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Your Ref: 2022/1108
Date: 28 November 2022

My Ref: 9/7/22/1108
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Dear Tim

Bressingham: Construction of an Anaerobic Digestion facility (part retrospective), comprising: 1 no. digester tank and 1 no. secondary digester/digestate storage tank, silage clamps, liquid and dry feed system; digestate separation, handling and pasteurization, biogas upgrading and mains gas grid connection; carbon capture, CHP, agricultural building; office buildings, weighbridge, 2 no. covered digestate storage lagoons, and associated plant, vehicular accesses, roads and landscaping (including earth bunds). Revised application following withdrawn planning application 2021/2788. Deal Farm Kenninghall Road Bressingham Norfolk IP22 2HG

Further to my previous response, and the subsequent information submitted (namely the Transport Statement Addendum (TSA) & Road Safety Audit) please find below our further comment.

As you will be aware, in an attempt to make the previously withdrawn proposals acceptable, the current application outlined a reduction in the maximum annual feedstock throughput, suggesting that the feedstock and digestate output will be from the immediate 'local' (5km) catchment and outlined that the proposals would lead to a decrease in vehicle movements on the surrounding network.

As outlined in detail in my previous response(s), as HA, we raised concern with the proposals. Whilst these concerns were detailed at length in our previous responses, in broad terms they were in relation to 1) the capacity of throughput material; 2) the 'local' catchment; 3) the traffic generation outlined for both the existing & proposed uses & 4) the suitability of the highway network and mitigation proposed.

The applicant has now appointed an additional transport consultant, who has subsequently produced a TSA in support of the proposals. Within the TSA itself, it acknowledges that the previous TS was ambiguous and failed to provide details in relation to highways & transport. It should also be noted that the TSA stresses that it should be read as a standalone and independent assessment.

Having now considered the subsequent information, as HA, we still have concern with regard to the proposals and the information submitted. Given the extensive comments already made with regard to the proposals, I have tried to focus my comments with respect to those directly in relation to the TSA & RSA. For clarity, I will use the same 4 broad headings as per my previous response.

1) Throughput of feedstock - The proposals continue to outline that the annual feedstock would be limited to 23,950 tonnes per annum, despite the fact that there are two digester tanks already in place on site, which according to the previous application (2021/2788) could process 46,750 tonnes per annum.

I had previously outlined that, given that presence of both tanks on site, this places the lower figure in doubt, as the lower throughput would be approximately half of the available site capacity. I had asked the applicant to clarify if only 1 tank would be operational what would happen with the other tank - would it be removed? Given the commercial nature of the operation and the capital outlay this seems unlikely.

No further comment however has been received in relation to these queries, the TSA simply suggests that the throughput of feedstock could be controlled by a suggested condition (no. 1).

Due to the previously outlined concerns, as Highway Authority, we would need to be confident that there is a reasonable expectation that these levels will not be exceeded; how this would be managed; and how you would be able to enforce this.

For the avoidance of doubt, the TSA outlines that this would be enforced by the CPA however it is my understanding that this would be your Authority's responsibility, as LPA, to enforce.

As I understand it, your Authority has concern with regard to the enforceability of such a condition, which is a concern we share, and as such you have sought legal advice on this matter.

In addition, a further condition (no. 3) is proposed which would seek to limit the number of HGVs which could access the site each day. I would strongly question if such a condition would pass the tests set out within the NPPF as the drivers of HGV's would still have a legal right to use the public highway, granted under an Act of Parliament (the Highways Act 1980) and your authority would be unable to prevent that legal use by condition. In addition it is not clear how it would be enforced, by Your Authority, particularly given the other activities in the area which would continue.

Given the above, our concerns remain that the throughput limit would be exceeded given the obvious available capacity on the site which would lead to further traffic to / from the site.

2) Catchment Area – Very limited additional information has been provided with regard to the concerns raised in relation to the 'local' catchments for both feedstock & digestate.

Previously it was outlined that the site will i) use energy crops grown within a 5 km radius of the AD plant, ii) that (as per the previous application) the waste feedstock will come

from immediate farms and iii) the local farms would accept the digestate.

Concern however was raised as the applicants failed to provide any evidence, through a mechanism such as a S106 or similar legal agreement, to guarantee that this would be the case (and for how long). It was previously suggested that this (the suggested radius) could be conditioned, however we questioned whether this would pass the tests of the NPPF and would be problematic for your Authority to enforce. I understand that this is a view shared by Your Authority and that you have again sought legal advice on this matter.

The submitted TSA does not reference a 5km catchment, however it does include a Memorandum of Understanding (MOU) which it suggests secure the future provision of feedstock from 3rd party farms. However the information included is limited. The applicant had previously suggested that there was a 20 year agreement between the land owner & the AD plant owner, however now the MOU suggests 10 years.

Most critically however, the MOU does not look to be a legal binding agreement, and unlike a S106 agreement (as requested), could not be relied upon. In addition, it does not include all proposed suppliers of feedstock or even take account of the digestate (output) material. Within the MOU it makes reference to a Feedstock Supply Agreement (FSA) which it suggests has also been agreed however this has not been provided.

Given that the assumptions and claims made within the TSA any agreement would need to be both legal binding and in place for the life of the AD plant to ensure both the timeframe and the quantity of material (feedstock & digestate) is from a 'local' catchment as outlined.

Without these assurances, our significant concern remains that there is the possibility that a significant level of (if not all) feedstock would be sourced (and digestate transported) further afield than the 5 km 'local' catchment. In this scenario, all traffic would be 'new' and in addition to the existing traffic on the network, as the landowners permitted operations (and associated traffic) could continue on the network.

3) Traffic Generation - Notwithstanding the above, questions still remain with regard to the submitted assessment outlined within the TSA.

Within the latest TSA, it is still outlined that, if permitted, the AD plant would result in a reduction in traffic movements on the network however there are still questions with regard to this assessment.

For example with regard to existing traffic movements, within the original TS it was outlined that there were typically 4,141 two way vehicle movements per annum (data from the past 5 years), whereas the current TSA suggest this figure has increased to 5,128 pa. Given this significant discrepancy, and without any detailed evidence to explain why this figure is so significantly higher, this raises doubt of the baseline figure for the assessment.

Also previously, at the request of the HA, the applicant provided a more detailed breakdown of the traffic figures including a monthly breakdown however this is not included within the TSA.

Whilst summary tables have been provided to suggest how this figure has been calculated, the assessment is lacking in any detail to evidence / validate this figure. It is noted that the

assessment refers to the existing traffic generation to the application site however does this actually mean the wider farm? It is not clear.

In addition, as per the previous assessments submitted, the TSA is lacking in a number of areas of information and relies upon a number of assumptions (such as a significant saving in double handling, backhauling, a significant proportion of the input / output material coming from the local landholding and a significant saving as straw will not longer be purchased and sold on).

Given the extensive comments previously provided on this section I do not intend to repeat our observations in full however I would add the following in respect to the TSA.

(1) Input material

The applicant has suggested that the required 23,950 tonnes of feedstock will mainly be from the landowners local landholding and be in two forms - non-waste (56%) / farm waste (44%). Given the lack of legal agreement this has already been questioned above. However even if this could be relied upon there are still outstanding questions remaining.

For example, it is outlined that 6,450 tonnes of straw would be required, of which 5,650 tonnes would be imported. It is outlined that this activity would actually reduce traffic movements (from 820 to 706 2-way) as at present the farm imports 3,720 tonnes of straw and then exports it to other AD plants. There is no guarantee that this existing operation and contract will cease and it could continue in addition to the new facility. If it is the case that all 5,650 tonnes of straw could be imported in addition to the existing import / export operation this would clearly put in doubt the TSA.

Similarly, it is outlined that 9,000 tonnes of farm waste would be imported however the majority (consisting of 500 tonnes of chicken manure, 5,500 tonnes of pig manure) would be sourced from the immediate farms without the need to enter the public highway (something it is suggested happens at present for storage at muck pads). No evidence has been submitted to confirm that this level of manure is in fact generated at present by the land owner.

The remaining 3,000 tonnes of cattle / duck manure would be imported to site from a third party. It is suggested that this would be sourced from local farms, however again no detail has been provided. The TSA outlines that the additional waste material alone would increase 2 way traffic movements by 230 (115 in & 115 out) however this is based upon a 26T payload so I suspect in reality this figure would be higher.

Despite the above increase in waste importation, the applicant is again suggesting that there would be a decrease in traffic movements associated with animal waste due to a reduction in double handling of pig manure. Despite my previous requests, there is very little evidence however to verify this claim (it would be reasonable to assume that it would be in the applicants benefit to spread directly to the field) or to even confirm if such 'existing' movements are actually on the highway network at present. This is critical as the TSA concludes that by diverting manure to the AD plant will reduce 2-way traffic movements by 2,182 per annum.

(2) Output material

Solid Digestate

A significant saving in traffic generation has again been applied due to the suggestion that digestate will be back hauled from site. As previously outlined, the Highway Authority accepts some of the solid digestate could be backhauled in the empty trailers as suggested, however from visiting these sites elsewhere in Norfolk it's abundantly clear the digestate is sent to different sources from that of delivery stock and the digestate goes back out on separate vehicles at different times.

Any backhauling would be limited and outgoing movements would take place throughout the year at a steady rate, usually by fast track tractor and trailer combinations, which increase the number of vehicle movements over and above the figures quoted.

I would strongly question that such a high % of digestate is capable of being backhauled from the site. Unless backhauling can be guaranteed, the assessment should be made based upon the worst case scenario which would be all trips on the highway network being considered as 'new'.

Liquid Digestate

It is suggested that all of the 10,309 tonnes of liquid digestate will be pumped from the site to lagoons or pumped directly onto fields by umbilical and will only result in 94 movements per annum. Of which 1,031 tonnes will be tankered away to growers on the highway network (resulting in just 94 2-way movements).

Very limited information however has been submitted in support of this claim to demonstrate that this is realistic.

As previously outlined, given the fact that lagoons are still proposed, with off-take points, would suggest that in fact considerable more digestate would now be produced than is required locally and therefore it is likely that new independent tanker traffic would be generated to transport the digestate to other, further afield locations.

As per my previous responses, I strongly suspect that the traffic generation associated with the AD plant proposals would be higher for the reasons outlined above and that the 'existing' scenario outlined is in fact lower in reality. The TSA concludes that a worst case scenario is outlined however this view is not shared by the HA. Given that the applicants whole TSA relies upon the assertion that the proposals will not increase traffic on the local road network, and will in fact decrease traffic, clearly these factors need to be considered and understood now.

4) Highway Mitigation

The TSA proposes a haul route to / from the site to the A1066 (to the south) despite the suggestion that there would be no additional traffic generated. The route now proposed is not one which has previously been evaluated and is considered to be wholly inadequate to cater for any significant increase in traffic.

The route is typically single track (2.4 to 3.7 metres), flanked by narrow / banked verges and ditches, sinuous in nature and designated as a Quiet lane. The fact that the TSA has

identified the need for 37 areas of widening / passing places only acts to demonstrate the inadequacy of the route.

Furthermore, as highlighted within the RSA, there are significant issues with regard to the proposed improvements even if they were considered appropriate as there is no guarantee the applicant could implement them. The drawings submitted are lacking in detail, do not include highway boundary or land ownership information and have not addressed the issues raised within the RSA. I strongly suspect that given the narrow / banked verges and presence of road side 3rd party ditches many of the improvements suggested could not be provided within the extents of the public highway.

As with any mitigation, we would need to understand what is being proposed and be satisfied that there is a reasonable expectation that it can be safely provided on the ground and if it could be provided within land under the applicants control / highway. It is not acceptable to suggest that these haven't been developed as highway boundary verification requests can take 12 weeks to process and therefore they will do this after gaining permission, particularly as we were first consulted with regard to application number 2021/2788, in January 2022 and highlighted this point at an early stage.

Notwithstanding the above, even if the haul route were acceptable given the previous routes proposed to / from the site and the obvious links to the east & west I would strongly question if these route would be adhered to and how its use would be enforced.

The TSA suggests a condition (no. 4) for a Service & Delivery Plan however, given the other uses in the area, and the alternative available routes to the site I believe this would be problematic for your Authority to enforce. NB: for the avoidance of doubt this should reference the LPA not HA as in their draft.

Highway Concern

Even if the applicant could guarantee that feedstock would come from a local catchment, which is in doubt given the lack of legal agreements in place, this can only increase and intensify HGV / agricultural movements on a focused part of the rural network.

I strongly suspect that this facility will become more industrial in nature generating significant and new traffic to the area, serving wider catchments. Such a facility would be better suited to be located on the major road network.

Whilst a haul route is proposed it is not considered to be appropriate or likely to be used. All routes to / from the site are via the single track rural road network, many of which are designated as quiet lanes. Though 2 cars may pass each other, if driven with care, over many of these routes, the carriageway is not wide enough for a vehicle larger than a car to pass any other vehicle except at the existing informal 'passing places'. For the main part these have been formed over time by overrunning and consequent erosion of the banks and grass verge.

The site itself is currently accessed via a purpose built access onto Common Road, which was considered the most appropriate point to access the previously approved proposals. This does not justify its use by further traffic, as the routes immediately to the north & south of the site are narrow.

In addition, concern remains with the off-take points which themselves are located on the same single track rural network. I strongly suspect that there would be more than just 94 movements generated from these points, given the level of digestate suggested.

Therefore a concentration of further HGV activity is likely to occur on parts of the network which, by virtue of their widths, are not suitable.

It is of course acknowledged that in this highly agricultural area, some movement of crops in large vehicles - tractor/trailer combinations, tankers, or other HGV – is 'normal' and to be expected by other road users. Nevertheless, the traffic movements generated by this proposal would be problematic for the following reasons:-

- They would be very frequent and concentrated on this particular stretch of road over a concentrated time period each year.
- During that time the movements would continue at high frequency over a very long working day, extending from early morning until late evening, and into periods of dusk and darkness.
- The existing mix of traffic on the road includes domestic cars, agricultural vehicles, tankers and other HGVs and conflict would occur with the applicant's traffic.
- In relation to the narrow sections of the routes - the only option would be to reverse the length of the previous stretch to gain refuge in an informal passing place / access : a manoeuvre which would be difficult for some drivers and for the drivers of some large vehicles, including tractor-trailers, and particularly in conditions of poor light, dusk and darkness. The consequences of a mistake could be especially severe.

You will note from the concerns raised locally that there is already concern with regard to the highway network to cater for current permitted traffic movements. This proposal would markedly intensify and exacerbate the difficulties currently experienced by the current situation, and likely lead to considerable verge erosion, the undertaking of dangerous manoeuvres and increase the conflict between HGVs and others users of the highway, including vulnerable users.

Summary

As previously outlined, ultimately to robustly assess the proposals you as LPA, and us as LHA, need to be clear what traffic is currently associated with the landowner, how much additional traffic will be on the local network, at which points / roads they use, what other existing activities from the landowner will continue, and that the local highway network is suitable to cater for this.

We would need to have confidence that the capacity would be limited and that the feedstock and digestate output will be from the immediate local catchment, as suggested, and that this arrangement can be secured in perpetuity. If it cannot be guaranteed that this will be the case then clearly the concerns we have previously outlined, at length, in our two responses in relation to application 2021/2788 remain.

Given that the applicants whole TSA relies upon the assertion that the proposals will not

increase traffic on the local road network, and will in fact decrease traffic, clearly these factors need to be considered and understood now.

Highway Authority recommendation

Given the above, the Highway Authority, has no choice but to continue with our recommendation of refusal to this application for the following reasons -

SHCR 07

The highway network serving the site is considered to be inadequate to serve the development proposed, by reason of its poor alignment / restricted width / lack of passing provision / substandard construction / restricted forward visibility. The proposal, if permitted, would be likely to give rise to conditions detrimental to highway safety. Contrary to Development Plan Policies.

SHCR 31

The application is not supported by sufficient transport information to demonstrate that the proposed development will not be prejudicial to the satisfactory functioning of the highway / highway safety. Contrary to Development Plan Policies.

Yours sincerely

Jon Hanner

Principal Engineer - Developer Services
for Executive Director for Community and Environmental Services

Please be aware it is the applicants responsibility to clarify the boundary with the public highway. Private structures such as fences or walls will not be permitted on highway land. The highway boundary may not match the applicants title plan. Please contact the highway research team at highway.boundaries@norfolk.gov.uk for further details.