



**31<sup>st</sup> October 2017**

**Agenda Item: 5**

## **REPORT OF CORPORATE DIRECTOR – PLACE**

**NEWARK AND SHERWOOD DISTRICT REF. NO.: 3/17/01084/CMA**

**PROPOSAL: REVISED LAYOUT AND DESIGN OF BUILDINGS, SURFACE WATER LAGOON AND RELATED STRUCTURES/PLANT OF APPROVED ANAEROBIC DIGESTION PLANT**

**LOCATION: LAND AT STUD FARM, RUFFORD, NG22 9HB**

**APPLICANT: RAINWORTH ENERGY LTD.**

### **Purpose of Report**

1. To consider a planning application to retrospectively agree a series of modifications that have been made to the site layout, buildings and plant installed at the Rufford Anaerobic Digestion (AD) Plant at Stud Farm, Rufford.
2. The key issues relate to the visual impact resulting from the changes to the site layout, and effect to the heritage assets of the area and balancing these matters against the benefits that may be derived from the development, notably in terms of the contribution the facility would make towards renewable energy production and associated climate change benefits.
3. The recommendation is to grant conditional planning permission for the planning application subject to the applicant entering into a Section 106 legal agreement to ensure the long-term protection and management of the Long Belt Woodland.

### **The Site and Surroundings**

4. The Stud Farm Anaerobic Digestion (AD) site occupies a countryside location, approximately 1.2km to the north of Eakring Road, 1.9km north-west of Eakring village centre and 1.7km south of Rufford Abbey within Rufford Country Park. (See Plan 1).
5. The AD Site is located immediately to the west of a large poultry unit operated by Noble Foods with an annual capacity for one million egg laying birds. To the south is a plantation woodland, known as Long Belt Wood. Arable agricultural land adjoins the AD plant site to the west and the north. (See Plan 2)
6. The operational site is irregular shaped, measuring 200m by 170m at its widest dimensions. Vehicular access to the site is obtained via a purpose built private

road that was constructed as part of the original planning permission for the AD facility. The road is approximately 1.6km in length and extends in a north-south direction, following field boundaries providing access between Eakring Road and the planning application site. It also serves the poultry unit.

7. The proximity of the site to surrounding residential properties is identified on Plan 2. The nearest residential property is the farm manager's bungalow situated 25m to the south of the main AD plant site. Park Lodge (a grade II Listed Building) is located 300m to the west of the AD plant site. Rufford Stud Farm is situated approximately 510m to the south west of the AD plant. Other properties including Round Plantation house are located to the north. The application site is situated within the designated historic park and garden associated with Rufford Abbey.
8. Centre Parcs holiday complex is situated approximately 1500m to the west of the AD plant site. The AD Plant supplies gas to Centre Parcs via a gas pipe which has been installed below ground across several agricultural fields and underneath Rainworth Water (stream), the A614 and a private road. The gas is used by Centre Parcs to generate heat and electricity to power their leisure complex with renewable energy.

## **Planning History**

9. Planning Permission was first granted in July 2010 (under reference 3/09/01455/CMA) for the construction of an AD Plant, associated buildings and structures including a silage clamp and a new access road. The AD Facility was designed to manage around 26,000 tonnes per annum of feedstock comprising poultry manure from the adjoining Noble Foods poultry shed, vegetables which are unsuitable for market from local vegetable packaging plants and locally grown energy crops in roughly equal proportions. Planning permission was also granted at this time under reference 3/10/00663/CMA for the construction of a storage tank for holding end substrate (the liquid digestate). The approved tank measured 44 metres in diameter and eight metres tall and was to be sited on land to the south-west of the main AD plant site.
10. Subsequently, a non-material amendment planning application was approved to allow alterations to be made to the site design and structures consented under Planning Permission 3/09/01455/CMA. The approved alterations included revisions to the siting of the two anaerobic digester tanks, but did not change the overall character of the previously approved scheme.
11. Planning Permission was granted in February 2016 (under reference 3/15/02255/CMA) to amend the design of the two anaerobic digesters by installing PVC membrane domes over each digester for the collection of gas. The domes increased the height of each digester from 7.3m to 16.5m but removed the necessity to provide a separate gas storage tank which was originally approved in the scheme. As part of this decision a Section 106 legal agreement was imposed to secure the long term protection and management of the Long Belt woodland

12. Planning permission was also granted at this time (under reference 3/16/001115/CMA) for the installation of a 2.65km length of gas pipeline to supply biogas to the Centre Parcs complex. The gas pipe has been installed and is operational.
13. Planning permission was granted in September 2016 for the construction of a liquid storage lagoon for digestate produced by the AD process. The lagoon would measure 130m by 80m including its surrounding embankment which is raised out of the ground. The lagoon would be sited immediately to the west of the main AD facilities and to the south of the relocated surface water lagoon. The lagoon has not been constructed to date, digestate is currently tankered off the site. The approved site layout is identified on Plan 3.

### **Proposed Development**

14. Planning permission is sought to regularise a revised layout and design for the buildings, structures and machinery associated with the AD Plant and relocate the surface water lagoon. The modifications comprise a series of new buildings and plant which were not detailed in the original approved scheme and also a number of modifications to the design of previously approved buildings and plant as shown on Plan 4. The development comprises:
  - Site size and shape: The 'as built' scheme incorporates an enlarged site area primarily as a result of the relocation of the surface water lagoon from its approved position in the north western corner of the site to an area of land to the west of the main operational area, immediately north of the approved digestate storage lagoon. The northern screen bund has been elongated along the northern boundary.
  - Chiller: The chiller is required to cool the gas prior to it being piped to Centre Parcs. The chiller measures 16.5m by 5m by 3.2m high.
  - Feedstock Input System: Essentially a feed hopper measuring 30m by 5m by 7.5m high.
  - Feedstock Pre-Treatment: Plant: This plant allows a greater variety of crops to be used in the AD plant. The structure measures 13.9m by 3m by 3.3m high.
  - Preliminary Pit: A cylindrical piece of plant for the receipt and mixing of feedstock measuring 10m diameter and 3.5m in height.
  - Dry Digestate storage area: A three sided open area within which processed digestate is dropped into and stored in the short term prior to dispatch to farm and spread back to land. The storage area has an area of 141 square metres.
  - Flare: Essentially required for the safety of the plant and measuring 3.5m by 9m in height.
  - Control Room: A container based control area accommodated in a structure measuring 13m by 3.5m by 2.9m high.

- Site office: Staff welfare buildings within a containerised structure measuring 10.3m by 3.5m by 3.2m high.
  - Storage containers: Consisting 3 containerised structures each measuring 6.2m by 2.4m.
  - Weighbridge office: Containerised structure measuring 3.1m by 5.4m by 3.2m high.
  - Mississippi Paddle Dryer: Removes water from the liquid digestate to improve its quality as a fertiliser and reduce storage requirements. Measures 13.5m by 13m by 8m high.
  - Supplementary equipment required for generating electricity including back up facilities.
  - Buffer Tank (x 2): Used for the storage of process water for recirculation through the AD plant measuring 2.8m in diameter by 8m in height.
  - External pipeline: The various pieces of plant are connected by an extensive series of pipework and cabling which were not shown on the original submitted drawings.
  - Surface water lagoon: A surface water lagoon was approved as part of the original planning permission. However, the lagoon has not been developed in accordance with the approved plans and therefore this application seeks planning permission to retain the 'as built' lagoon in an alternative location, further to the south east of the originally approved location. The lagoon provides 1000 cubic metres of storage.
  - The Combined Heat and Power Plant (CHP) engines for converting the gas into electricity and heat power were originally to be installed within the building. The CHP engines have not been installed in the building. Permission is sought to retain the CHP engines 'as built' within a freestanding container measuring 11.8m by 3.7m and 8m high including the stack.
  - Weighbridge: The weighbridge has not been constructed in its originally approved location. This application seeks planning permission for the weighbridge in an alternative location to assist with site access and circulation.
  - Storage Building: The originally approved storage building has been made smaller in floor area but taller in height, it now measures 12m by 12m by 11.2m high (the approved building measured 42m x 20m with a ridge height of 8.7m high). It has also been relocated within the site.
15. The form and appearance of the plant and structures are largely influenced by function and generally utilitarian in character. The majority of the structures are finished in a dark green colour.
16. The site benefits from landscaping. Long Belt Plantation, immediately to the south of the site would be retained and managed under the existing Section 106 legal agreement imposed as part of the planning permission for increasing the height of the AD tanks. A bund has also been constructed on the northern

boundary of the site. The existing planning conditions for the development require this bund to be tree planted in the next tree planting season.

17. The application is supported by a noise impact assessment which incorporates calculations of the anticipated noise emissions of the new and revised plant on the local noise environment. The findings of the report are discussed in the observations section of this report.

## **Consultations**

18. **Newark and Sherwood District Council:** *Raise no objections*
19. **Rufford Parish Council:** *Object to the planning application*
20. *The continuing and retrospective amendments to the original permission mean that there is less and less clarity regarding the ultimate plant and its operation.*
21. **Bilthorpe Parish Council:** *No representation received*
22. **Eakring Parish Council:** *No representation received*
23. **Environment Agency:** *No representation received*
24. **NCC (Highways):** *Raise no objection*
25. *The details do not affect the access to the site.*
26. **NCC (Landscape):** *Support the application*
27. *The development would not have harmful impacts on the landscape character and there would be no significant visual effects as a result of the new elements that were not included in the approved application.*
28. **NCC (Noise Engineer):** *Raise no objections*
29. *The noise impact assessment has been undertaken in accordance with BS4142:2014 to quantify the noise impact, if any, on the local noise environment. The noise assessment concludes that adverse noise is unlikely to occur both during the daytime and at night-time. Planning conditions are recommended to regulate the maximum level of noise emissions from the facility.*
30. **NCC (Reclamation):** *Raise No objection*  
*Raise no objections subject to satisfactory drainage being provided to serve the site and ensure that potentially contaminated discharges from the process are contained and not allowed to migrate to the wider environment.*
31. **Western Power Distribution:** *Raise no objection*  
*There are underground and over ground cables which form part of the electricity grid owned by Western Power Distribution in the vicinity of the site. The owner*

*of the site has discussed these with Western Power, but some general safety advice has been provided.*

32. **The Gardens Trust:** *No representation received*
33. **NCC (Built Heritage):** *Do not object subject to the provision of appropriate landscaping.*

*The proposals include details of the plant that are not as large as the digesters but nevertheless increase the industrial appearance of the development and draw further attention to the site rather than the Long Belt wood behind. For this reason, the overall impact of the development is clearly and demonstrably erosive to the significance of the registered parkland at Rufford and is causing harm to a designated heritage asset. This opportunity must be taken to attempt to address that, with the intention that the development will be able to conform to local and national policies regarding the protection of the historic environment in due course.*

*To achieve this it is recommended that enhancements are made to the landscape scheme to mitigate the appearance of the development by hiding it, as much as possible, in the views towards the Long Belt from the north, west and east. A suitable tree planting scheme to the north of the building and plant area would help achieve a degree of mitigation over the short-term and would probably be sufficient to partially hide the digester buildings in the long-term.*

34. **Cadent Gas Limited Company, Severn Trent Water Limited:** *No representations received*

## **Publicity**

35. The application has been publicised by means of site notice, press notice and neighbour notification letters posted to residents of 13 properties in the vicinity of the development site in accordance with the County Council's adopted Statement of Community Involvement Review. No representations have been received.
36. Councillor John Peck, Councillor Roger Jackson and Councillor Bruce Laughton have been notified of the application.

## **Observations**

37. The planning application seeks to regularise a series of modifications that have been made to the Rufford AD Plant. The modifications do not change the overall function of the development granted planning permission, but they will result in a significantly different site layout and configuration of buildings, plant and machinery at the site to that which was originally granted planning permission.

Failure to develop in accordance with previously consented planning permission

38. The new elements of the development which are retrospectively sought planning permission are extensive and significantly different to the approved plans. During the process of constructing the facility the developer has not notified the Council of the changes that were being made to the approved scheme, the Council only becoming aware of these changes following its routine monitoring of the planning permission. Upon becoming aware of the inconsistencies between the approved scheme and the development as constructed the developer has been requested to retrospectively regularise the unauthorised development through the submission of this planning application.
39. It is a concern that the developer has continued to progress the development not in accordance with the approved scheme. These concerns are reflected in the objection from Rufford Parish Council who express a frustration of the retrospective nature of the planning applications which have been submitted. The operator acknowledges that this has occurred and apologises for having to seek to regularise the unauthorised development. The operator states that their focus has been on other amendments to the scheme including the discharge of planning conditions and they have overlooked the need to regularise the issues which are the subject of the current application.
40. The operator states that the reason why this has occurred is because the original 2009 application (before the current applicant had an interest in the site) did not include all of the plant necessary for the current developer to build and operate an AD plant, and so was incomplete. Also, the engineering and operation of this technology are constantly changing, and the operator has sought to adapt and improve efficiencies in the operation of the site and the production of renewable energy. The innovations and amendments made to the plant layout and facilities have brought about associated enhancements to its productivity and sustainability. In particular the addition of Feedstock Pre-treatment which also required the Buffer Tanks brought significant further reduction in the carbon footprint of the energy produced. The straw feedstock is otherwise often unused on the farm. The Mississippi dryer will also reduce volumes of liquid digestate produced giving a higher value product with lower transport impact.
41. The operator acknowledges that they ought to have addressed the modifications earlier and in advance of implementation rather than retrospectively. However, they genuinely believe that the changes have no material significant impact upon the landscape, appearance or environmental considerations (when compared to the approved scheme).
42. It is unfortunate that the operator has allowed the development to be built with so many differences to the approved scheme. Many of the buildings/structures were not shown on the original approved plans and other aspects of the development are materially different and cannot be dealt with as an amendment. A separate planning permission is therefore required for the development
43. The decision of officers to request a planning application to regularise the works is consistent with the Government's Planning Practice Guidance 'Ensuring Effective Enforcement'. This document sets out national policy and

expectations in terms of planning enforcement policy. It advises that planning authorities have discretion to take enforcement action when they consider it is reasonable to do so and any action taken should be proportionate to the breach of planning control. Paragraph 011 states that '*local planning authorities should usually avoid taking formal enforcement action where.... development is acceptable on its planning merits...and in their assessment, the local planning authority consider that an application is the appropriate way forward to regularise the situation, for example, where planning conditions may need to be imposed.*' This approach is reflected in the County Council's adopted Local Enforcement Plan (May 2015) which identifies retrospective planning applications as being an appropriate method of dealing with breaches of planning control to regularise unauthorised works.

44. The current planning application is supported by a full schedule of plans and elevations which clearly identify the development sought planning permission and therefore Rufford Parish Council can be assured that there is clarity regarding the scope of development sought consent.
45. The submission of a planning application to regularise unauthorised development gives no guarantee that a planning permission will be forthcoming. The planning application needs to be considered on its own merits and follow the same procedures as a normal planning application.
46. The merits of the development are considered below:

#### Summary of Assessment of previous planning application

47. The original decision to grant planning permission for the Rufford AD facility was reached after having regard to renewable energy policies within the development plan and national planning policy which are supportive of such development:
  - The vision and objectives of the Newark and Sherwood Core Strategy (N&S CS) seeks to maximise opportunities for appropriate renewable energy to help reduce the impact of climate change (objective 11). In particular Core Policy 10 (Climate Change) seeks to tackle the issues of climate change by delivering a reduction in the district's overall CO2 emissions by maximising the use of available local opportunities for district heating and decentralised energy and promoting the development of community-led renewable energy generation projects.
  - Policy DM4 (Renewable and Low Carbon Energy Generation) of the Newark and Sherwood Allocations and Development Management Document (N&S A&DMD) states that planning permission will be granted for renewable energy generation schemes where its benefits are not outweighed by any detrimental impacts. The policy identifies that particular consideration should be given to the protection of landscape character, heritage assets, amenity, highway safety and ecology.
  - Strategic Objective 4 of the Nottinghamshire and Nottingham Waste Core Strategy (WCS) seeks to encourage the efficient use of natural resources by promoting waste as a resource. This objective is reflected in Policy



WCS1 which provides a presumption in favour of sustainable development and WCS3 which gives priority to AD facilities as a way of ensuring that waste is managed sustainably.

48. Although not part of the development plan, central government's National Planning Policy Framework (NPPF) is a material consideration in the determination of the planning application. The NPPF incorporates as a 'golden thread' establishing a presumption in favour of sustainable development. Achieving sustainable development includes the efficient use of natural resources, the minimisation of waste and the mitigation and adoption of climate change impacts including moving to a low carbon economy. It seeks to increase the use and supply of renewable energy, requiring planning authorities to plan positively to promote energy from renewable resources, maximising the production of renewable energy whilst ensuring that adverse impacts are addressed satisfactorily, including cumulative landscape and visual impacts. The NPPF seeks to encourage opportunities where development can draw its energy supply from decentralised renewable energy supply systems and co-locate potential heat customers and suppliers. When determining planning applications the NPPF requires planning authorities to approve renewable energy developments if its impacts are (or can be made) acceptable.
49. The National Planning Policy for Waste (NPPW) provides support for more sustainable and efficient use of waste materials, seeking to use waste as a resource to provide climate change benefits and drive waste management up the waste hierarchy. It encourages positive planning to support the provision of new infrastructure to achieve these objectives.
50. The Government's Overarching National Planning Policy Statement of Energy (EN-1) sets out the UK's need to diversify and decarbonise electricity generation by increasing dramatically the amount of renewable generation capacity so as to ensure the commitments under the EU Renewable Energy Directive are met, improve energy security, decrease greenhouse gas emissions and provide economic opportunities. There is an urgent need for new renewable projects to come forward to meet the target of achieving 15% of total energy needs from renewable sources by 2020. The policy statement acknowledges the role that biomass and energy from waste plays in achieving this target, noting that such energy would normally provide 'baseload' power that is not affected by climatic conditions such as wind and solar.
51. The development proposed within the planning applications will assist with the provision of additional renewable energy generating capacity and is therefore fully supported by the policies set out within the development plan and national planning policy. It also delivers a sustainable solution towards waste management in accordance with NPPW Policy. The Council is therefore required to take a positive approach towards the provision of renewable energy facilities and is encouraged to approve planning applications for such development if the environmental impacts are (or can be made) acceptable. This support for renewable energy development is important in the overall assessment of the merits of the planning application.

52. The development is not agricultural but its feedstock is closely linked to the local agricultural economy. The siting of the development in a farm based rural location is supported by NPPF paragraph 28 insofar that the facility would manage farm wastes and energy crops produced by the local farming community and therefore it assists with the diversification of agriculture. Newark and Sherwood Local Development Framework Core Strategy Spatial Policy 3 strictly controls development in the open countryside but does support development which requires a rural setting. The Newark and Sherwood Local Development Framework Allocations and Development Management Development Plan Document Policy DM8 also supports rural diversification schemes.

#### Assessment of Environmental Effects

53. The assessment of this planning application has identified a number of environmental matters that require consideration. These are considered below.

#### Visual Impact

54. WLP Policy W3.3 seeks to minimise the visual impact of waste management facilities. It gives support to sites which minimise impacts to surrounding land, it aims to group facilities together to prevent unsightly sprawl of development, keeping facilities as low as practicable and the use of appropriate colouring. WLP Policy W3.4 encourages the use of existing structures and landscaping and the planting of new landscaping to minimise visual impacts.
55. The developed scheme which this application seeks planning permission to retrospectively retain incorporates significantly more buildings, plant, machinery and ancillary pipework than the scheme originally given planning permission which essentially incorporated a single building accommodating the CHP plant and control room, two anaerobic digester tanks, a feed hopper, silage clamp, surface water lagoon and leachate lagoon.
56. The additional structures within the developed scheme increase the amount of built development from that which was originally granted. The structures that were not included in the approved application range in height, the tallest features include a 9m high flare, the feedstock input system which is 7.5m high, the Mississippi paddle dryer which is 8m high, the buffer tank which is 8m high and most notably a building which has increased in height to 11.2m from an approved height of 8.7m (although its floor area is substantially smaller). However, all these buildings and structures are lower in height than the two digester tanks which lawfully been constructed and measure 16.5m in height.
57. Views of the site from the surrounding area are extensively screened by the presence of landscape features. The proximity of the adjoining poultry sheds and Long Belt plantation woodland screen views from the south and west as well as providing a backcloth for views of the development from the north and east. The building and structures are lower in height than trees within Long Belt plantation thus ensuring these trees continue to be the most prominent feature locally in the skyline. Views from the north are screened by a landscape bund which has been provided on the northern boundary. Visual impacts are also reduced by the fact that much of the operating area of the site is excavated

below the original ground level which in effect reduces the height of the buildings.

58. The taller parts of the development would be visible above the landscape bund on the northern boundary. Other changes made to the structures are lower in height and thus the combination of the screen bund and the lower site level ensures that many of the lower height elements of the development are screened from view from the north. Notwithstanding the above, the additional structures sought planning permission to be retained within this application would have a greater visual prominence than the approved scheme primarily because there are more structures on the site.
59. The existing planning conditions require the screen bund to be planted in the next planting season (Autumn 2017). Once mature this planting would assist with screening middle distance views from the north including Round Plantation Farm and towards Rufford including the Robin Hood Way footpath. It is recommended that these landscaping controls are repeated within any subsequent planning permission albeit with an amendment to the species proposed to be planted within the woodland to incorporate some evergreen species to ensure the screening is effective during the winter months, this could be regulated by planning condition. Visual impacts would also be controlled by the fact that many of the structures are dark green in colour.
60. The magnitude of visual impact has been reviewed by NCC Landscape who acknowledge that parts of the amended scheme would be more visible in the local area, but conclude that the visual impacts would not be harmful and the proposed amendments can be accommodated within a group of existing buildings of industrial character thus not creating isolated features in a rural location.
61. The overall planning decision requires the visual impacts of the development to be considered as part of the overall assessment of the planning application. In considering the balance of the planning assessment, consideration should be given to government guidance contained within the Overarching National Policy Statement for Energy (EN-1) concerning visual impacts from energy infrastructure. This policy states: *'all proposed energy infrastructure is likely to have visual effects for many receptors around proposed sites'*, and therefore a judgement needs to be made *'whether the visual effects on sensitive receptors, such as local residents, and other receptors, such as visitors to the local area, outweigh the benefits of the project.'* This consideration is given in the conclusions section of this report.

#### Heritage

62. The development site is located within the historic park of Rufford Abbey 300m to the west of Rufford Park Lodge (a Grade II listed building). Planning policy concerning the protection of heritage assets is incorporated at a national level in the NPPF and locally within both the WLP (Policy W3.28) and the N&S A&DMD (Policy DM9).
63. The NPPF attaches great weight to the protection of heritage assets, requiring planning permission to be refused for development which results in substantial

harm to heritage assets other than in exceptional circumstances. In cases where the development would lead to less than substantial harm to a heritage asset the NPPF provides scope to balance the harm to the heritage asset against and wider benefits that may be derived from the development.

64. WLP Policy W3.28 states that waste management development which would harm the character, appearance, condition or setting of conservation areas, listed buildings and historic parks and gardens will not be permitted and therefore does not provide any scope to allow developments that result in less than substantial harm to heritage assets. Since the WLP pre-dates the NPPF and is not consistent with the policy, the Council is required in this instance to give greater weight to the NPPF policy,
65. N&S A&DMD Policy DM9 postdates the NPPF and is therefore consistent with its policy approach. The policy seeks to ensure that heritage assets including listed buildings and registered parks and gardens continue to be protected and enhanced. Specifically with respect to effects on historic landscapes the policy requires that development proposals that are within and outside these areas should be designed to respect the individual characteristics of the particular area and thereby minimise the impact upon it.
66. With regard to effects on the historic park of Rufford Abbey, the development site is on the edge of the historic park and its location adjacent to the existing poultry shed and the backdrop of Long Belt Wood ensures that impacts to the character, appearance and setting of the park are very limited. The development would not affect any features of architectural or archaeological interest and therefore no archaeological investigation works were required during the construction of the development.
67. With regard to the effects to Rufford Park Lodge, views from this property towards the development site (the east) are limited. The main views from this property are to the south (its frontage). The AD site is sited approximately 300m to the east with views towards the development site being partially obscured by the woodland that extends from Long Belt Wood. Impacts to the setting of this listed building are therefore considered to be less than significant.
68. The new elements that were not included in the approved application do not exceed the height of the previously approved digesters. Nevertheless, they increase the industrial appearance of the development and draw further attention to it rather than the Long Belt behind. For this reason, the overall impact of the development has potential to cause harm to the registered parkland and is causing harm to a designated heritage asset, but the level of harm is considered to be less than significant.
69. Much of this impact can be avoided by landscaping the northern boundary of the development site thereby hiding the development as much as possible. A suitable tree planting scheme of the landscape bund to the north of the site would be sufficient to partially hide the digester buildings in the long-term, and the un-landscaped bund achieves a degree of mitigation over the short-term.
70. The Planning (Listed Buildings and Conservation Areas) Act 1990 requires the planning authority to have special regard to any heritage impacts. Paragraph

134 of the NPPF provides scope to balance impacts to the historic environment which are less than substantial against any benefits provided by the development, an approach which is consistent with A&DMD Policy DM9. Consideration of this balance is provided within the conclusions section of the report.

### Landscape Effects

71. The site is located in Mid Nottinghamshire Farmlands Rufford Park Estate Farmlands with Plantations landscape policy zone. This area has a 'create' landscape action and is assessed as having a 'poor' landscape condition and a 'low' landscape sensitivity, due to the presence of existing agricultural buildings and industrial units in a rural setting. The alterations sought planning permission within this application would result in no more than a minor additional impact on the landscape character of the area which already contains the existing AD plant.
72. The site also lies within the boundary of the Rufford Abbey Historic Park. Policy DM9 of the Newark and Sherwood Core strategy, allocations and DPD states that planning permission will not be granted for development which does not secure the continued protection or enhancement of heritage features. Given the scale and appearance of the existing poultry shed buildings to the east and the screening provided by Long Belt Plantation and landscaping of the bund to the north of the site, the proposed new buildings are considered to not have a significant adverse impact on the character of the historic parkland.

### Noise

73. The original planning application for the Rufford AD facility was supported by a noise assessment which assessed the noise output of the specific machinery to be installed and calculated the anticipated level of noise emissions at surrounding property after taking account of the design specifications to acoustically screen noise emissions which included the siting of the CHP Plant within the building.
74. The AD facility incorporates additional plant and a different configuration to the scheme which was assessed in the original noise assessment and therefore its noise characteristics are potentially different. An updated noise assessment has therefore been prepared to consider the noise implications of these changes.
75. The noise assessment submitted in support of this planning application re-assesses the key sources of noise associated with the 'as built' AD plant (comprising the CHP unit, the feedstock pre-treatment unit and the Mississippi paddle dryer) and uses British Standard methodology (BS4142:2014 – Methods for rating and assessing industrial and commercial sound) to calculate the level of noise that would be experienced at the nearest residential property – the Manager's Bungalow. The report demonstrates that existing background noise levels would not be exceeded during the day at this property. During night-time, background noise levels would be increased by 1dB externally of the building. In context, 3dB is only just perceptible to the human ear and as such the exceedance is not considered significant. Noise levels within the property would

be lower, this is due to the noise screening provided by the property and the fact that a partially open window is likely to provide 15dB sound attenuation equating to an internal noise level of 25dB and falling below the 30dB criteria for bedrooms. Noise levels at properties in the wider area attributable to the site operations would be lower than those projected at the manager's bungalow due to the greater distance from the noise source. The noise assessment also rules out the potential for disturbance from isolated peak noise events ( $L_{Amax}$ ) with the maximum noise level predicted to be 54dB and falling below the World Health Organisation Guideline criteria of 60dB for night time noise.

76. WLP Policy W3.9 favours the selection of sites which are remote from residential properties. The noise assessment demonstrates that the site is sufficiently remote from residential property and other sensitive receptors to ensure that the predicted level of operating noise does not become intrusive.
77. The NCC noise consultation has recommended two planning conditions be imposed to limit the level of noise emissions from the facility both during the daytime and at night, these are incorporated in the recommended schedule of planning conditions.
78. The planning application does not seek to alter the hours of working originally imposed on the operation of the site, these restrict the movement of feedstock on the site using mobile plant to between 07:30 – 18:00 Monday to Friday and 08:00 – 14:00 Saturdays although the digester unit would operate 24 hours a day. Deliveries of feedstock to the site are also restricted to these hours except during the harvest season (August to October) when deliveries of crops are permitted between 07:00 to 22:00 hours Monday to Friday and 08:00 to 18:00 hours on Saturdays. A planning condition is also recommended to require the use of 'white noise' reversing warning devices on mobile plant.

#### Impact on the Public Highway

79. The alterations do not seek to change the transport patterns associated with the development. The feedstock for the plant would comprise:
  - roughly 8,000 tonnes of poultry manure per annum sourced from the adjoining Noble Foods poultry unit,
  - 8,000 tonnes of vegetable out grades per annum originating from local vegetable packing plants, and
  - 10,000 tonnes of energy crops per annum, approximately 10% of which would be grown on Stud Farm with the remainder being grown locally and transported on the public highway.
80. In the context of vehicle movements this would generate the following number of HGVs.
  - The 8,000 tonnes of poultry manure would be delivered to the AD plant on a daily basis from the existing manure store within the Noble Foods poultry unit. This waste is currently transported off site and disposed and therefore the on-site management of this would reduce the number of lorry trips associated with the transport of this waste on the highways system by 290 per year (or 580 movements).

- The 8,000 tonnes of vegetable out-grades would require 278 trucks (556 movements).
- The 10,000 tonnes of energy crop would generate in the region of an additional 360 lorry trips per year (720 movements).
- The solid end substrate would be transported to farms in backloads of vehicles thus not generating any additional vehicle movements.
- The haulage of the liquid end substrate would generate a further 575 lorry visits per year (1150 movements).

81. It is recommended that a limit of 1211 lorry visits per year should be imposed as part of any planning permission issued for this development.

#### Section 106 legal agreement

82. As part of the planning permission issued for the anaerobic digester tanks (3/15/02255/CMA) a Section 106 legal agreement was imposed to secure the long term protection and management of the Long Belt woodland so as to ensure this important visual screen is maintained for the operational life of the anaerobic digesters. This current planning application does not seek to alter the anaerobic digestion structures or any element of planning permission 3/15/02255/CMA. The existing Section 106 legal agreement would therefore continue to regulate the retention and maintenance of Long Belt Wood whilst the digester tanks are retained on the site.

83. However, because the Section 106 legal agreement is linked to the anaerobic digester planning permission, its regulatory control would be lost in the event that these structures were removed. Whilst it is acknowledged that the digester tanks are essential to the anaerobic digestion process and the facility could not operate without them, the digesters are operational plant and it is not impossible to rule out the potential that they may require replacement during the operational life of the site. Any replacement digesters could potentially be undertaken under permitted development rights and thus bypass the opportunity for the Council to re-impose control over Long Belt Wood.

84. It is therefore recommended that any planning permission to retain this development is reached subject to the operator entering into a further Section 106 agreement to manage and retain Long Belt Woodland. This would ensure the woodlands retention is linked to the entirety of the operational site and not limited to the duration when the digesters are retained on site.

#### Other Issues

85. The alterations to the structures and layout of the site would not result in any ecological effects and therefore the planning application complies with the N&S CS Policy 12 (Biodiversity and Green Infrastructure) insofar that the development would not harm the biodiversity of the area.

86. The relocation of the surface water lagoon would not alter the overall drainage arrangements within the site. A drainage layout plan has been provided with the planning application which shows that the site is impermeable surfaced and

served by a drainage system to collect surface water and flow it towards the lagoon. Liquids from the Anaerobic Digester would be separately collected and stored within the previously approved lagoon prior to application to farmland as a fertiliser. Foul water would be separately collected and disposed of through a package treatment plant. These drainage arrangements are considered acceptable in principle subject to the applicant demonstrating that the capacity of the holding lagoon is adequate to accommodate water discharges from a storm event which can be regulated by planning condition. The drainage system ensures that the surrounding water environment is adequately protected from contamination and flooding in accordance with WLP Policies W3.5 and W3.6 (Water Resources).

87. The applicant has confirmed that the building is used to store small quantities of chicken manure prior to feeding it into the process since it was found to be operationally very difficult to deliver chicken manure straight into the feed hopper. No chicken manure is stored on any open areas or in the clamp, and the storage building has a roller door and odour abatement system installed. The company state that there have not been odour complaints as a result of this method of operation in the 9 months the site has been operational.
88. This planning application does not seek to alter the existing operational controls imposed on the Site under the original planning permission and it is therefore recommended controls regulating hours, traffic, noise, odour and landscaping are re-imposed as part of this planning decision.

### **Other Options Considered**

89. The report relates to the determination of a planning application. The County Council is under a duty to consider the planning application as submitted which seeks to retain development already constructed on the site. Accordingly no other options have been considered.

### **Statutory and Policy Implications**

90. This report has been compiled after consideration of implications in respect of finance, the public sector equality duty, human resources, crime and disorder, human rights, the safeguarding of children, sustainability and the environment, and those using the service and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

#### Crime and Disorder Implications

91. The site is enclosed with fencing and is manned by staff with entry to the site restricted to those with permission.

#### Human Rights Implications



92. Relevant issues arising out of consideration of the Human Rights Act have been assessed. Rights under Article 8 (Right to Respect for Private and Family Life), Article 1 of the First Protocol (Protection of Property) and Article 6 (Right to a Fair Trial) are those to be considered. In this case, however, there are no impacts of any substance on individuals and therefore no interference with rights safeguarded under these articles.

#### Implications for Sustainability and the Environment

93. The development would:
- Manage waste within a recovery process, diverting materials that would otherwise be disposed of as waste. The development is therefore compliant with the waste hierarchy which primarily concerns itself with achieving sustainable waste management.
  - The development produces gas from renewable sources which is used to heat and power the Centre Parcs complex and directly off-sets the use of fossil fuels previously used for this purpose.
  - The development results in a reduction of carbon emissions.

The development therefore is considered to be 'sustainable' in terms of its use of resources.

#### **Conclusion**

94. Planning has an important role in the delivery of new renewable energy infrastructure. The strong message contained at Paragraph 98 of the NPPF is that local planning authorities should approve planning applications for renewable energy schemes if impacts are, or can be made acceptable. The planning application is strongly supported by Core Policy 10 of the N&S CS, Policy DM4 of the N&S A&DMD, strategic objective 4 of the WCS as well as the NPPF and NPPW which aim to maximise the production of renewable energy. The benefits of the scheme in terms of the production of renewable energy weigh heavily in the balance of acceptance of the proposal.
95. The alterations to the site layout, plant and machinery made as part of this amended scheme would have some negative effects, but not of a significant magnitude. Notably the additional structures would increase the visual appearance of the site, however, the presence of existing and new landscape screening would substantially minimise the magnitude of visual impact. There would also be some impacts to the heritage asset of the area, but again these are reduced by landscaping and assessed as being less than significant. In other respects the alterations do not significantly change the environmental effect of the development.
96. The benefits of the development in terms of its renewable energy capacity and its contribution to reducing carbon emissions and global sustainability should not be underestimated. Planning authorities are encouraged to grant planning permission for new renewable energy capacity unless there are irresolvable material considerations which indicate otherwise. The harm that has been

identified is comparatively minor and would largely be mitigated by the existing and proposed landscaping. The development therefore is supported by the underpinning presumption in favour of sustainable development contained within the NPPF and NPPW.

97. Furthermore, it is noted that the location of the Stud Farm AD plant was selected primarily as a result of its proximity to its feedstock, notably the waste produced from the one million egg laying birds in the adjoining poultry unit, the proximity to surrounding agricultural land which would be used for growing energy crops and the waste from vegetable packaging plants operating in the area. The site also benefits from being in close proximity to Centre Parcs which utilises the gas produced by the facility as a source of renewable heat and electrical power.
98. In applications of this nature where there are some positive and negative effects the issues have to be balanced and a judgement of the competing merits has to be taken. In this particular instance the government policy support for renewable energy schemes is considered to outweigh the comparatively minor impacts that have been identified from the alterations that have been made to the approved scheme. The potential environmental effects are capable of being mitigated and controlled by planning condition.
99. It is therefore concluded that, subject to the imposition of the conditions listed within appendix 1 and a Section 106 legal agreement to retain and manage Long Belt Woodland, the overall balanced conclusion is to support a grant of planning permission.

### **Statement of Positive and Proactive Engagement**

100. In determining this application the Waste Planning Authority has worked positively and proactively with the applicant by entering into pre-application discussions; assessing the proposals against relevant Development Plan policies and the National Planning Policy Framework. The Waste Planning Authority has identified all material considerations; forwarding consultation responses that may have been received in a timely manner; considering any valid representations received; liaising with consultees to resolve issues and progressing towards a timely determination of the application. Issues of concern have been raised with the applicant, such as impacts of noise, drainage and landscaping and have been addressed through negotiation and acceptable amendments to the proposals. The applicant has been given advance sight of the draft planning conditions. This approach has been in accordance with the requirement set out in the National Planning Policy Framework.

### **RECOMMENDATIONS**

101. It is RECOMMENDED that the Corporate Director – Place be instructed to enter into a legal agreement under Section 106 of the Town and Country Planning Act 1990 to ensure the long term protection and management of the woodland screening provided within Long Belt Wood.

102. It is FURTHER RECOMMENDED that subject to the completion of the legal agreement before the 31<sup>st</sup> January 2018 or a later date which may be agreed by the Team Manager Development Management in consultation with the Chairman and the Vice Chairman, the Corporate Director – Place be authorised to grant planning permission for the above development subject to the conditions set out in Appendix 1 of this report. In the event that the legal agreement is not signed by the 31<sup>st</sup> January 2018, or within any subsequent extension of decision time agreed with the Waste Planning Authority, it is RECOMMENDED that the Corporate Director – Place be authorised to refuse planning permission on the grounds that the development fails to provide for the measures identified in the Heads of Terms of the Section 106 legal agreement within a reasonable period of time.

**ADRIAN SMITH**

**Corporate Director – Place**

**Constitutional Comments – [RHC 5/10/2017]**

Planning and Licensing Committee is the appropriate body to consider the contents of this report.

**Comments of the Service Director - Finance [RWK 06/10/2017]**

There are no specific financial implications arising directly from the report.

**Background Papers Available for Inspection**

The application file available for public inspection by virtue of the Local Government (Access to Information) Act 1985.

**Electoral Division(s) and Member(s) Affected**

Sherwood Forest

Councillor John Peck

Southwell

Councillor Roger Jackson

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For any enquiries about this report, please contact the report author.