate and the NVZ requirements of the farm and the ability of the farm to house the additional number of cows proposed. They also question the likelihood of the appellants using tractors and tankers to transport the digestate, based on doubts about the economically viability of this method of transport.

42. There were detailed discussions at the Inquiry about the volume of straw that has been assumed would be available for the baseline scenario. However, I accept that the amount of straw that would be purchased by the farm would rise because the cows would be housed all year round, which they are not at present. I am therefore not persuaded that the volume of straw suggested by the appellants would be so inaccurate as to suggest that the output figures are unachievable.

43. The objectors also questioned whether the Peecon feeder could process the straw at the rate needed to run the AD at the predicted level. Although it was submitted that the unit would be likely to block up and be regularly stopped from operating efficiently by stones, the appellants confirmed that the straw was chopped to a manageable length and there was a 'stone catcher' on the equipment that would prevent these problems.

44. Although the 2 expert witnesses had differing views on the practicality of using the feeder, this is essentially a matter for the site operator and, whilst there might be some problems with the equipment that could have financial implications, there was little evidence to suggest that it would have any serious implications for the baseline scenario.

45. In addition to the concerns set out above, the Parish Councils have questioned whether the existing farm yard could cope with the potential increase in herd size without further operational development. They cite the fact that the appellants have submitted a planning application for improved facilities to allow an increase in the dairy herd to 550 cows. The report[3] by consultants, who were not called to give evidence at this Inquiry but which was submitted to support the application by the same agents employed for these appeals, states *'the existing buildings severely restrict the size of the herd that Crouchland can run and prevent significant expansion'* and that new building is necessary to meet the operational and welfare needs of a larger herd. If this is correct, the objectors submit that this indicates that it is difficult to understand how a herd of 850 cows could be accommodated within the existing buildings.

46. However, the farm has previously housed more cattle than proposed in the baseline scenario and the appellants have explained that the application for planning permission was to enable an automatic milking system to be installed for a dairy herd of 550 cows, which would need a new building and more space per cow. This would not be the case in the baseline scenario. It is also proposed in the planning application to house a further 830 other cows on the farm in addition to those producing milk but it is not stated whether these cows would be permanently housed in the farmyard or would be outside during part of the year.

47. Nevertheless, the Red Tractor animal welfare standards[4] require 9m² for bedding, feeding and loafing for each cow of the weight of those kept at Crouchland Farm. Having heard the proposals for accommodating the increased number of cows, and taking into account the size of the farmyard at about 8,800m² it seems likely that the proposed 850 cows could be satisfactorily accommodated in the existing farmyard and buildings which could be adapted to do this without the need for any further planning consents.

48. The LDC appeal decision also specifically excluded the separator from the authorised operational development. The separator is said to help reduce the liquid storage facilities necessary for the plant and the Parish Councils submit that without it, in the baseline scenario, there would need to be modifications to lagoon 2 to allow it to be suitable for digestate storage.

49. Although there would appear to be sufficient capacity for the for the required liquid storage in the 2 authorised lagoons, the Parish Councils consider that lagoon 2 would need to be lined, as unauthorised lagoon 3 is, before the EA would permit its use for digitate storage and that this would require planning permission. They point to a report[5] on the existing permit conditions which asks the appellants to empty lagoon 2 and cease to store digestate within it. The reasons given for this request are, however, that the lagoon was outside the permit area and did not have a cover; there is no mention of it needing a liner. The lagoon now has a clay ball cover. I therefore find that there would be no problems relating to the ability to store digestate.

[3] CD vol 8 P6
[4] ID 3
[5] ID25

50. The appellants state that in the baseline scenario, tractors and tankers would be used to transport the digestate between the site and the farms to which it would be delivered to use as agricultural fertilizer. The reasons for this are said to be both economic and practical. To support their case, the appellants have produced detailed costings which, they say, show that although more vehicle movement movements would be needed if tractors were used rather than HGVs, it would nonetheless be a more cost effective solution and therefore the preferred course of action. I am told that HGVs are only used at present because the appellants were asked to reduce the number of vehicle movements by the WSCC but there are no planning conditions that presently limit this aspect of the operation.

51. The Councils however, dispute the financial evidence, pointing out that Farm Fuels Ltd, who currently transport the output from the AD, is a subsidiary company of Crouchland Biogas Ltd and therefore part of the same overall operation. Farm Fuels Ltd already owns a number of HGVs and to operate with tractors and tankers would require the appellants to purchase additional equipment. It is therefore questionable whether this would be an actually be an economically viable proposition for the appellants.

52. In addition, WSCC has questioned whether the average speed at which the tractors would need to travel to cope with the proposed output from the AD is feasible. An average speed of 20mph would be needed but part of the access road is restricted to 5mph. The tractors would also be sharing the road with the HGVs transporting the biogas off the site. The HVGs have a lower average top speed than 20mph, so this would restrict the tractor speed if travelling behind one of these lorries, or indeed other traffic driving with caution on these country roads. It therefore seems that it would be unlikely that the tractors could maintain an average speed of 20mph and consequently could not operate at the rate suggested to service the AD facility.

53. Nevertheless, whilst there may well be some doubts about the financial aspect of the use of tractors, the evidence put forward by the appellants is robust enough to suggest that there is a strong likelihood that they would use this mode of delivery and that there would consequently be an increase in the number of movements on local roads under the proposed baseline scenario.

54. Whether there was sufficient evidence to support the premise that the appellants would actually implement this scenario was also questioned. However, I have taken into account the considerable volume of evidence produced to demonstrate that, if it were considered to be authorised, the proposed baseline could operate the AD plant as predicted and I have previously acknowledged that the equipment already authorised is likely to be utilised as fully as possible. I therefore conclude that, if able to make the required investment in the additional plant, the appellants would do so.

55. In conclusion, it seems to me, for the reasons set out above, that whilst some of the queries raised do not indicate that the baseline scenario would be impractical or unrealistic, there are nonetheless other concerns that have not been satisfactorily overcome by the appellants' arguments. These indicate that, even if the baseline scenario was authorised and more than a theoretical possibility and, despite the stated intention to do so, the likelihood of it being able to be implemented is, at best, uncertain and the weight that I will attach to this possibility when considering the planning applications is consequently limited.

Planning considerations

56. As noted above, the appellants cite a number of benefits that they submit would occur if planning permission were to be granted for the development enforced against in the enforcement notices and conditions were to be imposed to limit the scope of the operations. These are, of course, based on the assumption that the baseline scenario would be put into operation and in the preceding paragraphs I have indicated that I give this potential fall-back position, at best, little weight. With that in mind I will now consider the merits of the development enforced against and for which planning permission is sought under the appeals on ground (a) and the application that is the subject of Appeal C.

Highway safety

57. There has been no dispute from the Highway Authority that the roads over which the traffic from Crouchland Farm would travel if the AD facility were to be permitted in its entirety have the capacity to carrying the projected vehicle numbers. However, the Councils consider that these numbers would prove dangerous for other road users due to the nature of the lanes and the type of usage they currently experience.

58. The roads around the farm are relatively narrow and local residents gave persuasive evidence that there are regular incidents of vehicles having to manoeuvre to pass each other, often having to reverse at junctions. This causes concern for other road users, who also have to move to avoid the vehicles, with pedestrians and riders of bicycles and horses feeling particularly unsafe.

59. At present, the plant is operating at a level that would be close to that sought through the planning applications and consequently the impact of HGV movements from the site on the surrounding area can already be experienced. The grant of planning permission could limit the hours and numbers of these vehicles and the route that they take and the appellants have offered to fund the widening of Foxbridge Lane at 3 points between the site and the junction with Plaistow Road. They do not, however, believe that this would be necessary to make the scheme acceptable. There are, nevertheless, objections to this proposal as it would mean the loss of areas of ancient woodland that border the road.

60. The Councils consider that without the improvements, the impact of the additional traffic on the highway network would be severe and it seems that the current situation is proving difficult for all road users. I agree that the use of the lanes for the number of HGVs proposed would create a situation where local residents felt unsafe and mitigation measures are necessary. However, from what I saw on my site visit and from a study of the proposed widening measures, I conclude that the suggested changes would not result in any significant improvement to the free flow of traffic in Foxbridge Lane or contribute to the safety of pedestrians and riders to any meaningful degree.

61. It would be easier for 2 HGVs to pass at the widened areas and damage to the verges would reduce at these points but if there were to be more than one HGV in either direction, the second would block the path of oncoming traffic if the passing place were taken by the first. Thus a queue could form causing the same difficulties in manoeuvring that are experienced at present. In such circumstances, the build-up of traffic would still prove to be, at best, frustrating and, at worst, unsafe, particularly for those on foot, bicycles or horses.

62. I accept that conditions could attempt to control the flow of HGVs into and out of the appeal site but I am not persuaded that they could be sufficiently effective. If it is possible to contact drivers before they enter Foxbridge Lane and Rickman's Lane in order to prevent conflict with each other, it begs the question of why this procedure has not been implemented already, to prevent the kind of incidents that local residents have recorded and shown to the Inquiry.

63. I am also of the opinion that the improvements would cause a degree of harm to the rural character of this country lane through the loss of the roadside trees and the additional areas of hard surfacing and, whilst this would not be severe, it would nonetheless have a detrimental impact that would need to be set against any, albeit minimal, benefits to the free flow of traffic. However I realise that, if planning permission is refused, there would be nothing to prevent the use of the road by any number of vehicles connected to the authorised uses on Crouchland Farm and I will take this into account when carrying out the planning balance exercise.

64. As noted above, the actual number of vehicles that are likely to use the route is in dispute between the parties. If planning permission is granted the appellants say that there would be 11,212 vehicle trips per annum compared to the 13,998 that they say would be generated through their claimed baseline position using tractors and tankers to distribute the digestate. They anticipate that there would be a daily figure of about between 14 and 46 HGV movements if planning permission is granted for the AD facility and that this could be secured through condition had planning permission.

65. The appellants give no assessment of the number of trips that would occur if their baseline position was found not to be viable or lawful and the unit were to operate in accordance with the scenario set out in the LDC without an increase in the herd size or an increase in the amount of imported cattle feed. WSCC estimates that, in that scenario, the total number of movements per annum would be 4,759.

66. There are no measured traffic surveys for the situation that existed before the AD unit started production and the numbers of HGVs using the affected roads that are not associated with the Crouchland enterprise can only be estimated. Similarly, it is difficult to distinguish between the HGV movements connected with the current authorised use and those that result from the use of the unauthorised equipment and the import of feedstock.

67. Nevertheless, if it is considered that the appellants' projected baseline position is unauthorised and unlikely to be implemented, as I have concluded above, it is clear that the operation of the unit at the capacity proposed would lead to a significant increase in traffic on local roads. The site is some 13 miles from the closest Strategic Lorry Route and 5 miles from the nearest Local Lorry Route. Policy W18 from the West Sussex Waste Local Plan (WLP) 2014 seeks to direct traffic to the Lorry Route Network but the appeal proposal would therefore necessarily have to rely heavily on the use of local roads and in this respect there would be some conflict with this policy.

68. The roads around Crouchland Farm are narrow country lanes where traffic is likely to be restricted to use by residents, the farm enterprise and occasional delivery vehicles and persuasive evidence was given by local residents on the fear to safety caused through meeting a large lorry when walking on a road with no pavement or when riding a horse or bicycle on the carriageway.

69. Even if the baseline position were to be accepted and tankers and trailers were brought into use, this might not be as unacceptable as suggested by the appellants. Whilst the use of HGVs would result in fewer trips, local residents have described how intimidating they find the larger lorries and gas tankers that are currently in use and it may be that the use of tractors would be more in keeping with the local road conditions. I note that it was, apparently, WSCC that asked for HGVs to be used in preference to tractors, but the evidence from local residents suggests that they have found this to be very disruptive.

70. On roads where HGV movements are the norm and other levels of traffic are relatively high, an increase similar to the numbers proposed here might not be significant or readily discernible. However, that is not the case on these country lanes where one would not usually expect to encounter any significant numbers of large vehicles.

71. I consider therefore that the proposed AD use would bring about a noticeable and detrimental change from the situation authorised by the LDC. This would create a conflict with policy 39 (2) of the Chichester District Local Plan Key Policies 2014 – 2029 (CDLP) which, amongst other things, requires development to be located to minimise additional traffic generation and not to create or add to problems of safety, congestion or damage to the environment.

Living conditions

72. The appellants have produced evidence on noise matters that seeks to demonstrate that the levels produced by the AD plant and from associated traffic would not reach levels that would have a significant impact on the amenity of local residents.

73. Nevertheless, I heard other evidence noting that the plant emits a high pitched whining noise that has disturbed the sleep of neighbouring occupants and that the HGVs pass very close to some properties, causing noise and vibration that can be experienced within the houses. Whilst theoretic calculations can be useful in situations where a proposal has not already taken place, in these circumstances I give the first hand testimony of those directly affected considerable weight.

74. The application for planning permission includes proposals to attenuate the noise emitted from the AD plant itself and I have no reason to doubt that the expected levels could be achieved. Even if they were not, conditions could require the cessation of the use of the plant in such circumstances.

75. However, with respect to the noise and disturbance from passing traffic, the Parish Councils make the good point that, in this rural situation, impacts on tranquillity, increased levels of intimidation and reduced residential amenity are experienced each time a HGV passes. The noise levels created might not, when averaged out, amount to a significant overall increase, but when disturbance is caused even 2 or 3 times an hour each time an HGV passes a property it can soon prove annoying and eventually debilitating to those experiencing it.

76. The authorised export of biogas already results in an increase in large vehicle movements over and above that which would normally be expected from a dairy farm of this size and, whether it is tractors and tankers or HGVs that are used to move the digestate, there would be an impact on the tranquillity of the surroundings and the amenity of local road users.

77. I consider that, although the local residents are bound to be subject to a certain amount of HGV traffic noise and disturbance from the operation if the problem of the unauthorised flare is overcome, any increase in the number of HGV trips would prove detrimental to their living conditions. Again, this is a factor that conflicts with WLP policy 19 which includes the requirement that proposals for waste development should control the impacts from traffic, such that there would be no unacceptable impact on public amenity and this adds to the weight against the proposal.

Landscape character and impact

78. The Councils all criticise the impact that the AD facility is having on the landscape quality of the surrounding countryside and the character of the rural area. The advocates for CDC and the Parish Councils have also criticised the landscape and visual impact assessment (LVIA) produced by the appellants' consultant, considering that he did not follow the guidelines set by the Landscape Institute's Guidelines for LVIA (GLVIA). WSCC refers only to the impact of the traffic generated by the development on landscape and visual amenity and does not raise an objection to the operational development.

79. However, the assessment produced by the appellants' witness is the only systematic evidence on landscape impact put before the Inquiry. There may be some divergence from the recognised GLVIA methodology but this does not necessarily invalidate the approach taken. Both CDC and the Parish Councils put forward a witness who commented on the landscape aspects of the development but who, as noted above, had not carried out a LVIA of their own.

80. The appellants' evidence demonstrates that the impacts of the development are restricted to a relatively small local area, much of which is within the farm complex. The most evident items of operational development are the biogas tank and lagoon 3 both of which are situated outside the LDC area. The tank is to the east of the main complex, has a diameter of 32m and rises to a height of over 50m, although it is partly surrounded by an earth bund, which is proposed to be raised so that only the top 8m or so of the tank would be seen from certain viewpoints. The Purac plant located in the main complex consists of 3 stainless steel towers, the highest of which is 13m tall.

81. A public footpath runs past the main farm complex and the unauthorised equipment is readily visible from it. The combination of the gas tank, the towers and the other unauthorised operational development such as the office portacabins, flare and separator, when combined with the equipment already authorised, has turned the appearance of the complex of farm buildings from something that is to expected from agricultural operations in the countryside into a large scale industrial plant.

82. The lagoon is located away from the AD plant and cattle sheds, adjacent to 2 other such storage facilities and is 192m long by 75m at its widest point. It is surrounded by an earth bank and has a cover. It is a large structure that appears as a somewhat alien man-made intrusion in the otherwise largely undeveloped area. Although the 2 authorised lagoons have been mostly assimilated into the landscape by virtue of being surrounded by woodland, I am not persuaded that the proposed commercial, rather than agricultural, use of lagoon 3 justifies the construction of an engineered structure of such a scale in this rural location.

83. It has also been stated that the proposed throughput of the AD plant would need storage for about 20,500m³ of digestate and, in the baseline scenario, it is claimed that lagoons 1 and 2 between them have sufficient storage capacity to allow the AD plant to operate within the terms of the EA licence. Therefore there is spare capacity already and consequently little justification for the construction of additional lagoon storage to serve the plant.

84. The site lies within an area described in the CDLP as being primarily rural in character with a number of dispersed settlements, some of which are relatively isolated and served by narrow lanes. The West Sussex Landscape Character Assessment of 2003 notes that the area has a remote and tranquil character. I consider that the combination of all the development noted above is detrimental to the identified rural character of the surroundings and, whilst some of the harm is limited to an area around the existing development, it nonetheless conflicts with policy 45 of the CDLP which seeks to ensure that development in the countryside has no more than a minimal impact on the landscape and rural character of the area.

85. Policy 25 of the CDLP also notes that development proposals that conserve and enhance the rural character of the North of the Plan Area (in which the site is located) will be supported but, in this case, I consider that the impact of the unauthorised development is more than minimal and this policy conflict adds additional weight to the arguments against the grant of planning permission.

86. On the subject of whether planning permission should be granted for the flare, it seems to me that, because CDC and WSCC granted permissions for the remainder of the authorised equipment, they clearly did not intend there to be no AD or biogas production at Crouchland Farm and a flare would be needed for this. However, they did not apparently anticipate that the gas was intended for export off the site. The previous LDC decision found that this was, in fact, authorised and has resulted in the additional traffic movements discussed in previous paragraphs.

87. The existing flare contributes to the harm noted above, although it is sited within the compound and is seen in the context of other authorised equipment. It is possible that that a smaller version having less impact would be able to serve the authorised development and it is also possible that the EA might grant a licence for a moveable flare, removing the need for a planning permission. I accept that it might be considered perverse to prevent an ancillary AD and biogas production use, which is otherwise authorised, through refusal of planning permission for this flare.

88. However, in my opinion, an application for a permanent flare on the site should not be judged as an isolated item here, but rather be the subject of a separate application when full consideration of how the site would operate following the outcome of these decisions can be made. This would allow appropriate consultation and the submission of more definitive information on matters such as whether the gas conditioning equipment could be located within the authorised containers.

Need for/siting of the facility

89. The National Planning Policy Framework (the Framework), in paragraph 28, encourages agricultural and land-based rural enterprises which support a strong rural economy. The appeal proposal has the advantages of providing rural jobs and financial support for the Crouchland Farm agricultural activity.

90. The digestate would be distributed locally but the larger the facility, the greater the number of HGVs on the local roads, as noted above. Similarly, the crops to feed the AD plant would be drawn from local farms but the same comments on the use of the roads again apply. As previously noted, the site is also some distance from the closest local and strategic lorry routes. The tankers taking biogas to their destination in Portsmouth will therefore also be travelling for some distance on local narrow roads, even if the route is controlled through conditions.

91. The appellants maintain that the AD process amounts to non-inert waste recovery rather than recycling, as advocated by the County Council. The DEFRA Waste Management Plan for England 2013 includes AD as *'other recovery'* and *'recovery'* is defined in the EU Waste Framework Directive as *'any operation the principal result of which is waste serving a useful purpose by replacing other materials which would otherwise have been used to fulfil a particular function, or waste being prepared to fulfil that function, in the plant or in the wider economy.* It also states that *'recycling' means any recovery operation by which waste materials are reprocessed into products, materials or substances whether for the original or other purposes. It includes the reprocessing of organic material but does not include energy recovery and the reprocessing into materials that are to be used as fuels or for backfilling operations'.*

92. Annex ii to the EU Waste Framework Directive gives a non-exhaustive list of recovery operations which include *'use principally as a fuel or other means to generate energy',' recycling/reclamation of organic substances which are not used as solvents (including composting and other biological transformation processes'* and *'land treatment resulting in benefit to agriculture or ecological improvement'.*

93. The WLP 2014 also defines AD as *'recovery'* in its Glossary but includes it under *'Recycling and Composting'* in paragraph 2.7.3. There is clearly a disparity between these two definitions and this has led WSCC to submit that the facility should be classed as *'recycling'* for which there is no identified local need in the WLP. Although there appears to be an inconsistency in these sections of the WLP, I consider that the definitions generally used in the wider waste planning context are those that should be used here and that the proposal is, in fact, for recovery. The facility would therefore have the advantage of providing additional waste recovery capacity for which there is an identified need in the WLP.

94. Whether or not the AD facility is defined as recovery or recycling, it would nevertheless be covered by policy W3 of the WLP which notes, amongst other things, that built waste management facilities on unallocated sites will be permitted provided that, if outside the Area of Search (as is the case here) they would be small scale and serve a local need. If these criteria are met, any proposal for a facility on a greenfield site must demonstrate that no suitable alternative sites are available and should be well related to the Lorry Route Network.

95. Small scale facilities are generally defined as having a capacity of no more than 50,000 tonnes per annum (tpa) but it is also noted that in rural parts of the County it is likely that only much smaller facilities (c.10 – 20,000tpa) are likely to be acceptable. The applications seek permission for a throughput of 34,755tpa which, although less than 50,000tpa, falls above the range that is envisaged as being more suitable for rural areas.

96. It has also been pointed out that the actual capacity of the facility is believed to be closer to 75,000tpa. The appellants have sought a permit from the EA to operate the plant at up to this amount and the Statutory Declaration of one of the company directors states that the capacity of the 2 existing authorised digesters (A & B) is 60,000tpa. These figures indicate that the proposed additions to the plant would take it over the size considered to be *'small scale'* even if not operating at full capacity. For the above reasons, I consider that the proposal is not supported by parts (a) or (b) of WLP policy W3.

97. Even if the proposal were to be considered to be a *'small scale'* facility and whilst it is accepted that there are no other local facilities that could currently operate in the same way as the plant on Crouchland Farm, the site is, as previously noted, some distance from the lorry route network, particularly the Strategic Lorry Route. Once again, this indicates that the requirements in parts (a) and (b) of W3 are not met.

98. It has also been suggested by the appellants that the proposal should be considered as a new facility within the boundaries of an existing waste management site and that consequently it would comply with criterion (c) of policy W3. However, whilst some of the equipment is located within the main AD part of the farm complex, certain items such as lagoon 3 and the new digester tank are outside it. I have already concluded that the wider site is not in a mixed use and that the authorised AD facility has not created a separate planning unit. Therefore, whilst the AD plant is dealing with waste recovery, this is in the context of the authorised agricultural use of the site; there is no existing permission for a stand-alone waste management facility and I therefore conclude that part (c) of policy W3 is not applicable to this scheme.

99. In addition, whilst there are clear advantages in having an AD plant which is processing local waste, the proposed development would be taking purpose grown crops as part of its feedstock and this, to me, indicates that it would be more than a means of dealing with waste arisings that would otherwise need treatment or disposal elsewhere.

100. The Government has already indicated, in documents[6] relating to its response to consultations on reforming the Renewable Heat Incentive scheme and tariff schemes for AD plants, that it does not expect an AD facility to have a high dependency on crops grown specifically for the purpose and that the primary purpose of agricultural land should be for growing food. As the proposed scheme would rely on importing about 16,000tpa (over 45% of the feedstock) of purpose grown crops, this indication of the Government's direction of travel is a factor that, in my view, limits the benefits in favour of the scheme.

101. Overall, I conclude that whilst there are advantages in respect of providing an additional waste management facility to meet an identified need, this particular proposal does not meet the requirements of policy W3 and is consequently not supported by the Development Plan in this respect.

[6] ID7 & ID8

Other matters

Heritage assets

102. The site is in proximity to the designated heritage asset at Crouchland Farmhouse and the lorry route passes close to Foxbridge Farmhouse. Both of these are Grade II listed buildings and S.66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to have special regard to the desirability of preserving the setting of listed buildings when considering applications for planning permission. I raised the question of the possible impact of the proposals on the settings of these buildings at the Inquiry.

103. Despite this and whilst also being aware of the views of WSCC on the matter, the appellants have produced no assessment of the significance of these buildings against which the proposal can be judged. Such an assessment is required by paragraph 128 of the Framework and, without it, a proper conclusion on the matter cannot be reached.

104. The appellants have stated that the objectors have failed to identify any harm to the heritage assets and that it for them to show that this would occur if it is to be given any weight. However, it is for the applicant for planning permission to produce the assessment of significance as noted above and to then demonstrate that there would be no harm caused. Therefore, whilst it is possible that there is no harm, as asserted by the appellants, I am not able to conclude that this would be the case without an assessment of significance for the heritage assets. Any decision to allow the proposal in these circumstances could therefore be considered as flawed.

Other environmental issues

105. The Parish Councils have raised additional objections to the development based on possible damage to the ecology of the surroundings and the areas of Ancient Woodland in Hardnips Copse and Ravensnest Copse through concerns that include a deterioration in air quality and the impact of the proposed road widening.

106. The air quality issue was not pursued by the WSCC or CDC but there may be some force in the arguments that the development could have a detrimental impact that could affect parts of the Ancient Woodland. It was confirmed in the analysis carried out by the appellants' air quality consultant that permission for the applications would result in extension of the area where nitrous oxide and nutrient nitrogen deposition would exceed the objective levels. In addition, the additional nitrous oxide emissions resulting from the increased use of the CHP units is judged to be significantly offset by the reduction in traffic levels that is said to represent the baseline situation. If the baseline scenario is not authorised or implemented, however, this would clearly not be the case.

107. Whilst the worst case scenario has been used to estimate these levels and the conclusion drawn is that the projected increase would not be significant, it is nevertheless conceded that the development would contribute to a worsening of the current situation in respect of the above factors. Although the objectors have not produced evidence of their own to demonstrate what the impacts might be, and, on its own this might not be sufficient reason to refuse permission, in my view these concerns nonetheless add to the weight against the proposal.

108. The road widening proposals would, as previously noted, result in the loss of sections of ancient woodland, which paragraph 118 of the Framework seeks, amongst other things, to protect. Although the areas lost would be small, I am not persuaded, for the reasons set out above, that the benefits of widening the road would be significant enough to justify even this relatively minor change.

Alternative approach

109. The appellants have also suggested that, if it is decided that the appeal subject of the change of use enforcement notice should fail, planning permission should nevertheless be granted for the operational development that is the subject of Appeal A. However, this is based on the premise that the equipment is having no unacceptable impact on landscape quality and would make no difference to the baseline position, and that there would be no change to the traffic generated in that scenario.

110. I have already found that the baseline position is extremely tenuous, if not completely unauthorised and that there is some harm caused to the character of the landscape by the development. Granting permission for the operational development would therefore have the result of increasing the traffic movements and perpetuating the landscape harm.

Ground (g)

111. The District Council has agreed in part to the appellants request put forward under the appeal on ground (g), to extend the time for compliance for the removal of the unauthorised equipment to 18 months. I agree that the time taken to de-commission and remove the unauthorised equipment will be likely to be more that the 6 months allowed in the enforcement notices, and I will therefore vary this accordingly.

112. In respect of the time needed to cease the unauthorised change of use, I see no reason to extend the time from the 1 month allowed in the notice which would only prolong the unacceptable impacts of the development and the ground (g) appeal in respect of requirement (i) of Appeal B fails.

Conclusions

113. I have set out I previous paragraphs the reasons why I consider that the appellants' baseline position is not authorised, as it would represent a material change of use of the farm. In that scenario, it can be accorded no weight when considering the planning merits of the proposals. Even when considering the prospect that it might be authorised, I have concluded that there are serious concerns over whether it could, or would, be implemented. In those circumstances therefore, the baseline would, at best, attract very limited weight and I have considered the proposals in this light.

114. I note the undeniable benefits that the proposal would bring in terms of additional waste management facilities in the county, farm diversification and employment provision but I have also found that the proposal conflicts with the policies that control the siting of such development. The rural location of the AD facility is appropriate for dealing with waste arisings from Crouchland Farm and I accept that the location would also be convenient for accepting feedstock from other farms and for distributing the digestate. However, the scale of the operation is such that it would amount to an industrial process to which the original farming enterprise would then be subservient. The Development Plan policies discussed above resist the location of such industrial development in the countryside.

115. I have also found that the vehicle movements would prove dangerous to other road users and disturbing to local residents. The noise and vibrations from the traffic would be unacceptable in this rural location and detrimental to the character of the area, thereby conflicting with Development Plan policies.

116. Whilst any harm to rural character caused by the operational development would be restricted to a localised area around the farm, there would nevertheless be a greater impact along the local roads if the widening measures were implemented. Although I am not persuaded that these would be enough to fully mitigate the problem of large vehicles passing on the narrow roads, without them the situation would be even worse.

117. I have considered whether the conditions put forward by all the parties and the agreement under section 106 of the TCPA between the appellants and the County Council would be sufficient to overcome the identified harm but, given the very limited, if any, weight that can be accorded to the baseline position, I find that they would not. Even with the restrictions on the throughput of feedstock into the digester and traffic management measures imposed, the harm caused by the sheer volume of traffic would persist, as would the conflict with the policies relating to the location of waste management facilities. I conclude that the conditions would not serve to make the development acceptable.

118. Therefore, for the reasons given above I conclude that, in the scenario where the baseline position is not authorised and no weight can be accorded to it, the adverse impacts of the proposal are not outweighed by the benefits of the development. Similarly, even if some very limited weight is given to the baseline scenario, commensurate with the likelihood that it could be implemented, the identified harm would still indicate that planning permission should not be granted and the appeals should not succeed. I shall uphold the enforcement notices, with corrections and variations, and refuse to grant planning permission on the deemed applications in Appeals A and B and the application that is the subject of Appeal C.

Katie Peerless

Inspector

APPEARANCES

FOR WEST SUSSEX COUNTY COUNCIL:

Charles Banner	Of Counsel
He called	
Peter Danks BA (Hons) MIAE FBIAC MIEMA	Reading Agricultural Consultants Ltd.
Peter Hayward BEng (Hons) CEng MICE MCIHT DMS	Island Highway & Transport Consultants Ltd.
Jane Moseley BA MSc MRTPI	County Planning Team Manager WSCC

FOR CHICHESTER DISTRICT COUNCIL:

Gwion Lewis	Of Counsel
He called	
Reginal Hawks BA MA MRTP	Assistant Manager, Planning Enforcement Team CDC

FOR IFIELD AND PLAISTOW AND KIRDFORD PARISH COUNCILS:

Victoria Hutton	Of Counsel
She called	
Dr Les Gornall DPhil BSC (Hons) CBiol FRSB	PROjEN Ltd.
Simon Watts BSC (Hons) MICE MCIHT	Systra Ltd.
Sara Burrell BSc DiplBlgCons MRICS	Plaistow & Ifield and Kirdford Parish Councils

FOR THE APPELLANT:

Reuben Taylor	Queen's Counsel
He called	
Mark Clayton BSC (Hons) MCIWEM	Aardvark EM Ltd.
Rory McHugh HND MCIHT	Hydrock Consultants Ltd.
John Burgess GradDip LA MLI	Swan Paul Partnership Ltd.
Ian Powell BSc (Hons) MBIAC	The Dairy Group
Peter Atwood BSC (Hons) MSc, MIA CIB MIDE	Acoustic Associates Sussex Ltd.
Lawrence Caird MSc MIIS MIAQM	Air Quality Consultants Ltd.
Colin Hicks BSC (Hons) MCIEEM	Western EcologyLtd.
Nicholas Leaney BSc (Hons) MRICS	Aardvark EM Ltd.

INTERESTED PERSONS:

Paul Reynolds
Rebecca Middleton
Margaret Hibbard
Tom Micklem

Cllr. Joseph Ransley
Robin Hobson
Dave Jordan
Roger Wood
Ashley Ward

DOCUMENTS

1 Notification letter and circulation list
2 Note on cull cow sales
3 Red Tractor Dairy Standards
4 Albar estimates for supply of straw
5 Spreadsheet on transport costs
6 Yard area calculations
7 Renewable Energy Heat Incentive: A Reformed Scheme Dec 2016
8 Review of Support for Anaerobic Digestion and micro-Combined Heat and Power under the Feed-in Tariffs Scheme May 2016
9 Transport Statement 2014 from appellants' consultants
10 Crouchland Biogas Bespoke Permit Application to the EA Nov 2016
11 Letter dated 24/4/2017 from EA
12 Bundle of case law from District Council
13 Notes of Mr Lewis' opening statement
14 Notes of Mr Banner's opening submissions
15 Notes of Ms Hutton's opening submissions
16 Notes of Mr Taylor's opening submissions and bundle of relevant authorities
17 Statement of Common Ground - WSCC
18 Statement of Common Ground - CDC
19 Addendum to Appellants' LVIA
20 Addendum to Appellants' LVIA at Foxbridge Lane
21 Preliminary Ecological Appraisal submitted by Appellants, including Extended Phase 1 Habitat Survey and Ecological impact Assessment
22 Extension to Foxbridge Lane Tree Survey submitted by Appellants
23 Photos of macerators at Crouchland Farm submitted by Parish Councils
24 Letter to EA from Parish Councils dated 20 April 2017
25 EA Compliance form
26 Comparative baseline positions – Parish Councils v Appellants
27 Revisions to WSCC traffic calculations to allow for water addition to feedstock
28 EA Standard Rules SR2012 No10
29 Notes of Mr Reynolds statement
30 Notes of Mrs Middleton's statement
31 Notes of Mr Micklem's statement
32 Notes of Cllr. Ransley's statement
33 Notes of Mr Jordan's statement on behalf of PORE
34 Notes on WSWLP policy W1
35 Legal authority: *De Souza v SSCLG & Test Valley BC*
36 Further analysis of traffic impacts by SYSTA
37 Notes of Ms Hibbard's statement
38 EA Audit Report for Crouchland Biogas Ltd.
39 CDC Landscape Capacity Study extension

40 Crouchland Biogas Ltd. Environmental Permit Non-Technical Summary
41 Farm Fuel Ltd licence details
42 Design and Access Statement for application for new dairy unit
43 Letter from Freedom Dairy Systems Ltd. dated 17 March 2016
44 Email confirming Mr Haward's appointment by WSCC
45 Plans for Landscape Study Area
46 Reprint of Crouchland Farm landscape plan
47 Extract from Sainsbury's website
48 List of Parish Council's suggested conditions
49 Mr Powell's appointment instructions
50 Confirmation that Mr Hayward's Proof of Evidence was approved by the County Highway Authority
51 Tree survey location plan
52 Marked up version of suggested conditions
53 Bundle of documents submitted during Inquiry adjournment
54 WSCC's submissions on Mr Luttman-Johnson's statutory declaration
55 Costs Application from Parish Councils
56 Appellants' response to Costs Application
57 S106 Agreement
58 Closing submissions from the Parish Councils
59 Closing submissions from CDC
60 Closing submissions from WSCC
61 Closing submissions from Crouchland Biogas Ltd.

Annex 1

Appeal A: The alleged breach of planning control

(i) The installation of a biogas digestion tank, control room building, peecon feeder base, anaerobic digestion offtake point and Armco barrier in the approximate location shown hatched yellow on the plan attached to the enforcement notice.

(ii) The installation of Desulphurisation gas conditioning equipment and cooling fans, Purac gas capture plant and purac coolers, CNG compressors, CNG coolers, Encal kiosk, gas drying system, biomethane loading stanchions and the associated pipe work, 2 no. CHP engines, heat exchanger unit, dual fuel backup boiler and hot water pump system, flare, oil tank and two storey portacabins in the approximate location shown hatched orange on the plan attached to the enforcement notice.

(iii) The construction of a digestate lagoon to the anaerobic digestion plant in the approximate location shown coloured brown the plan attached to the enforcement notice.

(iv) Engineering operations in the laying and installation of pipework connecting the digestate lagoon to the anaerobic digestion plant in the approximate location shown coloured purple the plan attached to the enforcement notice.

(v) The deposit of earth to form an earth bund surrounding the digestate tank in the approximate location shown coloured green on the plan attached to the enforcement notice.

Annex 2

Appeal A: The requirements of the enforcement notice

(i) Disconnect, dismantle and remove from the land the biogas digestion tank, control room building, peecon feeder base, anaerobic digestion offtake point and the Armco barrier approximate location shown hatched yellow on the plan attached to the enforcement notice.

(ii) Disconnect, and remove from the land Desulphurisation gas conditioning equipment and cooling fans, Purac gas capture plant and purac coolers, CNG compressors, CNG coolers, Encal kiosk, gas drying system, biomethane loading stanchions and the associated pipe work, 2 no. CHP engines, heat exchanger unit, dual fuel backup boiler and hot water pump system, flare, oil tank and two storey portacabins in the approximate location shown hatched orange on the plan attached to the enforcement notice.

(iii) Demolish and remove from the land the digestate lagoon the surrounding fencing, the earth bund and the pump house in the approximate location shown coloured brown on the plan attached to the enforcement notice.

(iv) Disconnect and remove from the land the associated pipework connecting the digestate lagoon to the anaerobic digestion plant in the approximate location shown coloured purple the plan attached to the enforcement notice.

(v) Remove the earth forming the earth bund in the approximate location shown coloured green on the plan attached to the enforcement notice.

(vi) Remove the resulting debris from the land.

Annex 3

Appeal B: The requirements of the enforcement notice

(i) Cease the use of the land as a commercial biogas plant, including the cessation importation and processing of feedstock and waste for use in the anaerobic digestion plant and the production of biomethane for export from outside the farm unit.

(ii) Disconnect, dismantle and remove from the land the biogas digestion tank, control room building, peecon feeder base, anaerobic digestion offtake point and the Armco barrier approximate location shown hatched yellow on the plan attached to the enforcement notice.

(iii) Disconnect, and remove from the land Desulphurisation gas conditioning equipment and cooling fans, Purac gas capture plant and purac coolers, CNG compressors, CNG coolers, Encal kiosk, gas drying system, biomethane loading stanchions and the associated pipe work, 2 no. CHP engines, heat exchanger unit, dual fuel backup boiler and hot water pump system, flare, oil tank and two storey portacabins in the approximate location shown hatched orange on the plan attached to the enforcement notice.

(iv) Demolish and remove from the land the digestate lagoon the surrounding fencing, the earth bund and the pump house in the approximate location shown coloured brown on the plan attached to the enforcement notice.

(v) Disconnect and remove from the land the associated pipework connecting the digestate lagoon to the anaerobic digestion plant in the approximate location shown coloured purple the plan attached to the enforcement notice.

(vi) Remove the earth forming the earth bund in the approximate location shown coloured green on the plan attached to the enforcement notice.

(vii) Remove the resulting debris from the land.