

MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	17 November 2021
TITLE OF REPORT:	202566 - INSTALLATION OF COMBINED HEAT AND POWER UNIT AND GREEN STORAGE CONTAINER. RETROSPECTIVE. AT MUCH FAWLEY FARM, FAWLEY CHAPEL ROAD, FAWLEY, HEREFORD, HR1 4SP For: Mr Green per Mr James Whilding, Addlepool Business Centre, Woodbury Road, Clyst St George, Exeter, Devon EX3 0NR
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=202566
Reason Application submitted to Committee – Redirection	

Date Received: 6 August 2020

Ward: Old Gore

Grid Ref: 358999,229725

Expiry Date: 19th November 2021

Local Members: Cllr Barry A Durkin

1. Site Description and Proposal

Introduction

- 1.1 This planning application was submitted on the 2nd September 2020 and is a resubmission following the refusal of application 181118. The application seeks retrospective permission for the installation of a combined heat and power unit (CHP) and green storage container within the main farm complex of Much Fawley Farm.
- 1.2 For clarification, application 181118 was refused on the 22nd May 2020 for the following reasons:
1. *The application site lies within the River Wye Special Area of Conservation (SAC) and the nature of the proposal triggers the requirement for a Habitat Regulations Assessment to be undertaken. Under the Regulations, there is a requirement to establish with certainty, and beyond all reasonable scientific doubt, that there will not be any adverse effect on the integrity of the River Wye SAC. Insufficient information has been submitted with the application to demonstrate that the development would not have an adverse effect on the integrity of the River Wye SAC. As a result, the proposal cannot undertake a positive Appropriate Assessment as required by The Conservation of Species and Habitats Regulations 2017 and is hence contrary to Policies LD2 and SD4 of the Herefordshire Local Plan Core Strategy, the Natural Environment and Rural Communities (NERC) Act 2006 and the guidance set out at Paragraphs 174-177 of the National Planning Policy Framework.*
 2. *Insufficient information has been submitted to determine the impacts of the development with regards to noise and nuisance on the nearby receptors. From the information provided the noise and nuisance which is generated by the proposal is present 24 hours a day and the*

Further information on the subject of this report is available from Ms Rebecca Jenman on 01432 261961

proposal does not provide any appropriate scheme which would allow for acceptable living conditions for the nearby residential properties. As such, the proposal is contrary to CS policy SD1 and SD2 in that it has not been demonstrated that the development will not have an adverse impact on the residential amenity of nearby residential properties. Furthermore no evidence has been provided that the chosen design and siting of the CHP unit has been chosen to minimise the impact on neighbouring properties. The application is therefore considered to be contrary to policies SD1 and SD2 of the Herefordshire Local Plan Core Strategy and the National Planning Policy Framework.

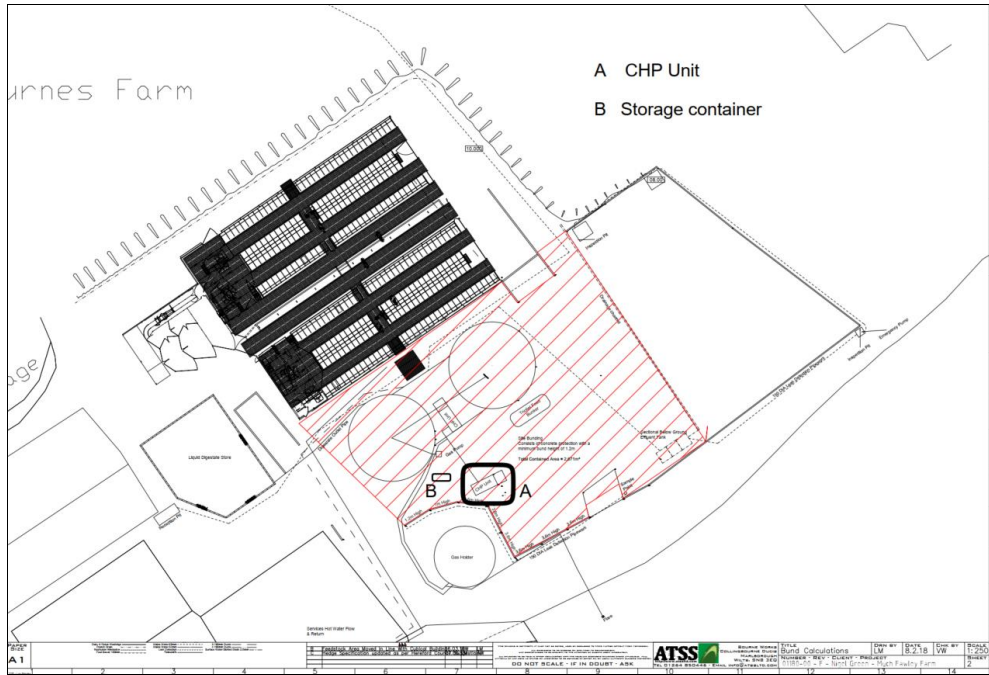
3. *Insufficient information has been provided in relation to the impacts of the development on air quality to enable the Local Planning Authority to determine the impacts of the development, individually or cumulatively on the surrounding area and nearby receptors. The proposal is therefore considered to be contrary to paragraphs 180 and 181 of the Framework which seeks to minimise the impact of pollution upon health living conditions and policies SD1 and SD2 of the CS which seek to encourage sustainable development which does not contribute to adverse impacts arising from air contamination and which promote health and wellbeing, The application is therefore contrary to policies SD1 and SD2 of the Herefordshire Local Plan Core Strategy and the National Planning Policy Framework.*

Site description

- 1.3 Much Fawley Farm is located within the in the Parish of Brockhampton and Much Fawley in south Herefordshire. The farm is located around half way between the small settlements of Kings Cagle and How Cagle, and is within the Wye Valley Area of Outstanding Natural Beauty (AONB). Much Fawley is located around 5km north of the centre of the Market Town of Ross on Wye. The farm along with several separate residential properties are accessed from the unclassified 70016 highway which runs south of the C1262 and terminates at the farm. The public footpath BKR1A also passes directly along the southern boundary of the site.
- 1.4 As well as the residential properties, there is also the Grade II* Listed Chapel of St John which is located approximately 140m to the south west of the application site. Much Fawley Farmhouse is also Grade II Listed.
- 1.5 The River Wye SAC is located approximately 204m from the boundaries of the farm to the south. There is also a small stretch of ancient woodland which runs along the norther banks of the river known as Bayton's Grove which is located 250m to the south west of the site.
- 1.6. At the centre of the farms operations is an Anaerobic Digester (AD) plant which was granted planning permission under application 091387 on the 2nd September 2009. The farm did have a dairy herd which extended to around 250 cows which fed into the AD plant. However, the herd was recently sold in September 2020 and at the current time the holding appears to consist of arable land, where crops are grown to feed into an anaerobic digester (AD) plant. The holding also has 3 poultry units located to the north of the farm complex, the manure of which is fed into the AD plant. It is noted that the plant is not currently running at full capacity.
- 1.7 The AD plant is operated under an Environment Permitting Regulations (EPR) waste permit which is regulated by the Environment Agency. The EA are currently considering a variation to the permit to incorporate the installation of the second CHP which is the subject of this planning application. The EA permit application confirms that the CHP, which is the subject of this application, will only be used whilst the primary CHP, which was permitted as part of the original AD application, is shut down for routine maintenance or in the event the primary CHP breaks down.

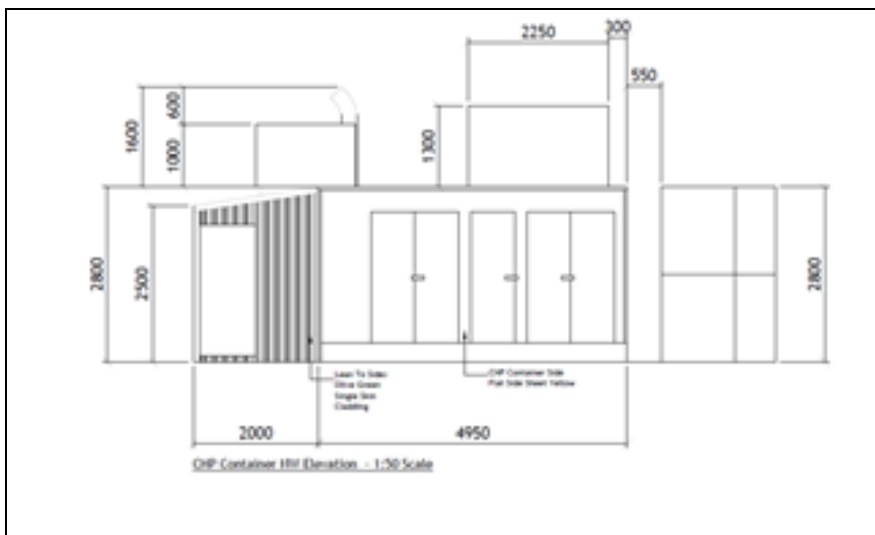
Proposal

- 1.8 This application seeks retrospective permission for a Combined Heat and Power (CHP) unit and storage container only. There was a CHP unit allowed as part of the original AD permission, and as such the one under consideration in this application comprises a second back up CHP for the site. For clarification, the AD plant catches the methane gas off the manure and crops which are fed into the plant. A CHP unit is then used to generate electricity from the gas simultaneously to be used across the farm, with any surplus sent to the national grid. The original CHP is located between the biogas digester tanks and will continue to form the primary unit on the site.



ATSS – Bund Calculations 01180-00-F dated 8.2.18

- 1.9 This permission seek retrospective planning permission for the additional CHP unit which has been installed on the site. The CHP has been installed within a 'shipping' style container measuring 2.4m by 3.6m with a height of 2.4m. There is a flue attached to the unit which stands 3m above that of the unit. The additional storage container which also forms part of the application is shown in position B on the plan above. The container is used as general storage in connection with the AD plant, with a workbench with vice and general everyday tools.



Green CHP Container – 59211-PL1 date 1.6.2018

- 1.10 According to the information supplied on the supporting covering letter from Acorus the additional CHP was installed to provide a back up to that of the authorised unit. However, the letter states that the unit has been used as the primary CHP unit over recent times leading up to the submission whilst the original CHP was being fixed. In the summer of 2021 once the original CHP was back up running, the CHP under consideration was switched off. The covering letter confirms that only one unit runs at any one time.
- 1.11 This submission has been updated during the course of the application to reflect the queries in respect of noise mitigation and a proposed landscape scheme. Further periods of consultation have been undertaken.
- 1.12 For clarification the application was submitted with the following plans and documents:
- Covering letter dated 5th August 2020 from Acorus
 - Site Plan – Promapv2
 - Green CHP container 59211-PL1 date 01.06.2018
 - Bund Calculations 01180-00-F 2 dated 8.2.2018
 - Assessment on Airborne Emissions. By AS Modelling & data Ltd dated 7th July 2020
 - 5 x Photographs of JHP unit installed
 - Noise Impact Assessment E&J dated 29/01/2018
- 1.13 During the application the following information was submitted:
- Site Plan with Services 01180-00-F Dated 8.2.18
 - Noise Barrier Construction NO1a – 11th March 2021
 - Landscaping Plan – 050/210 Rev 1 dated 28.9.2021
 - Supporting letter from Thrings Solicitors dated 5.10.21
 - Landscape Plan 050-210 rev B dated 3.10.2021
 - Landscape Maintenance and Management Plan by Steele Landscape Design dated November 2021

Planning enforcement at the site

- 1.14 It is noted that the original application 181181 was the result of Council Enforcement Officers investigating complaints of noise. Following the refusal of application 181181 in line with the reasons outlined above, an Enforcement Notice was served on the applicant in connection with the CHP on the 26/01/21. The matter which appear to constitute the breach of planning control is listed on the enforcement notice as 'without planning permission unauthorised operational development to install a combined heat and power unit within a storage building'. From the information obtained through a Planning Contravention Notice the CHP was first operated on the 2/2/2017 and therefore would have become lawful through the passage of time had the Enforcement Notice not have been served. This date was also stated on the application form relating to this application
- 1.15 The applicant lodged an appeal on the 25/02/2021 against the Enforcement Notice. The appeal was lodged on ground a) that planning permission should be granted for what is alleged on the notice. The appeal is due to be heard by public enquiry on the 7th December 2021. The appeal was lodged on three grounds:
- Ground a) - That planning permission should be granted for what is alleged in the notice
Ground d) - That, at the time the enforcement notice was issues, it was too late to take enforcement action against the matters stated;
Ground g) - The time given to comply with the notice is too short

The appeal documents can be seen online using the reference numbers 210938 and 210939 (the appeals are linked).

Further information on the subject of this report is available from Ms Rebecca Jenman on 01432 261961

- 1.16 The AD plant was granted permission under application DCSE2009/1296/N (091387) on the 28th August 2009 and was subject to a number of planning conditions. The application and associated documents can be viewed on the Council website through the link below:
https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=091387&search-term=DCSE0009/1296/N

2. Policies

2.1 Herefordshire Local Plan Core Strategy (CS) 2015

SS1	-	Presumption in favour of sustainable development
SS6	-	Environmental quality and local distinctiveness
SS7	-	Addressing climate change
RA6	-	Rural economy
MT1	-	Traffic Management, highway safety and promoting active travel
LD1	-	Landscape and townscape
LD2	-	Biodiversity and geodiversity
LD4	-	Historic environment and heritage assets
SD1	-	Sustainable Design and energy efficiency
SD2	-	Renewable and low carbon energy
SD3	-	Sustainable water management and water resources
SD4	-	Waste water treatment and river water quality

The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) (the 2012 Regulations) and paragraph 33 of the National Planning Policy Framework requires a review of local plans be undertaken at least every five years in order to determine whether the plan policies and spatial development strategy are in need of updating, and should then be updated as necessary. The Herefordshire Local Plan Core Strategy was adopted on 15 October 2015 and a review was required to be completed before 15 October 2020. The decision to review the Core Strategy was made on 9th November 2020. The level of consistency of the policies in the local plan with the NPPF will be taken into account by the Council in deciding any application.

The Herefordshire Local Plan Core Strategy policies together with any relevant supplementary planning documentation can be viewed on the Council's website by using the following link:-
https://www.herefordshire.gov.uk/info/200185/local_plan/137/adopted_core_strategy

- 2.2 **Brockhampton with Much Fawley Neighbourhood Development Plan (BMNDP)** is currently being drafted and carries no weight at the current time.

2.3 National Planning Policy Framework 2021 (NPPF) – Relevant Chapters:

2. Achieving sustainable development
4. Decision-making
6. Building a strong, competitive economy
8. Promoting healthy and safe communities
9. Promoting sustainable transport
10. Supporting high quality communities
11. Making Effective use of land
12. Achieving well-designed places
14. Meeting the challenge of climate change, flooding and coastal change
15. Conserving and enhancing the natural environment
16. Conserving and enhancing the historic environment

2.4 National Planning Practice Guidance (NPPG)

Of particular relevance:

Guidance on options for amending planning permission can be found at:
<https://www.gov.uk/guidance/flexible-options-for-planning-permissions>

Guidance on Environmental Impact Assessment can be found at
<https://www.gov.uk/guidance/environmental-impact-assessment>

Guidance on Noise can be found at
<https://www.gov.uk/guidance/noise--2>

Guidance on the use of Habitat Regulation Assessment:
<https://www.gov.uk/guidance/appropriate-assessment>

3. Planning History

- 3.1 **203189** Provision of a digestate store. Refused 28/1/2021 Enforcement notice served on the 20/10/2021
- 3.2 **192789** Provision of a digestate store. Withdrawn -28/5/2020
- 3.3 **181118** Retrospective installation of combined heat and power unit and green storage container. REFUSED 22/5/2020. Enforcement notice served and appealed against, reference 210938 and 210939. These appeals have been linked and are due to be considered at Public Inquiry on the 7th December 2021
- 3.4 **DCSE2009/1296/N (091387)** Change of use of land and installation of two anaerobic digester units and associated process building; extension of existing agricultural building. Approved 2/9/2009 with conditions discharged on the 10/6/2010

4. Consultation Summary

Statutory Consultations

4.1 Natural England Comments: No objection

Full comments can be viewed on the Council website through the link below:

https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=202566&search-term=202566

Summary of comments - *Your appropriate assessment concludes that the proposal will not result in adverse effects on the integrity of the sites in question. Natural England is agrees with the assessment conclusions.*

4.2 Environment Agency Comments: No objection

Comments received on the 9th November 2020, summary given below with full comments available through the link below:

https://www.herefordshire.gov.uk/info/200142/planning_services/planning_applications_search/details?id=202566&search-term=202566

Summary

Further information on the subject of this report is available from Ms Rebecca Jenman on 01432 261961

- The current site is regulated by us under the Environmental Permitting Regulations (EPR) via a 'Bespoke' Environmental Permit.
- It has now been established that a 'variation' to the existing Bespoke Permit will be necessary for the additional new CHP (emission point) and the applicant will need to undertake air quality modelling which will be reviewed by us as part of that permit application review process. We would also undertake a Habitats Regulation Assessment (HRA) in our role as competent authority at that time.
- We would encourage the 'twin tracking' of the EP, with the aim of encouraging more comprehensive submissions and thereby more informed, and speedier decisions i.e. more detailed information should be available to enable sufficient consideration of key land use issues and so assist in your determination of the planning application.

Internal Council Consultations

4.3 Team Leader Area Engineer (Highways) comments: No objection

It is noted that this application is an amended resubmission of application number 181118. The LHA did not object to this application, and consistent with that response there are no highways objections to this proposal.

4.4 Principal Natural Environment Officer (Landscape) comments: Qualified comments

4.4.1 Comments received 12th April 2021

The proposed noise walling and screening to resolve a development not well sited, designed and coloured is exacerbating the visual harm to a rural landscape setting, located in an Area of Outstanding Natural Beauty (AONB). The development impacts neighbouring properties (including a listed building) and users of a public footpath. From a wider visual impact, there may be long distance impacts in relation to key receptors in the ANOB. This would need to be clarified with a visual impact assessment.

The development and associated infrastructure requires substantial landscape to mitigate the visual impact, or for the development to be relocated, or removed to resolve the impact.

The landscape mitigation would need to have an instant impact, with the planting of heavy standard trees, and specifications of hedges and planting to be of a considerable size.

The facilities and associated infrastructure (walls and screening etc.), would need to be modified and coloured to make them less of obvious (i.e. yellow tends to stand out in the landscape).

4.4.2 Comments received 28th October 2021 in response to Landscape Plan

The trees and hedgerow that have been proposed against the existing concrete are aimed to mitigate visual harm. In principle this is a reasonable proposal and addresses concerns raised in my previous comments. However, what is difficult to ascertain is the actual effectiveness and long term sustainability of this proposal. The trees are planted extremely close to the wall and will most likely inhibit growth and form, and impact the integrity of the wall foundation. The hedgerow is drawn at varying widths, and appears too narrow in places to establish an effective screen. The distance from the hedge to the public footpath appears close, and may restrict the use of the path if not managed.

Generally, to gain a reasonable density and a depth of hedge to create a convincing screen, there will need to be width allowance of 2-2.5m to allow the flourishing of growth, typical of hedges,

and to give sufficient depth when there is no leaf coverage. It is also recommended that the applicant consider climber plants along the base of the wall to expedite the greening process.

To ensure compliance with Policy LD1 it is recommended that the following condition relating to the landscape management, implementation and monitoring is included.

Condition – Landscape Management Implementation and monitoring

The landscaping scheme as shown on approved Landscape Plan 050-210 shall be completed no later than the first planting season following the date of the decision. A planting zone of minimum 2-2.5m shall be provided, with trees planted at minimum 2.5m from the base of the concrete wall. The landscaping shall be maintained for a period of 10 years. During this time, any trees, shrubs or other plants which are removed, die or which are seriously damaged shall be replaced during the next planting season with others of similar sizes and species unless the Local Planning Authority gives written consent to any variation.

In addition no later than the 1st April in each of the 5 calendar years following the first planting of the hedgerow and trees as shown on plan 050-210, the operator of the AD plant shall submit to the Local Planning Authority a written statement detailing:

- a) The number, location and species of plants, shrubs and trees which have been planted, in the preceding 12 months;*
- a) The number, location and species of plants, shrubs and trees which have died, become diseased or seriously damaged in the preceding 12 month; and*
- b) Proposals for the replanting and maintenance of any such failures with plants of similar size and species within the following 6 months.*

Reason: In order to maintain the visual amenities of the area and to confirm with policy LD1 of the Herefordshire local Plan – Core Strategy and the National Planning Policy Framework

4.5 Principal Natural Environment Officer (Ecology) comments: No objection

The site is within approx. 200m of the River Wye SAC and a Habitat Regulations Assessment process is triggered by this retrospective application. The appropriate assessment completed by the LPA must be subject to a 'no objection' response from Natural England PRIOR to any grant of planning consent. The Natural England response should also confirm they have 'no objection' in respect of any effects on Sites of Special Scientific Interest

HRA completed on the 21/12/2020 with conclusion No adverse effect subject to condition securing the use of only one CHP on site at any one time.

The air emissions report also provides modelling that demonstrates there are no emission or associated deposition likely to have an adverse effect on the nature conservation status of any Site of Special Scientific Interest or recorded area of ancient woodland.

The local wildlife site - Bayton Grove approx. 50m south of the development is not recorded for any features that are directly air emission sensitive and the area of this LWS recorded as ancient woodland is not indicated as a receptor for emissions at a level that any adverse effect is likely.

Based on the supplied information there are no ecology objections to this application, subject to the HRA process and requested condition.

Assessment of 'Likely Significant Effects' on:

- River Wye Catchment SAC**
- Forest of Dean & Wye Valley Bat SAC** (Wigpool Iron Mines SSSI)
- River Clun SAC**
- Downton Gorge SAC** (SSSI-NNR)
- Other site** (SSSI-NNR):

Likely significant effects identified on initial Screening Assessment:

- Foul water**
- Surface water**
- Emissions**
- Construction or Demolition processes**
- Other:**

Appropriate Assessment information, discussion and proposed mitigation measures:

The following points are noted as part of the HRA process:

- The applicant has confirmed that the CHP unit subject to this application is to replace the existing (fully approved) unit. The original unit will remain on site as a back-up system. This can be secured by condition on any planning consent granted.
- The applicant has confirmed that at no time will both CHP units be operated at the same time.
- The supplied air emissions assessment is therefore purely based on outputs from the CHP unit subject to this application.
- The Air Emissions Assessment by AS Modelling and Data Ltd dated 7th July 2020 refers.
- It is noted that there are no records of Jelly Lichens within the area of the River Wye subject to influence from this application.
- The emissions assessment indicates that there are no deposition levels in respect of the River Wye SAC such that any adverse effect on the River Wye SAC is likely.

Supporting documents: (this can be viewed at:

<https://myaccount.herefordshire.gov.uk/documents?id=0080c003-ecf4-11ea-a466-0050569f00ad>



202566 Much
Fawley Farm CHP air

Recommended Planning Conditions to secure appropriate mitigation:

River Wye SAC – Habitat Regulations: CHP operations

At no time shall more than one CHP unit be in operation and discharging any air emissions within the Much Fawley Farm holding without the prior written approval of the local planning authority.

Reason: In order to comply with Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6 and LD2.

CONCLUSION:

NO adverse effects on the integrity of the Special Area of Conservation; subject to appropriate mitigation being secured. Habitat Regulations 2017, Part 6, section 63(5)

Appropriate Assessment completed by: Ecology (J Bisset) 21/12/2020

Checked and submitted to Natural England: RJ

Dated: 22/12/2020

4.6 Environmental Health Service Manager (Noise / Nuisance) comments: No objection subject to mitigation

26th October 2020

- 4.6.1 This site is permitted by the Environment Agency and ultimately it is the Agency that regulates emissions to air, land and water. Our department has previously requested that the applicant supply a noise assessment using the methodology contained in BS4142 which measures the impact of industrial noise at the closest sensitive receptors.

We visited the site on 1st October 2020 and witnessed the noise generated by the plant associated with the anaerobic digester including pumps and fans from the existing previously approved operation.

This proposal is for the installation of a back-up combined heat and power unit (CHP) and green storage container. It is not intended that the CHP will run in combination with the main CHP as it is a back up. It is the cooling fans on the CHP running at higher temperatures together with the gas pumps which generates the noise. An existing concrete block wall at height partially blocks out some of the noise but there is a direct line of transmission from the noise generating plant – the fans on the back up CHP and gas pumps to the closest houses to the south. The plant operating at the farm is a 24 hour operation.

The BS4142 assessment finds that at these 2 closest houses there is a significant excess of the noise rating over the background noise levels during the day (table 1) and by deduction also at night time. The noise consultant has proposed to extend the existing concrete wall which already has steel uprights in place so as to further block out the noise in figure 7 which would bring the assessment level below an anticipated background noise level. By deduction there would also be a significant benefit at night time.

The consultant concludes that if the concrete wall is extended as shown in Figure 7 to a 3.6m height then sufficient noise mitigation will be achieved. However, I have discussed this proposal with the applicant and they have raised concerns that the existing uprights may not be strong enough to support the weight of concrete in high winds and could pose a safety issue.

In view of the above, please be advised that our department does not object to this proposal so long as the following condition is placed on any approval.

The applicant shall erect a noise barrier which raises the height of the existing wall to a minimum of 3.6 meters as shown in Figure 7 of the Matrix noise impact statement dated 18th August 2020. The details of the noise barrier shall be submitted to the local authority in writing for approval. The objective of the barrier is to achieve a minimum sound reduction of at least 15dB.

4.6.2 Comments received on the 18th May 2021

Further to our comments of 29th October the applicant has submitted an alternative proposal for a noise barrier at Much Fawley Farm. This is accompanied by a technical note dated 11th March 2021.

The proposed barrier is in the same location as that proposed in figure 2 of the noise report of 18th August 2020 which blocks out a direct line of sight to the two dwellings most impacted by noise from the CHP gas pumps and cooling system, save that it is proposed that the built noise barrier be built up with 22mm timber panels. Our department would have no objections to this proposal for noise mitigation with different construction material although we would have concerns that the proposed timber fencing would require regular checking and maintenance to ensure its effectiveness.

However I understand that there are objections to the proposed barrier extensions on landscaping grounds and that the existing concrete barrier already in place does not have planning permission. The existing and proposed noise barrier are necessary in the absence of any other proposal for noise mitigation to avoid adverse impacts on neighbours.

I refer to the Matrix Acoustics report of 18th August 2020 regarding the noise survey undertaken on 11th and 12th August in this regard. The noise survey was undertaken with the back-up CHP proposal in operation with cooling fans running which the surveyor identified as being clearly audible above the general noise environment at the closest residential dwellings.

The noise consultant identified that the existing 3.6m high concrete wall provided significant shielding of noise from the CHP unit at monitoring point position C approximately 140m south east of the site effectively acting as an existing barrier between the CHP and Selbourne's and Selbourne's holiday cottages.. The report advising that the existing noise barrier acted as significant shielding attenuation.

The noise report measured noise levels at position 1 up the lane leading to Fawley beyond Leybournes house in approximately 190m north west and also at position 2 on the lane between the bottom of the garden at Tremelza and in front of The Lodge. At position 1 some distance from Much Fawley Farm and the CHP the consultant identified the location to be very quiet with plant noise just audible on occasion. (They were not able to confirm that it was the CHP.)

Background noise measurements (LA90) at position 2 were considerably higher than those taken further away from the farm at positions 1 and 3. These measurements would have included all the farm noise plus the CHP, being around 50dB LAeq. Spot noise measurements were taken in front of the Lodge of the CHP with the cooling fans in operation of LAeq 46dB and 42dB LAeq without. When the CHP was not functioning and the majority of the plant at the farm was not operating at the end of the day, background noise levels at position 2 dropped to 35 LA90.

To undertake the BS4142 assessment the noise consultant used the 35dB LA90 as background day time noise and used a night time 30dB LA90 background noise levels. Without the proposed attenuation of the extension of the barrier shielding the CHP the assessment levels (ie the difference between the rating level and background noise level) without the cooling fans on was between 6 and 9dB and with the cooling fans on between 15 and 18dB.

The noise consultant identified in table 1 that the noise assessment therefore indicated an adverse impact for the CHP in operation and a significant adverse impact with the cooling fans on. The proposed fencing mitigation would have sufficiently changed the noise assessment at position 2 to very low.

The lack of a noise barrier as recommended in the noise report leaves receptors at Tremelza and The Lodge at the risk of severe adverse impacts from the cooling fans from the CHP and adverse impacts when the fans are not running. The removal of the existing has not been discussed in the report but will no doubt have some impact at Seabournes.

Should the proposal for the extended noise barrier not be deemed acceptable for landscaping reasons and the applicant not be able to propose alternative forms of noise mitigation, our department will withdraw our no objection comment and is likely to object to the CHP remaining in situ where it is without alternative attenuation.

4.7 Environmental Health Service Manager (Air Quality) comments: No objection

I note that the site is not within/ adjacent to an Air Quality Management Area (AQMA).

I refer to the Air Quality Report conducted by AS Modelling & Data Ltd dated July 2020 for the site Much Fawley Farm (planning application 202566).

I note that a dispersion modelling was undertaken to assess the impact of air borne emissions from the combined heat and power unit.

As concluded in the Air Quality Report, the results indicated that the Air Quality Objectives will not be exceeded at any sensitive receptor locations. As such on the basis of the supplied information I have no adverse comments to make in relation to air quality.

4.8 Public Rights of Way Manager Comments: No objection

4.9 Land Drainage comments: No objection

Surface Water Flood Risk

Review of the EA's Risk of Flooding from Surface Water map indicates that the site is not at risk of surface water flooding.

Other Considerations and Sources of Flood Risk

Review of the EA's Groundwater map indicates that the site is not located within a designated Source Protection Zone or Principal Aquifer.

Representations from local residents indicate that there is a significant nuisance caused by drainage being pumped over the banks of the Wye.

Surface Water Drainage

The applicant proposes the installation of a CHP unit and a green storage container on the site. The photographs provided show that the units have been positioned on areas within the yard, comprised of existing hardstanding. The applicant has also provided a document titled "existing drainage provisions" which appears to show that the hardstanding is drained via a small area of French drain along the northern side of the yard but indicates no specific surface water drainage features for the proposed containers and hardstanding on which they are positioned.

It is important to note that the site levels fall away from the French drain, so the area of hard standing on which the new units are to be positioned does not appear to have any surface water drainage in place.

Given the small area that the containers cover (<15m²), and their position on an existing area of hard standing, it is deemed unlikely that there will be a resulting increase in surface water at the site.

Foul Water Drainage

The proposed building has no foul drainage and so no foul drainage strategy is required.

Overall Comment

In principle, we have no objections to the proposed plans

5. Representations

5.1 Brockhampton and Much Fawley Group Parish Council: Awaiting comments

5.2 Letters of objections have been received from:

- Marches Planning (on behalf of local residents)
 - 23rd March 2021
 - 17th September 2021
- Mrs P Yardley – The Lodge, Fawley, Hereford (2nd February 2021)
- Ms F Baker – Seabourns, Fawley, Hereford HR1 4SP (21st February 2021)
- Mr R Palgrave – Caple Lee, How Caple, Hereford, HR1 47E (3rd March 2021)

The consultation responses can be viewed on the Council's website by using the following link:-

https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=202566&search-term=202566

5.3 These letters raised the following matters:

- Concerns regarding pollution to the River Wye from excessively pumped water into the river, which is not only causing water pollution but damage to trees and wildlife
- Site is not currently being run properly or efficiently and is detrimental to the amenity of the surrounding residents and environment
- Current site is extremely noisy especially at night time
- Offensive smells and odours is an ongoing occurrence at the site making local residents feel nauseous and is distressing
- Increasing traffic along Much Fawley lane
- Application lacks information or justification for the development especially now dairy herd has been sold
- Reports and submissions do not reflect what is experienced on site
- Concerns over the impact the development has on near by residents health
- Windows cannot be opened due to the odour from the site
- No thought as to the position of the CHP with regards to residents
- The site continues to be detrimental to the banks of the River Wye
- The development has changed significantly over the years and is no longer compliant with how it was originally permitted
- Dairy operations have ceased and concerns that slurry is being brought from off site which is not in accordance with the Method Statement which was approved under the original application
- No longer a justification for AD plant given that the Dairy herd is no longer there
- Project falls within schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017
- The site is within an impact risk zone for the River Wye SAC, and as such an assessment is required for air quality impacts, for any liquid discharges and for any large development requiring its own water supply
- Concerns with regards to the management of surface water from the site and potential contaminations with digestate and silage effluent
- Proposal should not be treated in isolation from the wider development as a whole which has severe impacts on the environment and the amenity of neighbours.

Internet access is available at the Council's Customer Service Centres:-

<https://www.herefordshire.gov.uk/government-citizens-and-rights/customer-services-enquiries/contact-details?q=customer&type=suggestedpage>

Further information on the subject of this report is available from Ms Rebecca Jenman on 01432 261961

6. Officer's Appraisal

- 6.1 This planning application was submitted on the 2nd September 2020 and is a resubmission of application 181118. The application seeks retrospective planning permission for the installation of a combined heat and power unit (CHP) and green storage container with in the main farm complex of Much Fawley Farm only.

Planning background

- 6.2 As noted above and within the representations received, there has been ongoing enforcement investigation at the site in recent years in connection with the AD plant and the original application. The AD plant was granted permission under application DCSE2009/1296/N (091387) on the 28th August 2009 and was subject to a number of planning conditions. The application and associated documents can be viewed on the Council website through the link below: https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=091387&search-term=DCSE0009/1296/N
- 6.3 Officers can confirm that under application DCSE2009/1296/N all pre-commencement conditions were approved in writing by the LPA on the 10th June 2010. The Applicant has confirmed and provided evidence that the AD plant became operational on the 8th March 2011. The ERP waste permit however did not get approval from the EA until January 2012. There were a number of changes and additions which were required under the permit, most notably the addition of a 3m high silage pit wall along the site perimeter which was constructed in August 2014 and relocation of the underground gas holder. These matter was brought to the Councils attention in recent representations submitted as part of the application.
- 6.4 A breach of planning control becomes "immune" from planning enforcement action if no such action has been taken within certain time limits. A breach of planning control which has obtained immunity by the passage of time also becomes lawful for planning purposes. In this instance officers are of the opinion that these elements are now immune from planning enforcement due to the passage of time.
- 6.5 Representation received have also questioned if the AD plant was installed as approved. Officers have not been provided or found any evidence that the original permission was not installed and operated as approved prior to the EA permit application approval in January 2012. The permission was clearly commenced within 5 years as required by condition 1 and from the information submitted to the LPA the installation of the two AD units and associated process building, as described in the description of the development has been built and operated since the 8th March 2011. Whilst officers have carefully considered the arguments contained within the representations on this matter, officers are unable to conclude that the AD plant is not lawfully implemented and therefore unlawful development for which enforcement action could be taken. Therefore for the purposes of this application, officers are satisfied that there is a lawful use of the site as an AD plant. This application must therefore be considered in this context.

Environmental Impact Assessment

- 6.6 The original proposal for the AD plant was screened by the Local Planning Authority on the 21st April 2009 under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999. The development did not fall within Schedule 1 of the Regulations, but within Schedule 2. The conclusion of the screening opinion was that despite the site being within the Wye Valley AONB, the proposal did not require an Environmental Statement due to its size and capacity.
- 6.7 Under the current Town and Country Planning (Environmental Impact Assessment) Regulations 2017 Anaerobic Digesters fall under Schedule 2 3 (a) *Industrial installations for the production of*

electricity, steam and hot water (unless included in Schedule 1); and 11 (b) *Installations for the disposal of waste* (unless included in Schedule 1). However, this proposal is not for the AD plant, only the CHP unit. The CHP unit is considered an ancillary and associated development to that of the established and lawful AD plant and the requirement of the CHP is down to that of the AD plant. The CHP is located 8 metres from the digesters, and shares the same hardstanding and infrastructure as that of the existing digesters. The CHP unit is considered to be an integral part of the AD plant which has been operational for since the 8th March 2011. The need for the second back up CHP has arisen from changes in the requirements from the EA, and the need to prevent failure of the wider plant.

- 6.8 As a standalone development, the CHP is not considered to represent EIA development under Schedule 2 of the Regulations. This application confirms the proposed CHP unit will act as a backup unit only and therefore will not increase electricity or capacity from the site above that which has been approved and as such any increase risk to the environment above that of the original plant is considered to be low. The CHP development is situated within the permitted planning site and that of the EA permit boundary.

Whilst it is recognised that the site is within the Wye Valley AONB and in close proximity to the River Wye Site of Special Scientific Interest, both of which are identified as ‘sensitive areas’ within the EIA Regulations, given the scale and nature of the proposal as a back up unit, with no increase in operations, it is considered that the proposed development would not have a significant adverse effect on the environment and would not require an EIA to be undertaken. In coming to this decision regard has been had to the Governments Planning Practice Guidance note on ‘Indicative screening thresholds’.

Policy context and Principle of Development

- 6.9 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states as follows:

“If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.”

- 6.10 In this instance the adopted development plan is the Herefordshire Local Plan – Core Strategy 2011-2031 (CS). The National Planning Policy Framework (NPPF) is also a significant material consideration. The NPPF stresses that when determining planning applications, Local Planning Authorities (LPA) should not require applicants for energy developments to demonstrate the overall need for renewable or low carbon energy and recognise that even small-scale projects make a valuable contribution to cutting greenhouse gas emissions. The NPPF also in Paragraph 158 states that LPA should approve applications if its impacts are (or can be made) acceptable.
- 6.11 In addition to the NPPF, the Planning Policy Guidance (PPG) recognises that the increasing amount of energy from renewable and low carbon technologies will help to ensure the UK has a secure energy supply, reduce greenhouse gas emissions to slow down climate change and stimulate investment in new jobs and businesses. Planning has an important role in the delivery of new renewable and low carbon energy infrastructure in locations where the local environmental impact is acceptable.
- 6.12 As identified above, the CHP which this application seeks retrospective permission for is in connection with the operational AD plant on the farm. Anaerobic digestion produces a renewable source of energy by breaking down biodegradable materials. As such, this application is considered to fall against Policy SD2 with the adopted Development Plan (Herefordshire Local Plan Core Strategy 2011- 2031). The policy supports proposals which do have any adverse impact upon any national or designated sites, do not adversely affect residential amenity, and which do not result in any significant detrimental impact upon the character of the landscape and

built environment. The fourth criteria of policy SD2 relates to the connection to existing national grid infrastructure, which the existing plant already does.

- 6.13 The additional CHP unit had been installed to provide a back up to that of the authorised unit whilst the original unit had broken down and was being fixed. Recent visits to the site have revealed that the original unit is now back up and running. The applicant wishes to retain the second unit as a backup unit to allow for regular maintenance of the original unit and in case it should break down again. The supporting information confirms that only one of the units will run at any given time and this can be controlled through a planning condition.
- 6.14 The CHP provides an energy source on site for the farm and buildings, including the poultry units, with any surplus sold to the grid. The CHP generates electricity and captures heat which would otherwise be wasted. In terms of renewable and low carbon energy, the NPPF is supportive of a transition to a low carbon future and encourages the use of renewable resources. It provides support for such small scale projects which provide a valuable contribution to cutting greenhouse gas emissions.
- 6.15 The site has a relatively complex planning history, as detailed in section 3 above, however the principle of the AD plant is now established within the unit and is operated under an EA ERP waste permit. The CHP unit under consideration represents an additional component of the plant above that originally approved. The additional CHP does not increase capacity or output of electricity.
- 6.16 The principle of the AD plant is not for consideration, only that of the additional CHP unit. There are policies within the adopted Development Plan (Herefordshire Local Plan Core Strategy 2011-2031) in addition to that of policy SD2 (Renewable and low carbon energy generation) that support the continued support of the more traditional employment sectors such as farming and food manufacture (Policy S5) and which support the diversification of existing agricultural businesses (Policy RA6). Given the plant is established, the principle and need for an additional CHP unit is considered acceptable, however the proposal needs to satisfy all of the criteria laid out in Policy SD2 of the CS for the proposal to be supported.
- 6.17 As outlined at the beginning of this report, application 181118 was refused on 3 grounds relating to issues in connection with ecological, noise and air quality impacts and the overall criteria of policy SD2 as outlined above. As this application represents a resubmission of application 181118, this report will now assess the 3 grounds of refusal against this submission.

Habitat Regulation Assessment and impact on the surrounding area and SAC

- 6.18 The first of the criteria in policy SD2 requires all proposals to demonstrate that they do not adversely impact upon international or national designated natural and heritage asset. Policy LD2 in the adopted CS is the specific policy which deals with biodiversity and geodiversity and requires all proposals to conserve, restore and enhance the biodiversity assets in the County by protecting the nature conservation sites and habitats. The policy does not permit proposals which would harm sites and species of European Important or Sites of Special Scientific Interest.
- 6.19 The site in this instance is within 250m of the River Wye Special Area of Conservation (SAC) which is a national designated assets and a Site of Scientific Interest (SSSI). The River Wye SAC is an internationally important conservation site which has been designated for its special features of ecological and biodiversity value. Under the Conservation of Habitats and Species Regulations 2017, Herefordshire Council has a legal duty to assess the potential impact of new developments in this area by undertaking an 'Appropriate Assessment' (AA) which must be able to determine with scientific certainty that there would be no 'likely significant effects' upon the designated site. The obligations are embodied with CS policies LD2, as well as the guidance of the NPPF.

- 6.20 A plan or project that is likely to have a significant effect on a European site (either alone or in combination with other plans or projects) is required to be subject to an AA before any permission is granted. In the absence of mitigation measures, and adopting a precautionary approach, discharges associated with the development may affect nutrient levels in nearby watercourses and create unfavourable condition in relation to water quality, and therefore present a risk of a significant effect on the SAC.
- 6.21 Previously, there was insufficient information submitted with the application for the LPA to conclude that there would not be a Likely Significant Effect from the combustion process and associated emissions. This submission has been supported with an Air Emission Assessment which identifies that there are no records of Jelly Lichens within the area of the River Wye subject to influence this application and that there are no deposition levels in respect of the River Wye SAC such that any adverse effect on the River is likely. As such the planning ecologist has advised that subject to conditions securing the use of only one CHP at any given time that the LPA can conclude no adverse effects on the integrity of the River Wye SAC will be caused. Natural England have concurred with the LPA appropriate assessment and no further conflict with policy LD2 has been identified.
- 6.22 In relation to surface water runoff, the CHP which is subject to this application has been located on existing hardstanding and therefore will not increase surface water run off above that which existed before. The CHP will also not increase capacity at the site or generate any increase in digestate, and as such the Ecologist has confirmed surface water does not require assessment under the HRA.

Impact on residential amenity - noise and nuisance

- 6.23 The second criteria of policy SD2 requires all development not to adversely affect residential amenity. Policy SD1 is the principle policy within the CS which deals with sustainable design and energy efficient and requires all development proposals, amongst other things, to ensure new development does not contribute to, or suffer from, adverse impacts arising from noise, light or air contamination.
- 6.24 The nearest dwellings to the site are found immediately to the west of the farm complex, with the distance between the residential houses and the CHP around 50m from the dwellings. However, the curtilage boundary of the residential property Tremezla is at a distance of around 20m. The issue of noise and nuisance has been identified as an ongoing issue at the site, with many complaints from neighbouring properties to the Council and the EA in recent years. The previous noise assessment was considered inadequate and insufficient for an assessment on the impact of noise from the development on the surrounding area to be considered, and as such the second ground of refusal of application 181118 was on residential amenity.
- 6.25 This new submission has been supported with a BS4141 acoustic assessment which identifies that at the 2 closest sensitive receptors (residential properties) there would be a significant excess of noise rating over the background noise levels during the day and by deduction also at night time from the additional CHP unit without any mitigation. As such the noise consultant proposed to extend the existing concrete wall which already has steel uprights in place so as to further block out the noise to bring the assessment level below an anticipated background noise level. This is shown by Figure 7 within the Acoustic Report and is included below for reference.

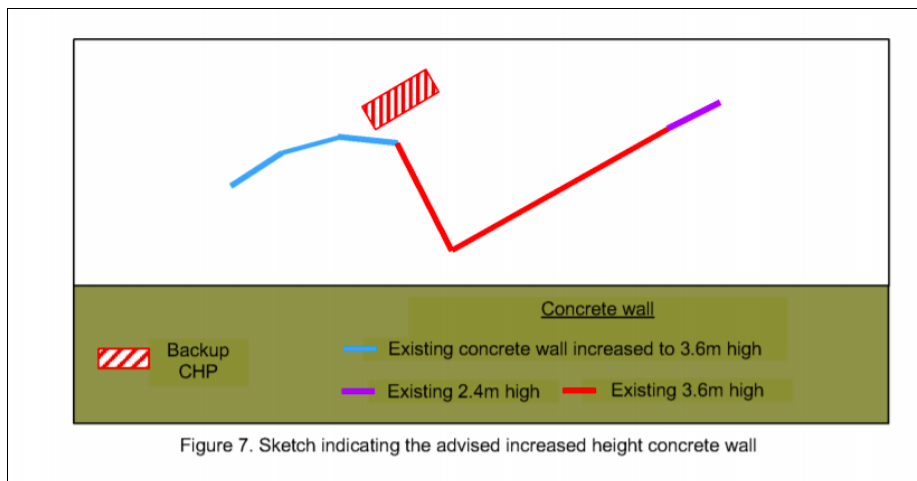
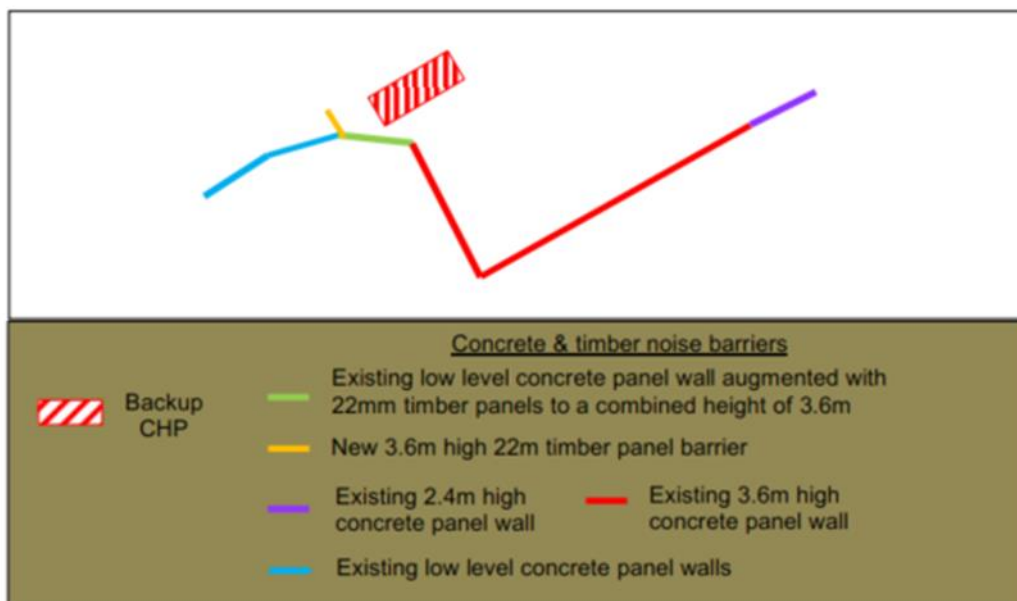


Figure 7 within Noise Impact Assessment Acoustics Report 2020/R01 dated 18th August 202

6.26 The original mitigation which was advised by the noise consultant and which is outlined in figure 7 above was to extend the concrete wall to a height of 3.6m to wrap around the CHP unit to achieve sufficient noise mitigation. However, it soon became apparent on site following discussions with the applicant there was concern the existing uprights were not strong enough to support the weight of concrete in high winds and could pose a safety issue. As such the proposal was amended to use timber boarding instead. This is outlined in Figure 1 of the *Acoustic Note N01a dated 11th March 2021* and is inserted below for reference.



6.27 The Councils Environmental Health Officer (EHO) has considered the changes to the proposed noise mitigation and has recognised that the proposed mitigation continues to block out a direct line of sight to the two dwellings most impacted by noise from the CHP gas pumps and cooling system. The EHO has confirmed that they have no objections to the proposed noise mitigation, although would suggest that conditions are included to ensure that the proposed timber fencing is regularly checked and maintained to ensure its effectiveness.

6.28 In light of comments within the representations and ongoing investigations in relation to breaches of planning control, the EHO has confirmed that the existing concrete wall, in addition to the proposed noise barrier are considered necessary in the absence of any other proposal for noise

mitigation to avoid adverse impacts on neighbours from the proposed CHP unit, all be it the application is only for a backup CHP.

- 6.29 The noise survey which was undertaken on the 11th and 12th August 2020, with the back-up CHP proposal in operation with cooling fans running which the surveyor identified as being clearly audible above the general noise environment at the closest residential dwellings. The noise consultant within the Acoustic Report identified that the existing 3.6m high concrete wall provided significant shielding of noise from the CHP unit at monitoring points to the south east of the site. The report advises that the existing noise barrier acted as significant shielding attenuation.
- 6.30 The EHO confirms that without a noise barrier as recommended in the noise report, receptors at Tremelza and The Lodge would be at risk of severe adverse impacts from the cooling fans from the CHP and adverse impacts when the fans are not running. Although the removal of the existing concrete wall is not discussed within the Acoustic Report, the EHO confirms that if it was removed the development would undoubtedly impact upon the nearby residents. It is unclear if the concrete wall was constructed as a noise barrier or a precautionary pollution bund around the site. The agent has confirmed that the wall was constructed following the issue of the EA permit in 2014. Aerial photographs confirm this and as such Officers consider that the wall is lawful through the passage of time.
- 6.31 Taking all the above into consideration, this application is considered to have overcome the second reason for refusal on application 181118 by providing sufficient details to determine the impacts of the development with regards to noise and nuisance on the nearby receptors. From the information provided the noise and nuisance which is generated by the proposal can be satisfactorily mitigated through the proposed noise barrier. As such, the proposal now complies with adopted CS policy SD1 and SD2 in that it has been demonstrated that the impacts of the development can be satisfactorily mitigated to avoid any adverse impact on the residential amenity of nearby residential properties.

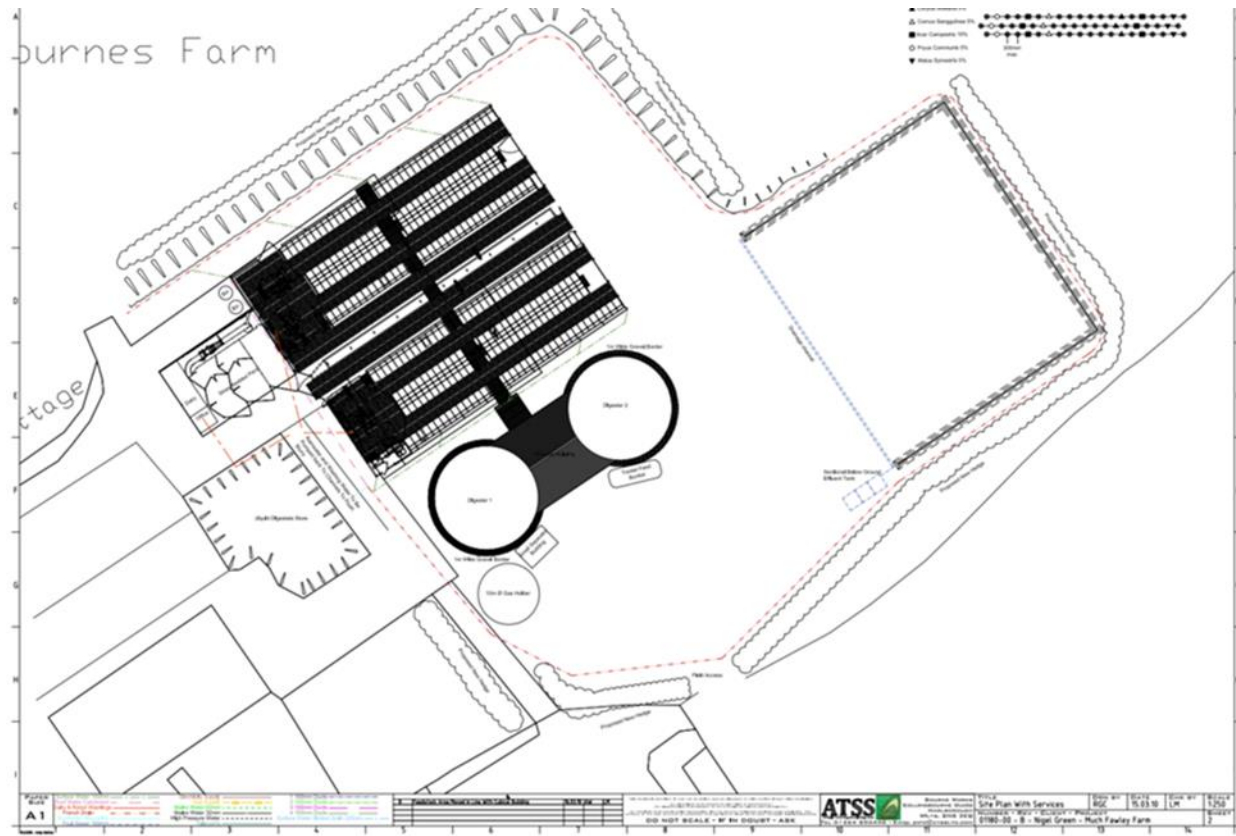
Air Quality

- 6.32 The third reason of refusal related to air quality. From the information previously submitted the LPA were not able to determine the impacts of the development, individually or cumulatively on the surrounding area and nearby receptors. This submission has been supported with an Air Quality Report conducted by AS Modelling & Data Ltd dated July 2020 for the site. As part of the report dispersion modelling was undertaken to assess the impact of air borne emissions from the CHP unit which it's the subject of this application. The Air Quality Report concludes that the results indicated that the Air Quality Objectives will not be exceeded at any sensitive receptor locations. The Councils EHO has confirmed that they concur with the finding of the report and have no adverse comments to make in relation to air quality. As such no further conflict with policies SD1 or SD2 in relation to air quality have been identified.

Landscape Impact

- 6.33 The third criteria of policy SD2 deals with the character of the landscape and the built or historic environment. It should be noted that a core planning principle of the NPPF is that planning should take account of the 'different roles and character of different areas...recognizing the intrinsic character and beauty of the countryside and supporting thriving rural communities within it.' Policy LD1 of the CS requires that development proposals should demonstrate that character of the landscape has positively influenced the design, scale, nature and site selection, with incorporation of landscaping schemes to ensure development integrates appropriately into its surroundings. Policy LD4 deals with the impact upon heritage assets and the wider historic environment and requires all proposal where possible to enhance heritage assets and their surroundings.
- 6.34 The application site is within the Wye Valley AONB and in close proximity to the PRoW BKR1A. The proposed CHP is located adjacent to the existing AD plant will be seen and read as ancillary

to the main plant and farm buildings. However, it has recently been brought to the attention of Council Officers that under the original AD application a landscaping scheme was proposed to be planted around the perimeter of the site to ensure that the site integrated into its surrounding and to help screen the development from the adjoining footpath and views to the south. The plan below is from the Discharge of Condition submission under application 091387 (condition 7 –plan 01180 – 02-B sheet 2 dated 15.03.10) which shows the area of hardstanding and the landscaping which was proposed.

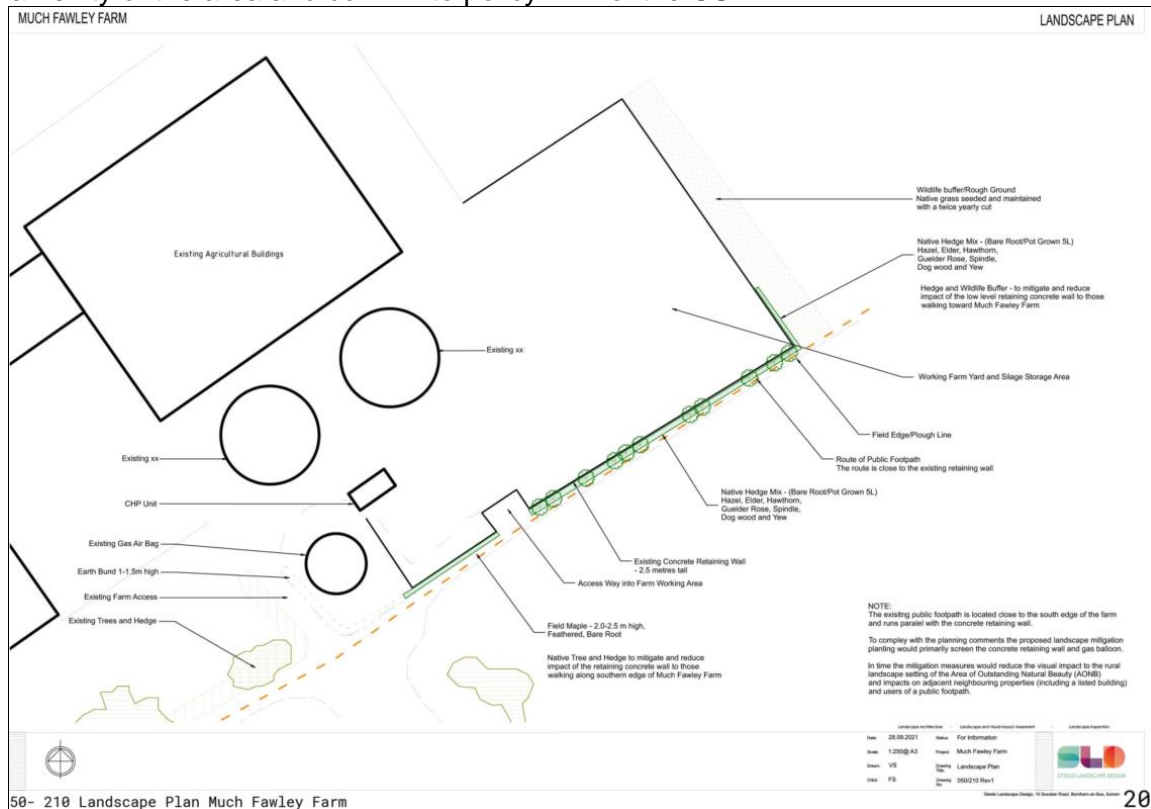


ATTS – site plan with services – plan 01180-02-b sheet 2 dated 15.03.2010

- 6.35 As noted above the concrete wall is not part of this application. It was installed as a requirement from the EA permit but is operational development which should of required planning permission. The wall has been constructed in excess of 4 years and is therefore immune from enforcement action. Although not its intended purpose, the wall assists in mitigating noise from the proposed CHP unit when in operation and from the existing wider site. As part of this application and in response to concerns raised by objectors in relation to the wider visual impact upon the AONB, and in recognition of the previously approved landscaping scheme, the following Landscape Site Plan has been submitted. The plan identifies a native hedgerow to be planted around the southern perimeter of the installed concrete wall with plant 2-2.5m high. There are also a number of trees to be planted. In addition a wildlife buffer of rough ground native grass seeds are to be planted along the eastern boundary. Officers acknowledge that this landscaping is more aimed at the wider site than that of the proposed CHP unit.
- 6.36 In terms of landscape impact, consideration has to be to that which is being applied for, which in this case is that of the CHP and the proposed noise mitigation. However, the application has presented an opportunity to consider the wider management and operations of the site and opportunity to enhance the existing landscape character. The proposed landscaping as outlined on the plan 050-210 will assist in mitigating the visual harm of the concrete wall , as well as the CHP and wider development from user of the PROW ,as well as within the wider landscape context. The Landscape Officer has raised concerns with the long term management of the planting. The Applicant has submitted a Landscape Maintenance and Mangment Plan which has outlined 10 years of monitoring and mainantance of the proposed landscaping. A condition

Further information on the subject of this report is available from Ms Rebecca Jenman on 01432 261961

controlling not only the implementation of the scheme, but the distance the plants are planted to the wall, along with the long term management and maintenance of the planting, as outlined within the submitted plan will help ensure the proposed planting will enhance the existing visual amenity of the area and confirm to policy LD1 of the CS.



Landscaping Plan – 050-210

- 6.37 In considering the proposed CHP unit and the required noise mitigation, the overall visual impact upon the surrounding area is considered to be minimal in terms of the broader wider established AD site. However the landscaping proposed would assist in the mitigation of the wider development as well as that of the CHP and will integrate the wider development appropriately into its surroundings.
- 6.38 Having regard for policies LD1 and SD2 of the CS, Officers are content that, the visual impacts of the proposed CHP unit and noise mitigation, when assessed against the established AD plant would not represent a significant visual impact on the character of the landscape hereabouts that would not warrant a refusal of the application. Conditions relating to landscaping implementation and monitoring are recommended.

Heritage Impact

- 6.39 Policy LD4 of the CS seeks to ensure that development proposals affecting heritage assets and the wider historic environment should protect, conserve, and where possible enhance heritage assets and their setting in a manner appropriate to their significance. There are two listed buildings in close proximity to the proposed CHP unit:
- Chapel of St Johns – Grade II* listed - 127m to the south
 - Much Fawley Farmhouse – Grade II listed – 147m to the south.
- 6.40 There are no visual lines of site between either heritage asset or that of the proposed CHP unit due to other built development, topography of land and existing dense vegetation. Given the scale, and nature of the CHP unit, no conflict with policy LD4 has been detected.

Other matters

- 6.41 The CHP which is the subject of this application will not give rise to any matters related to highways and Councils Area Engineer (Highways) has raised no objection to the proposal.
- 6.42 Consideration has been given to drainage and surface water. The proposed CHP and green storage container has been installed on the existing hardstanding within the farm yard. The submitted information shows that the hardstanding is drained via a small area of french drain along the northern side of the yard. The Councils Drainage consultant has confirmed that given the small area that the containers cover (<15m²), and their position on an existing area of hard standing, it is deemed unlikely that there will be a resulting increase in surface water at the site. No conflict with policy SD3 of the CS has been detected.

Conclusion

- 6.43 The LPA recognise that in 2009, there was limited knowledge of the impacts of AD development because there were few such installations in the country and the technology itself was developing. As permitted AD plants within the County have developed and operated, knowledge and understanding of the impacts of the plants on local environments particularly that on amenity of residents have increased. Planning permissions cannot be reversed, however complaints in relation to nuisance are investigated by both the LPA and the EA, as are breaches of any planning permission or Environmental Permit.
- 6.44 Whilst acknowledging the frustration with local residents in relation to noise, the starting point for the determination of this application for the retention of the additional CHP unit and storage container is the adopted development plan. The proposal is considered to accord with Policies SS7 and SD2 of the CS, which support development which seek to deliver renewable and low carbon energy, subject to satisfactory environmental protection and mitigation. The proposal is associated with the existing established AD plant on site and will ensure the continued uninterrupted operation of the AD plant. EHO Officers are satisfied that the noise mitigation which has been put forward and assessed will ensure that the amenity of local resident in the surrounding area is safeguarded.
- 6.45 Officers acknowledge the significant concern about the impacts of the wider development on the River Wye SAC and on other designated conservation sites (SSSI) and sensitive priority habitats and Local Wildlife Sites. Officers have assessed the emission from the development and impacts of these on the River Wye SAC. The emissions assessment indicates that there are no deposition levels in respect of the River Wye SAC such that any adverse effect on the River Wye SAC is likely. Officers have completed the necessary HRA assessment and concluded NO likely potential adverse effects on the integrity of River Wye SAC or any other locally designated wildlife site from the development.
- 6.46 The proposal has now included sufficient information in the form of air quality assessment and noise report for Officers to conclude that subject to mitigation, the development would not give rise to any unacceptable impacts on air quality and residential amenity arising from noise. Subject to the inclusion of conditions as detailed below, the proposal has satisfied policies SD1 and SD2 of the CS.
- 6.47 Taking into account the requirements of CS policies SS6 and LD1, the Officers have carefully considered the proposals as detailed above and conclude that the resulting development would not cause any demonstrable cumulative harm to the character of the countryside or surrounding

landscape in the context of the existing permitted scheme. In addition the proposal has offered up additional detailed landscape mitigation around the perimeter to ensure the wider development integrates into the surrounding environment. Officers therefore conclude that the proposals comply with the requirements of policy LD1 of the CS and with the guidance contained within the National Planning Policy Framework.

- 6.48 Overall Officers are content that the development based on the information which has been provided and submitted as part of this application is sustainable development. The development is considered to be acceptable subject to the inclusion of the recommended conditions listed below. The application is therefore recommended for approval subject to the conditions outlined below

RECOMMENDATION

That planning permission be granted subject to the following conditions and any other further conditions considered necessary by officers named in the scheme of delegation to officers:

1. **Development in accordance with approved plans.**
2. **At no time shall more than one CHP unit be in operation and discharging any air emissions within the Much Fawley Farm holding without the prior written approval of the local planning authority.**

Reason: In order to comply with Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6 and LD2.

3. **Should the Anaerobic Digester Plant on site cease to be permanently in operation, the CHP unit and storage container hereby permitted shall be removed permanently from the site.**

Reason: The nature of the development is such that it is only considered acceptable in this location having regard to the authorised Anaerobic Digester Plant on site and Policies SD1 and SD2 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

4. **The CHP hereby approved shall not be used until the timber panel barrier which forms the noise mitigation has been installed in accordance with the details outlined within the Acoustic Note NO1a dated 11th March 2021. Photographic evidence with confirmation of the date of installation shall be submitted and confirmed in writing by to the Local Planning Authority. The approved timber panel barrier and concrete wall as detailed on plan NO1a dated 11th March 2021 shall be retained and maintained for the duration of the authorised use of the CHP.**

Reason: To development requires the retention on the timber panel barrier and concrete wall to ensure that the amenity of the area with regards to noise is safeguarded and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and National Planning Policy Framework.

- 5 **The landscaping scheme as shown on approved Landscape Plan 050-210 rev B shall be completed no later than the first planting season following the date of the decision. A planting zone of minimum 2-2.5m shall be provided, with trees planted at minimum 2.5m from the base of the concrete wall. The landscaping shall be maintained for a**

removed, die or which are seriously damaged shall be replaced during the next planting season with others of similar sizes and species unless the Local Planning Authority gives written consent to any variation.

In addition no later than the 1st April in each of the 5 calendar years following the first planting of the hedgerow and trees as shown on plan 050-210 rev B, the operator of the AD plant shall submit to the Local Planning Authority a written statement detailing:

- a) The number, location and species of plants, shrubs and trees which have been planted, in the preceding 12 months;
- b) The number, location and species of plants, shrubs and trees which have died, become diseased or seriously damaged in the preceding 12 month; and
- c) Proposals for the replanting and maintenance of any such failures with plants of similar size and species within the following 6 months.

Reason: In order to maintain the visual amenities of the area and to confirm with policy LD1 of the Herefordshire local Plan – Core Strategy and the National Planning Policy Framework

period of 10 years in accordance with the details outlined within the Landscape Maintenance and Management Plan by Steele Landscape Design dated November 2021. During this time, any trees, shrubs or other plants which are

INFORMATIVES:

1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations. Negotiations in respect of matters of concern with the application (as originally submitted) have resulted in amendments to the proposal. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework

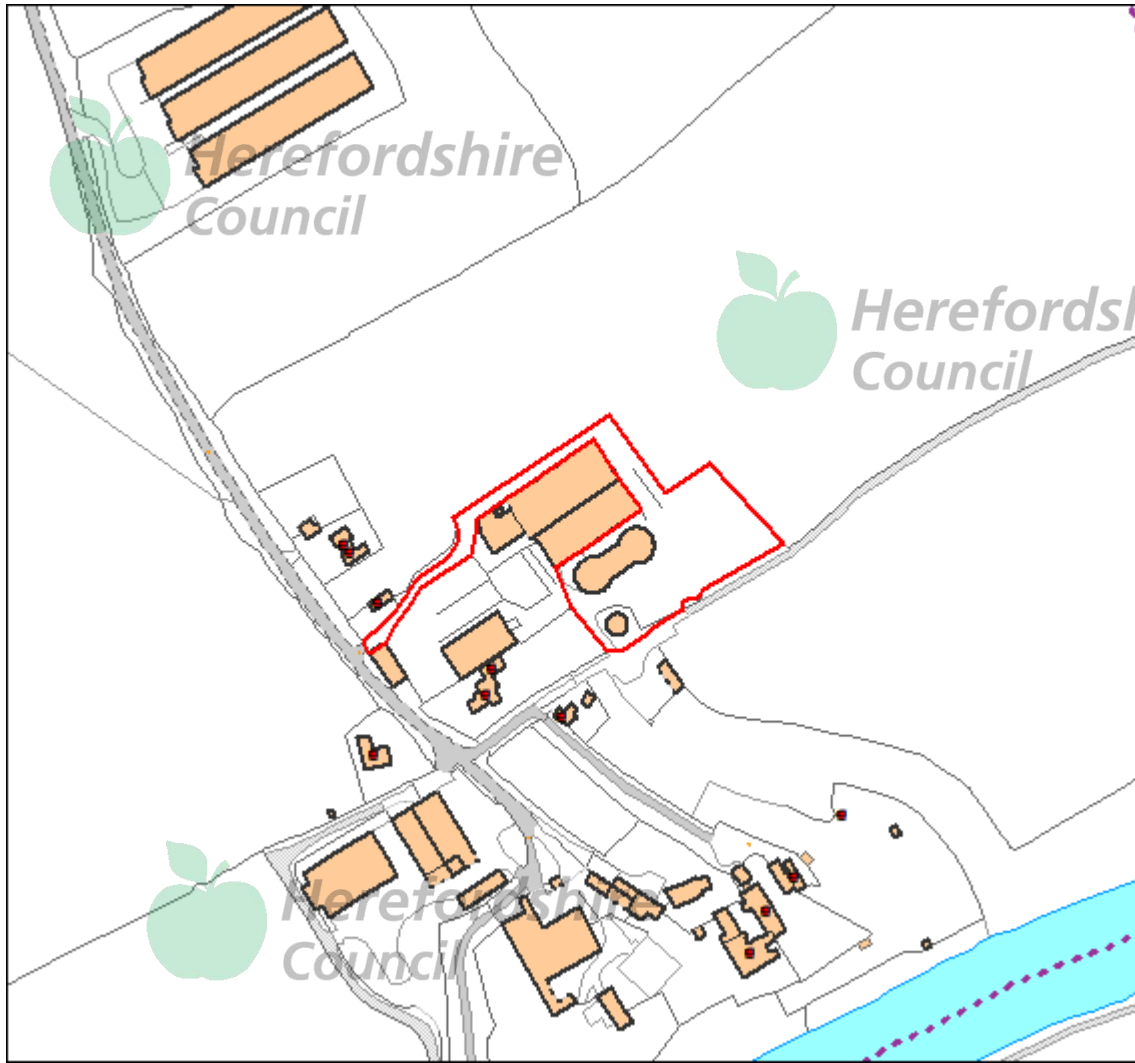
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 202566

SITE ADDRESS : MUCH FAWLEY FARM, FAWLEY CHAPEL ROAD, FAWLEY, HEREFORD,
HEREFORDSHIRE, HR1 4SP

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