

# Regulatory Committee

## Dorset County Council



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| Date of Meeting    | 05 January 2016  |
| Officer            | Head of Economy  |
| Subject of Report  | <b>To consider planning application No. 2/2016/1127/DCC under Schedule 1 Paragraph 1 of the Town and Country Planning Act 1990, in North Dorset District Council, for Section 73 planning application proposing the variation of Condition 2 and the removal of Condition 10 of planning ref: 2/2014/0529/PLNG associated with the development of a storage lagoon on land to the South of A354, Milborne St Andrew, Dorset for Eco Sustainable Solutions Ltd.</b>                             |
| Executive Summary  | The report considers a planning application for the variation of condition and removal of condition of planning permission 2/2014/0529/PLNG for a storage lagoon to handle digestate from the anaerobic digestion (AD) plant at Piddlehinton. The current proposal seeks to vary condition 2 (development in accordance with the approved plans) and removal of condition 10 (provision of wheel washing facilities). The report recommends approval of the development subject to conditions. |
| Impact Assessment: | Equalities Impact Assessment: This report concerns the determination of an application for planning permission and not any changes to any new or existing policy with equality implications.   |
|                    | Use of Evidence: The recommendation has been made after consideration of the application and supporting documents, the development, the relevant development plans, government policy, legislation and guidance, representations and all other material planning considerations as detailed in the main body of the report.  |
|                    | Budget: Generally the determination of applications will not give rise to any budget implications for the Committee.   |

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|                               | <p>Risk Assessment: As the subject matter of this report is the determination of a planning application the County Council's approved Risk Assessment methodology has not been applied.</p>  |
|                               | <p>Other Implications: None</p>  |
| Recommendation                | <p>That planning permission be granted subject to the conditions set out in paragraph 9.1 of this report.</p>  |
| Reason for Recommendation     | <p>The reasons for granting planning permission are set out in full in paragraph 6.19.</p>   |
| Appendices                    | <ol style="list-style-type: none"> <li>1. Location Plan</li> <li>2. Site Plan</li> <li>3. Previous Regulatory Report (2/2014/0529/PLNG)</li> <li>4. Regulatory Report Minutes (2/2014/0529/PLNG)</li> <li>5. Decision Notice (2/2014/0529/PLNG)</li> </ol> |
| Background Papers             | <p>PA File 2/2014/0529/PLNG</p> <p>NB: Copies of representations may be inspected in the Environmental Services Directorate and will be available for inspection in the Committee Room prior to the meeting.</p>   |
| Report Originator and Contact | <p><b>If you have any queries on this report please contact</b><br/> <b>Name: Mr Rob Jefferies</b></p> <p>Tel: (01305) 224279<br/> Email: r.w.jefferies@dorsetcc.gov.uk</p>  |

## **1. Background**

- 1.1 The Regulatory Committee resolved to approve planning application 2/2014/0529/PLNG in November 2014 for a storage lagoon. The officer's previous report is at Appendix 3 and the Regulatory Committee Minutes of that meeting is at Appendix 4. Planning permission was granted subject to a number pre-commencement conditions which included the submission of a Construction Traffic and Environmental Management Plan, agreeing and setting out a specification for the first 15 metres of the access crossing, the submission of landscaping details and the submission of a scheme detailing wheel washing facilities. The conditions of planning permission 2/2014/0529/PLNG are set out in Appendix 5.
- 1.2 In January 2016 the Waste Planning Authority was notified that works had commenced on site prior to a number of planning conditions being discharged. The applicants were contacted with regard to the immediate issues of mud on the highway and need for temporary advance highway warning signage. Both these issues were addressed in a timely manner; however works continued on site until the lining of the lagoon had been installed.
- 1.3 The Waste Planning Authority subsequently liaised with the applicant to obtain all necessary information to discharge the relevant planning conditions. It was later established that the siting of the lagoon and its overall dimensions did not accord with the approved plan. It was also established that the applicant did not consider it would be appropriate to provide wheel washing facilities on site. The reasons for this are set out in paragraph 6.12 of this report.
- 1.4 The Waste Planning Authority has been notified that the lagoon has been used for the storage of digestate on two occasions.

## **2. Site Description**

- 2.1 The application site is located to the south of the A354 approximately 500 metres to the west of Milborne St Andrew. It measures approximately 1 ha in area, including the access track and turning area. Vehicular access to the site is via an existing agricultural access off the A354.
- 2.2 The application site and surrounding area is characterised by fields laid to pasture or crop production enclosed by mature hedgerows.
- 2.3 The nearest residential property is located approximately 150 metres to the west of the proposed lagoon.

## **3. The Proposal**

- 3.1 This planning application seeks to amend condition 2 and remove condition 10 of planning permission 2/2014/0529/PLNG.
- 3.2 Condition 2 of Planning Permission 2/2014/0529/PLNG states:

*“Unless otherwise approved in writing by the Mineral Planning Authority, no development shall be carried out other than in strict accordance with the*

*Drawing Nos. 5114/004 dated April 2014, 5114/006 dated July 2014, 140601-01 and 140601-03. Operations on the application site shall be carried out in accordance with the approved plans and details and no part of the operations specified therein shall be amended or omitted without the prior written approval of the Waste Planning Authority.”*

3.3 This current application seeks to regularise the fact that the lagoon has not been constructed in the location as detailed in the approved plans. It is proposed to amend condition 2 to refer to a revised set of plans that accurately reflect what has been constructed on the ground.

3.4 Condition 10 of Planning Permission 2/2014/0529/PLNG states:

*“Prior to the commencement of development a scheme showing precise details of the design, specification and position of wheel washing facilities shall be submitted to and approved by the Waste Planning Authority. The approved scheme shall be implemented and maintained in full working order for use throughout the duration of the development.”*

3.5 The applicant is not proposing the use of a wheel wash and is therefore applying for the above condition to be removed.

#### **4. Consultations and Representations**

4.1 The application was advertised in the local press, by site notice and by one neighbour notification. A representation was received from a local resident questioning why the proposed field gate is not 15 metres from the edge of the highway and why the details for the permanent traffic management signs have not yet been submitted. The representation also queried what measures would be in place to ensure visibility splays are maintained throughout the life of the development and whether the site will be monitored during both the construction and operational phase of the development. A representation has been received from Cllr Hilary Cox, the Local Ward Member, stating that she supports the requests of Milborne St Andrew Parish Council on this matter (see para. 4.3).

4.2 North Dorset District Council:  
No objection.

4.3 Milborne St Andrew Parish Council:  
The Parish Council has expressed its severe misgivings over the way that the development on the site has progressed. After initially raising no objection to the original application the Parish Council considers that the applicant has disregarded the planning conditions of the existing permission by siting the lagoon considerably nearer the entrance, failing to construct the approved site entrance, not maintaining adequate visibility either side of the entrance, not putting in place sufficient signage warning traffic of the site entrance, failing to ensure that construction vehicles did not deposit mud on the highway and not properly securing the site. The Parish Council is concerned over the ability of the Waste Planning Authority to regulate this development and ensure that the applicant adheres to the planning conditions imposed.

In specific response to the variation of condition 2 the Parish Council states that moving the lagoon nearer to the entrance has resulted in there being

insufficient room to place the entrance gate 15 m from the roadside as per condition 8 of planning permission 2/2014/0529/PLNG. This will result in vehicles over-hanging the highway whilst waiting at the gate. The proposed gravel entrance is totally inadequate and does not meet highway specifications. The approach track to the lagoon should be a non-migratory hard surface i.e. concrete or tarmac, especially if a wheel wash facility is not being provided.

The Parish Council considers that conditions 6, 8, 9 and 11 in the original planning approval should remain.

In response to the removal of the condition 10, the Parish Council considers that whilst the arguments for its removal have some merit it was always understood that such a facility would be provided in order to keep as much mud off the road as possible. The Parish Council considers that the fact that there are difficulties in providing and maintaining a wheel wash in no way diminishes the argument for providing one.

The Parish Council concludes that the site should be developed in accordance with the original approved scheme or development should stop altogether and the site reverted to its original condition.

4.4 Highway Liaison Engineer:

*"I have no objection, in principle, to the proposed variation of Condition 2 of the original approval, providing the revised access and turning areas shown on Drawing No. 5114/004 Rev E are available for use.*

*Having read the applicant's rationale for not needing or being able to provide a satisfactory wheel-washing facility, I can agree to the removal of Condition 10. This is subject to the first 15m of the access crossing from the public highway being constructed to an agreed specification with the Highway Authority (as per Condition 6 of the original consent) and the internal access route to the storage lagoon being a hard surface formed of aggregate and road stone, as suggested by the applicant in the supporting documentation."*

4.5 Environment Agency:

Awaiting comments.

4.6 Wessex Water:

No objection.

4.7 Senior Landscape Officer:

Awaiting comments.

## 5. **Planning Policy Framework**

5.1 Applications for planning permissions must be determined in accordance with the development plan unless material considerations indicate otherwise. The term 'other material considerations' is wide ranging, but includes national and emerging planning policy documents.

5.2 The Development Plan includes the saved policies of the Bournemouth, Dorset and Poole Waste Local Plan (BD&PWLP) originally adopted June 2006 and the North Dorset Local Plan Part 1 adopted 2016 The following policies are of particular relevance to this application:

5.3 Bournemouth, Dorset and Poole Waste Local Plan

- Policy 1 (Guiding Principles)
- Policy 4 (Landscape Character)
- Policy 21 (Transport)

North Dorset Local Plan Part 1

- Policy 4 (The Natural Environment)

5.4 National planning policy includes the National Planning Policy Framework (NPPF) and National Planning Policy for Waste (NPPW). The following sections of the NPPW are of particular relevance to this application:

- Paragraph 7 (Determining Planning Applications)
- Appendix B (Locational Criteria).

## 6. Planning Assessment

6.1 Having regard to the provisions of the development plan, the information submitted in support of the application and the representations received, I consider that the main issues raised by this application are:

- i. the visual and landscape character impacts of the development on the surrounding area; and
- ii. the impacts of traffic movements on highway safety.

### Landscape and Visual Impact

6.2 Policy 4 of the BD&PWLP and Policy 4 of the North Dorset Local Plan Part 1 states that applications for development will be permitted where they are in scale and keeping with the local landscape character and that there are no unacceptable adverse impacts on the local character of the landscape, taking into account mitigating measures. Appendix B (c) of the NPPW states that in determining planning applications, waste planning authorities should consider the potential for design-led solutions to produce acceptable development that respects landscape character.

6.3 The lagoon has been constructed approximately 20 metres further west than was approved by planning permission 2/2014/0528/PLNG. As a consequence of this the length of the access road from the highway to the lagoon has shortened.

6.4 The lagoon has been excavated to a depth of approximately 3.5 metres and is enclosed by a 2 metre high anti-climb fence. These details are consistent with the original planning permission for the site.

6.5 Mature hedges are situated immediately to the north and south of the lagoon. Whilst glimpses of the lagoon and the associated security fence are visible through the hedge in winter months the lagoon does not appear unduly prominent when travelling along the A354. Having regard to the scale and nature of the development as well as the presence of the mature screening vegetation I consider that the landscape and visual impacts of the proposed

lagoon when viewed from public vantage points would be minimal and would not adversely impact upon the landscape character of the locality.

6.6 Furthermore, I consider that the visual impacts of the lagoon as constructed are no more significant than that which was previously approved under planning permission 2/2014/0529/PLNG.

6.7 In conclusion, having regard to the appearance and scale of the proposed development as well as the presence of mature hedging that both screens and assimilates the development into the wider landscape, I consider that there will be no significant detrimental impact upon the visual and landscape qualities of the area. The proposal therefore accords with Policy 4 of the BD&PWLP, Policy 4 of the North Dorset Local Plan Part 1 and Appendix B (c) of the NPPW.

#### Highways Impact

6.8 Policy 1(i) of the BD&PWLP states that in considering proposals for waste management facilities, the Waste Planning Authority will take into account the location of the proposed development in relation to the source of waste, the destinations of any transferred waste and the markets for any recycled or recovered material. Policy 21 of the BD&PWLP states that proposals for waste management facilities will not be permitted where the associated traffic would have an unacceptable effect on residential or other environmentally sensitive areas, in terms of noise, disturbance, vibration or safety, and that harm could not be avoided or adequately mitigated through an acceptable highways agreement, planning obligation and related package of works/traffic management measures or through appropriate planning conditions. Appendix B (f) of the NPPW states that in determining planning applications, waste planning authorities should consider the suitability of the road network.

6.9 The proposed traffic generation levels associated with the development (as set out in planning application 2/2014/0529/PLNG) amount to 3 deliveries on weekdays and 1-2 deliveries on Saturdays. This equates to 17 deliveries (34 vehicle movements) per week. Data from a recent traffic survey demonstrates that during the stated hours of digestate delivery, average traffic flow exceeds 28,000 movements per week along this section of the A354.

6.10 The details submitted in support of the original planning permission for the lagoon indicated that the access onto the A354 would only be used by vehicles associated with the proposed storage lagoon. It has subsequently been established that the existing access onto the A354 will continue to be used by the landowner in connection with agricultural activities on the farm as well as by vehicles delivering digestate to the proposed lagoon.

6.11 Concerns have been raised that the proposed plan does not allow sufficient room between the highway and existing field gates so as to ensure that vehicles are clear of the highway when entering the site and opening the gates. The applicants have confirmed in writing that they agree to setting the new access gates 15 metres back from the edge of the highway and a revised plan has now been submitted showing this detail. It is considered that the siting of the access gates can be secured through the use of a planning condition as shown in section 9 of this report.

6.12 This application seeks to remove an existing planning condition that required the provision of a wheel wash to be installed at the site. The applicants have set out a number of reasons why they consider that a wheel wash would not be needed and would not be appropriate in the context of the development being undertaken. These are summarised as follows –

- The site entrance is still an agricultural field entrance that is used heavily during cultivation and harvest. Therefore it is neither efficient nor sustainable for every tractor and other form of agricultural machinery to pass through the wheel wash. The surfacing proposed for the lagoon entrance and access road will mean that vehicles working in the field will bring far more mud onto the highway than those vehicles associated with the lagoon. If farm vehicles run through the wheel wash as they leave the field this could be dangerous and could lead to the wheel wash becoming choked.
- The site does not have access to power or water. Therefore, a wheel wash would consist of a long tray with about 200mm of water and rumble track. To clean it would require an excavator.
- The use of a rumble track within the wheel wash could result in noise disturbance to the nearby residential property and when not used intensively during the summer months could become stagnant becoming a source of odour complaints as well as attracting flies.
- Vehicles going through the wheel wash will exit straight to the A354, dripping water onto the road. In freezing conditions this will promote black ice. During dry conditions will result in vehicles hitting an unexpected wet patch. The site does not have enough room for a suitable runoff area prior to vehicles exiting the wheel wash and joining the highway.
- The concept of having a bound and specified unbound surface between road and lagoon is to keep the tractors dry. Wetting the wheels just before they pull out onto the highway may lead to wheel spin and increase the risk of accidents.
- The lagoon was proposed to ensure that the applicant does not have to track tractors and trailers through the village intensively to match the running of the spreader unit, thereby massively reducing traffic impact and potential for mud on the road. The use of the lagoon will remove this excessive impact without the requirement for a wheel wash.
- The site has no power and will not be lit so the sunken wheel wash will present as a hazard to vehicles entering the site.

6.13 I consider that the ongoing use of the access by agricultural vehicles does present difficulties in operating a safe and efficient wheel wash. Should only vehicles serving the lagoon be required to use the wheel wash then dripping water may mix with mud deposits from agricultural vehicles that would lead to mud/debris being carried onto the highway. I also consider that it would be impractical and unreasonable for all agricultural traffic entering and leaving through the existing field entrance to use the wheel wash.

6.14 If a wheel wash is not provided on site then the surfacing of both the access itself and the road leading to the lagoon should be of a suitable



material so as to keep vehicles as clean and dry as possible. The proposal details the provision of a bound concrete surface for the first 15 metres of the site entrance and an unbound but specified surfacing for the remainder of the access road. This will help to prevent mud forming on the wheels of vehicles associated with the lagoon in the first instance and, given the fact that farm vehicles will continue to use the field entrance, I consider this to be a more effective measure than a wheel wash in this particular case.

- 6.15 With the provision of a suitable surface for the access and internal track leading to the lagoon I consider that in this instance a wheel wash facility is not required. The surfacing for both the access crossing and access road can be adequately secured through a condition as detailed within section 9 of this report.
- 6.16 Through the determination of planning permission 2/2014/0529/PLNG it was established that that the site access arrangements allowed for adequate visibility for vehicles leaving the site. A condition as detailed within section 9 of this report ensures that the visibility splays are maintained for the duration of the development.
- 6.17 No objection has been received from the Highway Liaison Engineer.
- 6.18 The proposed levels of traffic associated with the development are relatively low. I consider that there would be no detrimental impact upon the existing highway network or highway safety as a result of the proposed development, nor would traffic associated with the development lead to unacceptable impacts upon amenity in the area. The proposal is considered to be in accordance with Policy 1(i) and Policy 21 of the BD&PWLP and Appendix B (f) of the NPPW, and no unacceptable effect on residential areas will result by way of noise, disturbance, vibration or safety.

### Conclusion

- 6.19 The appearance and scale of the proposed development as well as the presence of mature hedging that both screens and assimilates the development into the wider landscape, will ensure that there will be no detrimental impact upon the visual and landscape qualities of the area. The proposal therefore accords with Policy 4 of the BD&PWLP, Policy 4 of the North Dorset Local Plan Part 1 and Appendix B (c) of the NPPW. The proposed access to the application site and surfacing arrangements are suitable in respect of highway safety. The proposal therefore accords with Policy 21 of the BD&PWLP and Appendix B (f) of the NPPW.

## **7. Human Rights Implications**

- 7.1 The provisions of the Human Rights Act and the principles contained in the Convention of Human Rights have been taken into account in reaching the recommendation contained in this report. The articles/protocols of particular relevance are:
- i. Article 8 - Right to respect for private and family life; and
  - ii. The First Protocol, Article 1 - Protection of Property.

7.2 Having considered the impact of the development, as set out in the assessment above as well as the rights of the applicant and the general interest, the opinion is that any effect on human rights does not outweigh the granting of the permission in accordance with adopted and prescribed planning principles.

## **8. Statement of Positive Involvement**

- 8.1 In accordance with paragraphs 186 and 187 of the NPPF, the Council, as local planning authority, takes a positive and proactive approach to development proposals focused on solutions. The Council worked with the applicant/agent in a positive and proactive manner by:
- i. updating the applicant's agent of issues as they arose in the processing of the application;
  - ii. discussing possible solutions to material concerns raised; and
  - iii. providing the applicant with the opportunity to address issues so that a positive recommendation to grant permission could be given.

## **9. Recommendation**

9.1 That planning permission be granted subject to the conditions set out below:-

### Time Limit - Commencement

1. The development hereby permitted shall be begun not later than the expiration of 3 years beginning from the date of this permission.

#### Reason:

In accordance with Section 91 of the Town and Country Planning Act 1990 (as amended).

### Adherence to approved plans and details

2. Unless otherwise approved in writing by the Waste Planning Authority, no development shall be carried out other than in strict accordance with the Drawing No's 5114/004/Rev G dated December 2016, 140601-01 and 140601-03. Operations on the application site shall be carried out in accordance with the approved plans and details and no part of the operations specified therein shall be amended or omitted without the prior written approval of the Waste Planning Authority.

#### Reason:

To maintain planning control over the site and to ensure the permission is implemented in accordance with Policies 1 and 4 of the Bournemouth, Dorset and Poole Waste Local Plan and Policy 4 of the North Dorset Local Plan Part 1

### Exportation of Waste

3. No digestate stored within the lagoon hereby approved shall be exported off the agricultural holding containing the lagoon.

Reason:

To ensure that the traffic movements and any associated environmental and highway impacts connected with the use of the lagoon are maintained at acceptable levels in accordance with the submitted application and Policies 1, 4 and 21 of the Bournemouth, Dorset and Poole Waste Local Plan.

Importation of Waste

4. Only digestate generated from the Piddlehinton AD Facility as approved by Planning Permission 1/D/08/0989 (or any subsequent consent granted over the same area) shall be imported into the site.

Reason:

To ensure that the traffic movements and any associated environmental and highway impacts connected with the use of the lagoon are maintained at acceptable levels in accordance with the submitted application and Policies 1, 4 and 21 of the Bournemouth, Dorset and Poole Waste Local Plan.

Construction Environmental Management Plan

5. No further operations on the development shall take place until a Construction Environmental Management Plan (CEMP) incorporating pollution prevention measures has been submitted to and approved by the Waste Planning Authority. The development shall be implemented in accordance with the approved details and agreed timetable set out in the approved CEMP.

Reason:

To prevent pollution of the water environment having regard to Policy 1 of the Bournemouth, Dorset and Poole Waste Local Plan.

Access Crossing

6. No further operations on the development shall take place until the first 15.00 metres of the access crossing measured from the nearside edge of the carriageway shall be laid out and constructed to a specification first submitted to and approved in writing by the Waste Planning Authority.

Reason:

In the interests of road safety having regard to Policies 1 and 21 of the Bournemouth, Dorset and Poole Waste Local Plan.

Parking and Loading Areas

7. No further operations on the development shall take place until the areas shown on the submitted plans for the manoeuvring, parking, loading and unloading of vehicles have been made available for these purposes. Thereafter, these areas shall be maintained, kept free from obstruction and available for the purposes specified.

Reason:

In the interests of road safety having regard to Policies 1 and 21 of the Bournemouth, Dorset and Poole Waste Local Plan.

### Entrance Gates

8. Any entrance gates shall be set back a minimum distance of 15.0 metres from the edge of the carriageway and hung so that the gates can only open inwards.

#### Reason:

In the interests of road safety having regard to Policies 1 and 21 of the Bournemouth, Dorset and Poole Waste Local Plan.

### Visibility Splays

9. No further operations on the development shall take place until the visibility splay areas as shown on the submitted plans shall be cleared/excavated to a level not exceeding 0.6 metres above the relative level of the adjacent carriageway. The splay areas shall thereafter be maintained and kept free from all obstructions.

#### Reason:

In the interests of road safety having regard to Policies 1 and 21 of the Bournemouth, Dorset and Poole Waste Local Plan.

### Traffic Management Plan

10. No further operations on the development shall take place until a Traffic Management Plan (TMP) and programme of works has been submitted to and approved in writing by the Waste Planning Authority. The TMP shall include construction vehicle details (number, size, type and frequency of movement), vehicular routes, delivery hours and contractors' arrangements (compound, storage, parking, turning, surfacing, drainage and wheel wash facilities). The TMP shall also include a scheme of signing of the heavy vehicle route to the site agreed with both temporary and permanent advice/warning signs at appropriate points. The development shall be carried out strictly in accordance with the approved Traffic Management Plan.

#### Reason:

In the interests of road safety having regard to Policies 1 and 21 of the Bournemouth, Dorset and Poole Waste Local Plan.

### Landscaping

11. No further operations on the development shall take place on site until a scheme of soft landscaping shall be submitted to and approved by the Waste Planning Authority. These details shall include:
- Planting plans to include a schedule of plants, noting species, planting sizes and proposed numbers / densities where appropriate;
  - Implementation timetables; and
  - Details for the retention, protection and management of existing vegetation for the life of the development.
- The approved landscaping shall be carried out in the first available planting season. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Waste Planning Authority, seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of species, size and number as originally approved.

Reason:

To safeguard the environment of the surrounding area having regard to Policy 4 of the Bournemouth, Dorset and Poole Waste Local Plan and Policy 4 of the North Dorset Local Plan Part 1

Fencing Details

12. No further operations on the development shall take place until a detailed specification of the proposed perimeter fencing shall be submitted to and approved in writing by the Waste Planning Authority. The development shall then be carried in accordance with these approved details and Policy 4 of the North Dorset Local Plan Part 1

Reason:

To safeguard the environment of the surrounding area having regard to Policy 4 of the Bournemouth, Dorset and Poole Waste Local Plan.

9.2 ADDITIONAL INFORMATION FOR INCLUSION IN DECISION NOTICE

- I. Informatives as requested by the Environment Agency and Highway Liaison Engineer
- II. A statement explaining how the Council worked with the applicant in a positive and proactive way as set out in paragraph 8.1 above.