

APPLICATION NO: F/YR20/1048/F

SITE LOCATION: North West Of Mepal AD Plant Chatteris

## UPDATE

Since the publication of the Committee Agenda, the following representations have been received from:

1. Greys Farm
2. PCC's Wildlife Officer
3. FDC's Tree Officer
4. Councillor Steve Count

1. Greys Farm (additional comments to those already provided)

Summary Comments are as follows:

### Lighting/ Bats

*The objectors maintain that the specific lighting arrangements must be known and assessed prior to the determination of the application in order for the council to be in any position to conclude that the impact would be acceptable on Greys Farm.*

*The lighting for the existing AD Plant should be corrected as soon as possible. No confidence that an acceptable scheme for the new plant will be adhered to, as it wasn't in the past. The latest revised lighting plan for the new plant is worse than before because there are more free standing lights proposed.*

*A light survey/assessment is needed to understand any potential impact on a Protected Species (bats), not only commuting bats but also foraging and roosting bats. These should be done prior to the determination of the application. Similarly, any impact of the development on bat movement through potential loss of trees T1 and T2 should be further investigated.*

### Landscaping/ Visual Impact

*The Landscape Review conducted on behalf of the council provides some limited assessment of the scheme's landscape and visual impact. However, that the Landscape Review does not consider Greys farm as a "visual receptor" and so provides no assessment of the likely impact upon it.*

*The applicant should have undertaken their own Landscaping and Visual Impact Assessment and submitted it with the application.*

*The AD Plant subject to this application was constructed following the grant of planning permission in 2014 (F/YR14/0163/F). Prior to this, an application had very recently been*

*refused for a similar but larger scheme (F/YR13/0534/F). The first application was refused due only to its “visual impact, appearance and scale when viewed in the context of the open Fenland landscape”. Accordingly, the second application (F/YR14/0163/F) materially scaled back the development in order to overcome the reason for refusal of the first scheme. The council agreed that the alterations and reductions to the second scheme overcame their reason for refusal of the first and granted planning permission on this basis. The applicant now seeks an extension to the established Plant that would result in a Plant with a visual impact, appearance and scale materially greater than the scheme refused in 2013 (F/YR13/0534/F).*

*The Council has already refused this larger scheme on compelling landscape grounds. Accordingly, the objectors do not understand how this application - which would effectively secure permission for the refused application F/YR13/0534/F - could be supported. The application is nothing more than a cynical attempt by the developer to circumvent the democratic decision-making process.*

*On this basis, it is unreasonable that the existing Plant should be considered to set a “baseline” against which to assess the landscape/visual impact of its proposed extension.*

*The objectors maintain that the best indicator as to whether the proposed mitigation and maintenance is likely to actually occur is to look at the “track record” of the applicant with respect to their required mitigation and maintenance of the existing Plant. In this respect, there is firm agreement that the mitigation and maintenance required under application F/YR14/0163/F was not secured. As a result, it would be unreasonable for the council to assume that any similar conditions attached to the current similar application would - conversely - be complied with. Had the current application not been submitted, it is likely that the above issues with the existing development would never have been brought to the council’s attention and would never be resolved. The objectors are therefore legitimately concerned that the applicant is likely to treat any similar conditions attached to any forthcoming permission with similar disdain and is likely to face similar (i.e. no) investigation and action by the council’s planning department.*

*In terms of the proposed 5-year period replanting condition, the objectors would maintain that, if permission is granted, a minimum period of 10 or 15 years should be imposed. In terms of the use of evergreen species, it is felt that there are evergreen species which would be relevant to the local landscape character whilst equally providing a far better visual and acoustic buffer than deciduous varieties. The objectors feel that the woodland strip next to their property is sparse in winter and that the additional intrusion caused by light and noise is notable at this time of year. The objectors suggest that holly trees could be prioritised as there are already existing specimens on the site/in the vicinity.*

#### *Exposure of Feedstock*

*The applicant indicates that the photographs provided of existing exposed feedstock show feedstock outside of the applicant’s control on a neighbouring site. However, the applicant also states that this site comprises an “associated farming business” and that the applicant has confirmed with them that the material will be cleared in the next 3 months. Accordingly, it is not clear exactly the applicant’s involvement in this adjacent and related land but, evidently, it is*

*not wholly outside of their control.*

*It is the objectors' own understanding that - irrespective of who is currently responsible - the feedstock came from the AD Plant and the operators of the Plant must ultimately accept responsibility for its disposal. As far as the objectors are concerned, the undesirable feedstock has been dumped next to their home out of convenience and - whether or not an agreement exists with the relevant landowner - this is directly as a result of the Plant, its occupants and its operation. The objectors therefore remain legitimately concerned that any excess or undesirable feedstock associated with the Plant's extension is likely to be discarded in a similarly unneighbourly and unsustainable fashion.*

### Use of Objectors' Access

*Although this has not been raised previously, the objectors believe it is of some relevance that their private residential access is frequently mistaken as the access to the Plant. Lorries, vans and HGVs frequently drive down their access and must turn around - causing disturbance to the objectors as well as increased wear and tear of their minor rural track. As the proposed extension to the Plant is to be located directly adjacent to the objectors' access, they are concerned that it is likely to cause a marked increase in the number of vehicles mistakenly making use of their access. The objectors suggest that appropriate signage should be introduced - at the applicant's cost - in order to reduce the likelihood of this. It is suggested that signage should be located at both the entrance to the Plant (signposting its location) and the entrance to the objectors' own access (indicating private land/no commercial vehicles). The objectors would expect to be involved in the design and location of any signage to be located on or in proximity of their property.*

### 2. PCC Wildlife Officer

**Recommendation:** *The application is acceptable but only if conditions are imposed.*

### **Recommended conditions:**

#### **1. Pre-commencement condition:**

*No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following:*

- 1. Risk assessment of potentially damaging construction activities;*
- 2. Details of how the two trees identified (T1 & T2) as having bat roosting potential will be protected from disturbance;*
- 3. An appropriate scale plan showing the "Environment Protection Zones" where any construction activities are restricted and where protective measures will be installed or implemented;*
- 4. Details of protective measures (both physical measures and sensitive working practices) to avoid impacts during construction;*

5. *A timetable to show phasing of construction activities to avoid periods of the year when sensitive wildlife could be harmed (such as the bird nesting season);*
6. *Details of how any mitigation summarised within Section 8 of the Ecological Impact Assessment (Green Willow Associates Ltd, 2021) will be implemented during the proposed development;*
7. *Details on how schedule 9 non-native species will be detected, removed from the site if present and how the site will be protected from the introduction of more;*
8. *Use of protective fences, exclusion barriers and warning signs;*  
*Persons responsible for:*
9. *Compliance with legal consents relating to nature conservation;*
10. *Compliance with planning conditions relating to nature conservation;*
11. *Installation of physical protection measures during construction;*
12. *Implementation of sensitive working practices during construction;*
13. *Regular inspection and maintenance of the physical protection measures and monitoring of working practices during construction;*
14. *Provision of training and information about the importance of “Environment Protection Zones” and potential protected species that may be present to all construction personnel on site;*
15. *All construction activities shall be implemented in accordance with the approved details and timing of the plan unless otherwise approved in writing by the planning authority.*

*The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.*

*Reason: To ensure that all recommendations made within the Ecological Impact Assessment (Green Willow Associates Ltd, 2021) are followed with individuals responsible for carrying out the recommendations as described. Following these recommendations will ensure compliance with Policy LP19 of the Fenland Local Plan 2014.*

## **2. Compliance Condition -**

*Prior to occupation, a “lighting design strategy for biodiversity” for the proposed anaerobic digester shall be submitted to and approved in writing by the local planning authority. The strategy shall:*

- a) *identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important*

routes used to access key areas of their territory, for example, for foraging; and

b) show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority. Six months after development starts the Lighting Plan or documents which described how the lighting plan will be created with sensitivities to protected species will be submitted to and approved in writing by the planning authority.

Reason: To ensure that the lighting scheme is designed with sensitivity to the potential impact it will have on local protected species such as bats. The lighting of any development may disrupt the commuting of many protected species. Disruption to these connective habitats could contravene Fenland Councils commitment to the National Planning Policy Framework, specifically paragraph 174.

**Assessment/Comment:**

The EclA and lighting schemes appear to provide suitable mitigation and compensation for the negative impacts of the proposal. The only remaining concerns is the establishment of a scheme of works and responsible persons to ensure that the recommendations made within the EclA are followed during construction. The establishment of these plans is often done through a Construction Environmental Management Plan.

The lighting scheme that was provided within the submitted documents to the application does not make mention of being designed with sensitivity to the two trees with bat roosts. All that remains is establishing the responsible persons in charge of ensuring these recommendations are established.

3. FDC's Tree Officer

Recommendation: Grant

The Landscape Review carried out by The Landscape Partnership is comprehensive and raises a number of valid issues regarding the existing and proposed landscaping at the site. I also note in the response from Plandescil on behalf of the applicant that these issues have been addressed and will be implemented as part of the development. My only comment would be to ensure the mulch is topped up to the original level over the 5 year period to ensure a regular supply of nutrients as it decomposes. The weed suppressant landscape fabric should ideally be biodegradable to ensure that the mulch can enter the subsoil and improve soil structure over time. I therefore have no objection to the proposed scheme with the amendments noted by The Landscape Partnership implemented.

#### 4. Councillor Steve Count

*I wish to object to this proposal in regards to the local highways network. The number of vehicle movements have been calculated and we are told this is acceptable. However, this does not take into account that the existing and proposed movements are considerably slower than normal traffic on an A road. This leads to tail backs from travelling tractors, every day of the week and this proposal will make that worse. Those tail backs lead to frustrated drivers, attempting dangerous overtaking manoeuvres to pass these lines of vehicles. Please refuse on increased safety hazard. I also comment that there are no tractor pull ins where build ups of traffic could be allowed to pass. Although that may be offered as a solution it is a poor solution as it relies on tractor drivers recognising how much impact they are having, and making way for other traffic regularly. I make these comments as a private individual and not as a Councillor.*

#### **Officer's Response**

##### **1. Lighting/ Bats**

The first planning condition proposed by the Wildlife Officer provides more detailed guidance for the applicant than Condition 5 as set out in the Committee Report. It is recommended that the new condition replaces Condition 5 in the report. In doing so it is considered that the neighbours' concerns regarding any potential impact on bats will be addressed.

Condition 5 proposed new wording is:

*No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following:*

- 1. Risk assessment of potentially damaging construction activities;*
- 2. Details of how the two trees identified (T1 & T2) as having bat roosting potential will be protected from disturbance;*
- 3. An appropriate scaled plan showing the "Environment Protection Zones" where any construction activities are restricted and where protective measures will be installed or implemented;*
- 4. Details of protective measures (both physical measures and sensitive working practices) to avoid impacts during construction;*
- 5. A timetable to show phasing of construction activities to avoid periods of the year when sensitive wildlife could be harmed (such as the bird nesting season);*
- 6. Details of how any mitigation summarised within Section 8 of the Ecological Impact Assessment (Green Willow Associates Ltd, 2021) will be implemented during the proposed development;*
- 7. Details on how schedule 9 non-native species will be detected, removed from the site if*

*present and how the site will be protected from the introduction of more;*

*8. Use of protective fences, exclusion barriers and warning signs.*

*Persons responsible for:*

*9. Compliance with legal consents relating to nature conservation;*

*10. Compliance with planning conditions relating to nature conservation;*

*11. Installation of physical protection measures during construction;*

*12. Implementation of sensitive working practices during construction;*

*13. Regular inspection and maintenance of the physical protection measures and monitoring of working practices during construction;*

*14. Provision of training and information about the importance of “Environment Protection Zones” and potential protected species that may be present to all construction personnel on site.*

*15. All construction activities shall be implemented in accordance with the approved details and timing of the plan unless otherwise approved in writing by the planning authority.*

*The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.*

*Reason- To ensure that all recommendations made within the Ecological Impact Assessment (Green Willow Associates Ltd, 2021) are followed with individuals responsible for carrying out the recommendations as described. Following these recommendations will ensure compliance with Policy LP19 of the Fenland Local Plan 2014.*

The second condition recommended by the Wildlife Officer is proposed as a new planning condition below:

*Prior to occupation, a “lighting design strategy for biodiversity” for the proposed anaerobic digester shall be submitted to and approved in writing by the local planning authority. The strategy shall:*

*a) identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and*

*b) show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.*

*All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority. Six months after development starts the Lighting Plan or documents which described how the lighting plan will be created with sensitivities to protected species will be submitted to and approved in writing by the planning authority.*

*Reason: To ensure that the lighting scheme is designed with sensitivity to the potential impact it will have on local protected species such as bats, in accordance with Policy LP19 of Fenland Local Plan 2014 and paragraph 174 of the NPPF.*

## **16. Lighting and Neighbours Amenity**

Condition 16 of F/YR18/1103/VOC refers to the external lighting on the existing plant, including a restriction on the amount of light spill at the site boundaries. It is unfortunate that the Council were not made aware of the light spill earlier, but as set out in the Committee Report, the applicant and Planning Enforcement Team will ensure this is addressed. Environmental Health also have additional powers should any lighting cause a statutory nuisance.

With regard to the proposed lighting for the new plant, it is recommended that C31 in the Committee Report is replaced. This is because the revised Condition 5 and new condition proposed by the Wildlife Officer may influence the location of the proposed lighting, so both conditions are related. The proposed new wording is:

*No external lighting shall be erected or installed unless full details have been submitted to and approved in writing by the local planning authority. The external lighting shall be erected and installed in accordance with the approved details and thereafter retained and maintained. The external lighting shall not exceed more than 2LUX at all site boundaries.*

*Reason- to safeguard the residential amenity of neighbouring occupiers in accordance with Policy LP16 of the Fenland Local Plan 2014.*

## **17. Landscaping and Visual Impact**

Although the applicant has not prepared a Landscape and Visual Impact Assessment for the development, the Council commissioned their own independent assessment which also looked at the success of the existing landscaping and lighting. This has been set out in the Committee Report. The local planning authority has the power to enforce compliance with the previously approved details secured by planning condition and the Unilateral Undertaking.

## **18. Exposure of Feedstock**

Straw bales are present on agricultural land adjacent to the existing AD Plant and proposed site. The local planning authority has no control over this matter. It is not unusual to see straw stored in fields.



### **19. Councillor Steve Count**

Highway concerns have been considered within the Committee Report. A Highways Officer will be attending Planning Committee to answer any further questions.

It should be noted that no further comment has been received from FDC Environmental Health regarding the proposed lighting, or from ECDC regarding the landscaping changes.

**Resolution: No change to the recommendation to approve the application on page 117 of the Agenda but with changes to planning conditions 5 and 31 as described above, plus the additional planning condition.**