

## CASE OFFICER'S REPORT

**Application Reference:** 19/06300/WCM  
**Date of Inspection:** 15/08/2019 and 07/02/2020  
**Date site notice posted:** 16/08/2019  
**Date of press notice:** n/a

**SITE ADDRESS:** Bekson Farm 54 Whaddon Lane Hilperton BA14 7RN  
**PROPOSAL:** Change of use to waste recovery operation and Siting of a Biomass boiler and container for the control unit

### POLICIES

Wiltshire Core Strategy (WCS): CP42 – Standalone Renewable Energy Installations; CP51 – Landscape; CP55 Air Quality; CP57 Ensuring High Quality Design and Place Shaping

Wiltshire and Swindon Waste Core Strategy 2006-2026 - Policy WCS3

Hilperton Neighbourhood Plan

The National Planning Policy Framework (NPPF) and NPPG

### ISSUES

- Principle of development
- Impact on neighbouring amenity
- Impact on the landscape
- Impact on highway safety
- Impact on biodiversity

### CONSULTATION RESPONSES

Councillor Clark – No objection (or need to retain the call in to Planning Committee) subject to a temporary permission

Hilperton Parish Council – “No comment to make” but “we would ask the planning authority to ensure that the products being burnt in the boiler are not producing any harmful emissions.”

Wiltshire Council Air Quality Officer – No objection subject to a trial two year temporary permission

The Air Quality Consultants report has provided some context for what we witnessed on site. It is not inconceivable that what we witnessed may have been a function of fuel management or start up periods.

Given the location of the farm and the prevailing background levels of nitrogen dioxide (NO<sub>2</sub>) and particulates (PM<sub>10</sub>) it is noted that these remain within objectives with the biomass boiler present. As you know it has been made clear to both planning and the applicants agent/consultants that Public Protections’ principle concern relates to the potential for impacts upon amenity from smoke and odour; given yours and my observations of smoke blowing into Knoll Farm during our site visit in August 2019.

It would appear that the odour pathway between Knoll Farm and the biomass boiler is only moderately effective at reducing odour at Knoll Farm which is downwind; and that Air Quality Consultants have identified a ‘slight adverse effect’ risk in respect of odour at Knoll Farm.

Given the uncertainties of modelling and prediction even where conservative inputs are used, Public Protections view is that only a temporary permission can be supported in view of the above and that this must be accompanied by a boiler management plan that identifies how the following boiler fuel issues will be managed:

- Over-filling
- Low furnace temperature
- Inadequate ventilation
- Fuel with a high moisture content
- Different fuel type (to that assumed in the assessment)

Engineering options for the boiler flue height and location appear to have been considered only in respect of their impact upon pollutants levels which we note are within AQ objectives. Public Protection are more interested to know what if any impact raising the height or changing the location of the boiler flue will have upon the odour pathway and risk of impacts at Knoll Farm?

Public protection do not consider a risk of smoke generation during short start up periods to be grounds for refusal.

Wiltshire Council Highways Officer – No objection

## **REPRESENTATIONS**

2 letters of objection received

- Unsuitable road access and Whaddon Lane gets damaged and needs passing places. This will only increase traffic
- Concern over air pollution and need to comply with Clean Air Act
- Are the pallets waste products?
- Does this use comply with its agricultural status and isn't a waste transfer site?

For the avoidance of any doubt one of the objection letters was received when the application had a suffix of FUL (full planning application. Once it was understood by the Council that waste wood is brought to the site for processing into woodchip, the suffix of the application was changed to WCM (waste application) and re-advertised. The Council therefore has considered the application as a waste recovery application (but only of agriculturally sourced timber products). The pallets are used to run the boiler, not to be turned into wood chip.

2 letters of support received

- We live to the south west of the boiler – we've never experienced problems with noise, odour or smoke
- No nuisance has been caused to a stable yard in front of the boiler

However, Officers note that no objection from the immediate neighbour No 56 Knoll Farm has been received.

## **ASSESSMENT**

This is an application for the change of use of open countryside to a waste recovery operation and the siting of a biomass boiler and container for the control unit at Bekson Farm, 54 Whaddon Lane.

Bekson Farm comprises of a residential bungalow (which has an agricultural tie) and two barns. The first larger barn (to the north of the boiler) used to be a piggery first approved in applications W/76/99848/HIS W/77/00333/HIS.

The second barn (to the south of the boiler) was approved under application 14/09400/FUL.

The small agricultural field is understood to be used to grow grass for hay. It is understood that the applicants run a forestry and agriculturally linked businesses from the site.

There is only one residential property within the immediate vicinity of the application site, Knoll Farm, where the boundary is approximately 50 metres away from the boiler, but its residential curtilage is considered to be approximately 110 metres away. There are also a further three dwellings approximately 190 metres (and beyond) to the south east. Hilperton is approximately 350-400 metres away to the south west. Apart from Knoll Farm, the rest of the surrounding area is open countryside.

On the site visit the case officer viewed the smaller modern barn and confirmed that it looks like it is used for agricultural storage (e.g. storage of a tractor).

The boiler comprises of a metal 'box' and has a flue which is approximately 4 metres high (no elevation plans were submitted). It is connected to a rectangular blue container unit which houses the control unit. The control unit turns the boiler on and off and sets the combustion and efficiency rate of the boiler. On the site visit (conducted with the Council's Air Quality Officer) the applicants demonstrated the boiler on full power as well as the preferred setting of 70% to allow for the external noise level to be observed.

The boiler is powered by burning wooden pallets which are sourced from a local factory (the Consortium Education – approximately 1 and half miles away) which are collected by the applicants themselves. Only pallets that are accepted on site are non-painted and non-treated pallets and are therefore suitable for burning. The pallets are stored outside without any cover from the elements. The heat from the boiler is then used to dry wood chip which is dried in a further open top container located immediately next to the boiler, connected by pipework. The wood chip is sourced from associated businesses (e.g. tree surgeons and forestry work) where waste timber is brought to the site, chipped and then added to the container for drying. The dried woodchip is then sold on for other biomass boilers to use (currently one customer who uses it to heat the sheds of two chicken farm buildings).

For the avoidance of any doubt this is a retrospective application, and all communications between the case officer and consultees and other parties (e.g. neighbours) have understood the application to be retrospective.

The applicants have submitted the following documents in support of their application:

- Design and Access Statement
- RHI Certificate and Emissions Certificates
- Boiler service record
- Air Quality Report

The applicants also submit that the boiler was installed and operated in December 2016 and to date there has not been a complaint either to planning or environmental health. The applicants state that the only reason for submitting the application has been a change in policy of the boiler providers that in order to renew the licences, planning permission should be sought.

For the avoidance of any doubt, this boiler and the use requires planning permission and had the applicants asked or sought advice from the Council prior to installing the boiler this would have been confirmed.

The applicants have confirmed the following;

- The boiler is run roughly between 8am and 6pm over a maximum of 5 days, sometimes on a Saturday but never a Sunday
- The applicants dry 1 to 1.5 containers of wood chip a week (but sometimes 2 containers per week)
- They normally allow 3 days to dry 1 container, 2 containers would be possible over the full 50 hours, but they'd like 3 days to be on the safe side. One container therefore takes approx. 30 hours to dry
- The dried woodchip is taken out in single delivery's (approximately 34 so far between 1 January 2019 and 14 October 2019)
- Between 1<sup>st</sup> January to 30<sup>th</sup> June 2019 the applicants collected 23 loads of wooden pallets, just under 1 per week
- Between 1<sup>st</sup> January to 30<sup>th</sup> June 2019 the applicants brought back 27 loads of waste wood from various forestry jobs

Following a site visit it was concluded that a noise survey was not necessary as even operating at 100% the noise was not considered to be loud enough to warrant a survey.

Principle of development:

WCS Preamble 6.38 states that CP42 applies to all types of renewable energy including biomass generators and other energy from waste technologies. It is therefore considered that WCS CP42 applies to this application as the end product of this boiler, wood chip for supply of other biomass boilers, is considered to be a renewable source of energy. The woodchip for biomass boilers to run on has to come from somewhere and requires its own process before being used in biomass generators. It is considered that it would be a tenuous reason for refusal should this application be refused because this specific type of renewable use isn't a listed '*standalone renewable energy installation*' itself. Therefore, it is considered that CP42 applies to this application.

CP42 states that proposals for standalone renewable energy schemes will be supported subject to satisfactory resolution of all site specific constraints. Proposals will need to demonstrate how impacts on the following factors have been satisfactorily assessed, including any cumulative effects, and taken into account:

- The landscape
- Biodiversity
- Residential amenity (including noise, odour and visual amenity and safety)

Therefore subject to satisfying the above criteria, the principle of development under WCS CP42 is supported.

Impact on neighbouring amenity:

WCS CP57 (vii) requires development to have regard to the compatibility of adjoining buildings and uses and the impact on amenities of existing occupants, including the consideration of pollution.

On the joint August 2019 site visit conducted with the Council's Air Quality Officer (the site visit was also conducted under an arranged appointment) Officers experienced a strong concentrated odour/smell on the boundary with the closest neighbour Knoll Farm. This odour/smell extended a fair distance down the access track – demonstrating that the odour

can be experienced over a wide area. Officers did not visit Knoll Farm itself but given the intensity of the odour it is reasonable to conclude it would have also been present within their boundary. However, it is important to note that the odour was mostly only strongly noticeable to the east end of the bungalow of Bekson Farm; when stood at the western end of the building the odour as not as intense or indeed as noticeable.

It also has to be considered that Knoll Farm's residential curtilage is considered to be fairly tight around the building (defined by a retaining brick wall), with the field between the wall and the boundary used by livestock. The residential curtilage is therefore not considered to extend up to the boundary where the intense odour was observed. Therefore, Officers accept that there may be some (but only very limited) doubt as to the extent of the smell/odour problem that could reach Knoll Farm itself and Officers did not visit Knoll Farm at the time to confirm. However, this is not to say that the occupants of Knoll Farm could still be present and active outside their residential curtilage, tending to the livestock and that they have a barn of their own (within the property boundary) that would undoubtedly been subject to that odour witnessed on site. Knoll Farm's barn is in the direct line of sight from the boiler and the eastern end of Bekson Farm, and therefore would have been subject to the likely wind direction on that day carrying the observed odour/smell across.

Nonetheless, on the site visit the odour was considered to be harmful should it be experienced by neighbouring amenity (Knoll Farm) and given that it was witnessed at an arranged time, raised sufficient concerns to request the applicant to provide explanation as to what this was, why it was happening and to provide mitigation if necessary.

The odour/smell could have been caused by a number of factors; the wooden pallets were not dry enough (unlikely due to the August summer site visit date), or the boiler wasn't combusting correctly or efficiently enough etc, or that the flue isn't high enough to disperse the fumes higher and wider. There is also the small possibility that the boiler was burning treated wood as Officers did not see the content of the boiler before it was fired up. It is also noted that in the wooden pallet stacks there was the odd painted/treated pallet. Officers stress that they were only noted to be on site – and do not state that they are burnt on site or in the boiler.

Initially the applicants (via the boiler manufacturer) suggested to extend the flue by a further two metres (to approximately 6 metres) but did not explain what the problem was nor why this solution would work. Officers therefore requested further information via an odour/air quality survey, which was eventually submitted (and sent out for neighbour re-consultation).

The submitted air quality report assessed the pollutant content of the emissions (and it is understood that this estimated the emissions and didn't test it) and found it to be 'low risk'. However, what the air quality report didn't cover was 'odour' and its impact on residential amenity, which is what Officers wanted the assessment to be based on. The report did however, provide some context of what was witnessed on site, and that it may have been a function of fuel management or start up periods.

The Council's Air Quality Officer stated in the consultation response on 6 January 2020 that; *"Public Protection would like know what if any impact raising the height or changing the location of the boiler flue will have upon the odour pathway and risk of impacts at Knoll Farm"* i.e. it still hasn't been demonstrated that the odour impact on Knoll Farm has been proven to be acceptable.

The Councils' Air Quality Officer accepts that what was witnessed on the joint site visit could have been fumes from start-up procedures, which can be bad until the boiler gets up to speed, and that this alone would not have been enough in which to refuse the application. For the avoidance of any doubt, if the fumes were not as a result of 'start up', and are actually the norm, then it is considered that the application would have been refused on neighbouring

amenity grounds. Without a formal objection to this application from Knoll Farm, or an environmental health complaint (including the alleged operation start in December 2016) further joint site visits have not be considered necessary.

As the full extent of the odour issue is still unknown and taking into account the absence of an objection from the most potentially affected neighbour, Officers consider that the most pragmatic way forward is to allow a two-year temporary permission to formally allow for a trial period. Officers consider that if what was witnessed on site was fully experienced by Knoll Farm, and for considerable periods of time then this would cause sufficient harm to their amenity in which to warrant the refusal of the application. However, the air quality report provided some context that it could have been caused by the start-up period of the boiler. As this consideration is now in the public domain, the Council will consider any Environmental Health complaints received in this time.

Officers also consider it to be reasonable and necessary to add a condition to restrict operating hours. In the applicants submitted details, usually only 1-1.5 container loads of wood chip are dried each week – and that to dry one container takes approximately 30 hours. As per the submitted details, if running between 8am-6pm (10 hours) on a Monday to Wednesday, then one container can be dried, and the remaining time can be used for transfer and to dry the further half a container within this usual 50-hour period. The applicants also stated, *“it is possible to dry 2 containers in a 50-hour period”*. Therefore, the existing Saturday running isn't or shouldn't always be required. The applicants have since further requested operational times of 8am-6pm Monday to Friday and 9am-4pm on a Saturday, a total of 57 hours.

It has not been demonstrated if the *“possibility to dry 2 containers in a 50 hour period”* would require the boiler to run at 100% (rather than the preferred 70%) and thereby in theory produce more smoke, pollutants and potential odour from having to burn more fuel at the boilers 100% maximum rate. However, Officers consider an alternative time period of 6am to 6pm Monday to Friday (total of 60 hours) with no operation on weekends and bank holidays, to meet the 6 tests of condition especially the tests of reasonableness and necessity.

As there could still be harm to neighbouring amenity from odour, it is considered that there is a need to protect Knoll farm in the evening and fully on a weekend. In appeal reference APP/Y3940/W/18/3216228 for refused planning application 18/04589/FUL (an extension to an industrial unit and new turning head for vehicle access adjacent to residential dwellings) paragraph 22 sets out that *“Saturday mornings are a time when people are reasonably entitled to expect some respite”*.

Officers consider that a condition restricting the boiler operation time to 6am-6pm Monday-Friday, with no use on a Saturday, Sunday or Bank Holiday would allow the applicants sufficient hours to complete the drying of two container loads whilst at the same time allowing neighbours some protection at key times should there still be an odour issue over the two-year temporary permission.

The two conditions are tied together; i.e. had it been proven beyond doubt the boiler isn't harmful to neighbouring amenity it probably wouldn't have been necessary for the temporary permission. If the temporary permission does cause harm to neighbouring amenity, then at least it should be restricted to the conditioned hours to allow for a compromise trial run.

For the avoidance of any doubt, even in the potential event of a permanent permission after two years, the hours of operation condition may still be deemed to be necessary. It may transpire that there are still some neighbouring amenity issues, but they could be reasonably controlled by an hours of operation condition. If the applicants air quality consultant could have evidenced and demonstrated to the Council's satisfaction about the effect of e.g. chimney height raising on odour pathways, which wasn't covered in the air quality report, this may have

provided some scope for agreeing longer operating hours, potentially including Saturdays. However, despite the applicant's consultant knowing about this concern as there was discussions between the consultant and Council Officers (and Glenn Farrow suggested raising the height of the flue by 2 metres) it wasn't included in their air quality report.

As the odour impact on amenity is still relatively unknown it is considered that the suggested operating hours restriction to be not only in accordance with the 6 tests of condition but also a pragmatic compromise.

The case officer has undertaken a further site visit to Knoll Farm on 7 February 2020 (circa 9am) and witnessed smoke from the flue but as the wind was blowing in a westerly direction (from the east) any smell or fumes would have been blown towards Hilperton, dispersing over the open countryside. The weather was reasonably cold and misty which is understood to have potential to exacerbate 'smog' or pollution potential; but as there was a gentle breeze in the opposite direction no harm to Knoll Farm was observed.

It also has to be taken into account that the applicants own home is between the boiler flue and Knoll Farm. On the joint site visit the smell was very potent immediately to the east end of the building (albeit where an extension approved under W/08/02276/FUL) remains unfinished) but it is in the applicants own health considerations, as they live and work there to ensure that no contaminated wood source is used to burn in the boiler and that it is run as efficiently as possible to minimise smoke, fumes and odour potential on themselves and their neighbours.

For the avoidance of any doubt, Officers have sought potential mitigations including;

- Raising the height of the flue to increase dispersal potential
- Move the boiler to the other side of the piggeries barn. Knoll Farm would no longer be in the predominate prevailing south west wind direction. The applicants should be able to route water and electricity supply through the barn
- Encourage the storage of the pallets to be under cover. The Council could favourably consider another structure or container to be erected on site.

The applicants are advised to consider these as options when reapplying for planning permission when the two-year period expires. If complaints are received in this time, which are upheld, this could lead to either Environmental Health action or the refusal of the new planning application, which in turn could lead to planning enforcement action. It may transpire over the next two years that what was experienced on the joint site visit wasn't from the 'start up' and is a common and more widespread issue than evidenced in this application.

Officers have also witnessed the boiler operating at 100% capacity (burn rate) which was noticeably louder than when operated at the applicants preferred (and most efficient) 70% level – but even at 100% the noise was not noticeable audible on the site boundary. Therefore, noise from the boiler is not considered to cause any harm to neighbouring amenity.

#### Impact on the landscape:

The case officer viewed the application site from Greenhill Gardens in Hilperton which is approximately 430 metres to the south west. The views across the open countryside are open and generally unrestricted but Bekson Farm is reasonably enclosed by existing hedgerow which screen the majority of the existing agricultural barns. There is a small break in the hedgerow screen however immediately where the boiler is located. It is not known whether the hedgerow has been removed to allow for air flow or to reduce fire risk, but this gap allows for direct views of the boiler and the circa 4-metre-high flue. It is submitted that despite the boiler and flue being visible, especially due to its blue colour, that it is not of a size, in a

sensitive location or close enough to Hilperton to cause adverse harm to warrant the refusal of the application.

Views were also taken from walking along public right of way HILP18 which runs partly on the access road to the Marsh Farm complex of industrial units and then across open countryside which then passes the application site approximately 200 metres to the north and north west. Along the public right of way there is only one viewpoint of the application site, a small gap in the hedgerow, but this only allows a brief and passing glimpse of the blue boiler container and the flue. It is also submitted that given the distance from the public right of way and the brief nature of the view it is not considered that the height of the flue or the size of the boiler causes adverse harm in which to refuse the application on landscape grounds.

Impact on highway safety:

It is considered that the applicant has satisfactorily demonstrated that the pallet deliveries and the movement of the woodchip are low frequency events that should not cause harm to highway safety along Whaddon Lane.

The applicants state that the journeys are akin to that used in the former piggery use, but details of that operation are unknown and therefore are not directly comparable. However, it is reasonable to consider that an agricultural use could easily generate the same number of journeys described in this application.

It is also not necessary or reasonable to require this application to solve an existing highway issue down Whaddon Lane by requiring a passing place to be introduced. This would also require the landowner consent and a suitable location to be identified. Passing places should be a matter for the Parish Council to pursue in either a Parish Plan or via the Hilperton Neighbourhood Plan process.

Impact on biodiversity:

The boiler is located on an area of hardstanding that Council aerial photographs demonstrate has been there since 2001 and would have been used in conjunction with the adjacent piggeries barn. Therefore, the introduction of the boiler would have been unlikely to cause harm to existing protected species.

There is potential for the flue smoke to cause harm to bats or birds who could use either barn for roosts or nests; but the piggeries barn is quite large and the northern section of the barn would be unlikely to receive constant direct smoke as wind tends not to blow north-easterly all that often. Additionally, bats would be active in dusk/night time hours, which would generally be the same times when the boiler would not be in operation. Therefore, it is considered that the risk to protected species is acceptable and that surveys etc are not required.

**RECOMMENDATION:** Approve subject to conditions