



**MINUTES OF THE MEETING OF THE
PLANNING COMMITTEE**

**TUESDAY 6 FEBRUARY 2018
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

Committee Members Present:

Councillor N Hampshire (Convener)
Councillor L Bruce
Councillor S Currie
Councillor J Findlay
Councillor A Forrest
Councillor S Kempson
Councillor C McGinn
Councillor K McLeod
Councillor J McMillan
Councillor F O'Donnell
Councillor B Small
Councillor T Trotter

Other Councillors Present:

Councillor J Goodfellow
Councillor P McLennan

Council Officials Present:

Mr I McFarlane, Service Manager – Planning
Mr D Irving, Senior Planner
Ms E Clelland, Planner
Ms J McLair, Planner
Mr J Allan, Planning Technician
Mr N MacFarlane, Transportation Planning Officer
Ms P Bristow, Communications Officer

Clerk:

Ms A Smith

Visitors Present:

Item 1 – M McElhinney, R Bissoonauth, R Walker, D Cockerton
Item 2 – G Fairbairn

Apologies:

None

Declarations of Interest:

None

1. PLANNING APPLICATION NO. 17/00922/P: ERECTION OF AN ANAEROBIC DIGESTION (AD) PLANT, ANCILLARY EQUIPMENT, ON-SITE INFRASTRUCTURE AND ASSOCIATED WORKS AT BANGLEY QUARRY, HUNTINGTON, HADDINGTON

A report was submitted in relation to Planning Application No. 17/00922/P. Daryth Irving, Senior Planner, presented the report, summarising the key points. The proposed decision set out in the report was to grant consent.

Councillor Goodfellow, referring to condition 8, expressed concerns about large vehicle movements on minor roads and asked why large farm vehicles had not also been included in this condition. Neil MacFarlane, Transportation Planning Officer, said that the term HGV could comprise a range of vehicle descriptions, including tractors. Following questions from the Convener, it was clarified that Members could, if so inclined, specify vehicle types and set a tonnage limit as a variation of that condition.

Sederunt: Councillor Goodfellow left the Chamber.

Members raised several questions. Mr Irving and Iain McFarlane, Planning Service Manager, advised on various issues including responsibility for the C112 and A199 roads, the differing economic figures, lack of an Environmental Impact Assessment (EIA), comments by HADAS regarding road restrictions, status of the site, compliance with Policy DC1 and timings of traffic movements. Mr McFarlane also provided an explanation in respect of the applicant's confidential annex to the Ecology Survey Report (ESR).

Marc McElhinney of GreenForty Development Limited, the applicant, informed Members that the proposal was in line with the development plan, there were no objections from any of the statutory consultees and it met local and national planning policies. He outlined the reasons for selection of this site. He explained why other sites considered were not suitable. He gave details of the many benefits the proposal would bring to East Lothian. He stated that all objection points raised had been addressed. As regards transport, Road Services had deemed the existing road network acceptable. Regarding pollution neither Environmental Health nor SEPA had objections. In relation to ecology, both the Council's Biodiversity Officer and Scottish Natural Heritage had no objections. This was an innovative proposal in keeping with the renewable energy agenda.

Mr McElhinney and Ryan Bissoonauth, also representing the applicant, responded to questions in relation to income to farmers, delivery distance, Ofgem criteria, economic calculations, storage clamps, nitrogen source and ratio, lagoon size and storage period and local employment opportunities. The applicants also provided clarification regarding lack of an EIA, site selection, other potential sites, timings of deliveries, plant operating times, monitoring once operational, supply chain arrangements and dry matter content.

Rosemary Walker of Gilson Gray spoke against the application on behalf of clients Mr and Mrs Morrison of Huntington House. The application was invalid as it did not delineate the site in question; the site was only defined as the AD plant not the perimeter. It pushed the 250 metre buffer zone, if this was correctly delineated her client's property would fall within the site area, which would be non-compliant with Scottish Planning Policy. The proposal did not comply with Policy DC1, it was not appropriate in scale or character; it was for large scale industrial use in open countryside. The traffic volume would be unacceptable. There was a lack of consideration for the county's historical heritage; there were a number of listed buildings close to the application site, the legislation had been incorrectly interpreted. This proposal would have a serious detrimental effect on her clients and should be refused.

The Convener asked Mr McFarlane for clarification regarding delineation of the site. Mr McFarlane stated it was very clear that the site was delineated for what was to be

developed; access to the site was from within the quarry site and Road Services had assessed it accordingly. Ms Walker refuted this. She then responded to questions from Members on noise impacts as detailed in the Hunter Acoustics report and damage to the view as outlined in her client's representations.

David Cockerton, owner of Garleton Lodge, a residence and bed and breakfast business just beyond the 250 metre boundary, spoke against the application. This development was neither green nor sustainable; the carbon footprint would be colossal. AD plants were dangerous. When operations ceased the land could never be restored. The impact on farming would be disastrous. The adverse traffic impact clearly outweighed any benefit of the development. This would destroy tourism in the area; it would have a catastrophic impact on his business. The net economic benefit had not been identified. Officers had failed to take into account many issues. This was a bad neighbour development; it was an industrial development and should not be located in the countryside. There was no case to support this application, it was the wrong development in the wrong location and should be rejected.

Mr Cockerton answered questions on his presentation in relation to safety concerns, inability of the land to be restored afterwards and issues raised as regards net economic benefit.

Local Member Councillor Trotter indicated he had called in this application due to the volume of interest in the local community; it was important that the Committee debated and determined this proposal. He referred to the tone and content of some of the speakers' comments, stating that he was satisfied that due process had been followed.

Local Member Councillor Small stated this was a very difficult situation; there were so many factors in play, including growth of the economy and the environmental and ecological aspects. He welcomed all points raised but also commented on the tone of some of the representations. This was not an easy application to determine.

Councillor Kempson said her main concern was this was a very expensive method of producing energy. She referred to the amount of land taken out of food production compared to the number of homes capable of being supplied with gas; it was economic energy folly. She raised concerns regarding the production of rye. She also had concerns in relation to nitrogen issues. She would not be supporting the report recommendation.

Councillor Findlay echoed Councillor Kempson's comments. He stated that the distance of the AD plant to residential properties was a serious issue. The contents of the confidential Ecology Survey Report was also a significant issue. His main concern related to HGV traffic using the C class road; this road was totally unsuitable as it was used by walkers, cyclists and horse riders. He suggested that the words 'from a distance greater than 5 kilometres' should be removed from Condition 8. He would not be supporting the application.

Councillor Currie stated this was a challenging area as regards road transport issues; he had severe concerns about the class C road and the amount of vehicle movements. The proposal would cause significant disruption to the area. Taking into account all representations, all questions and answers, he could not support the application at present.

Councillor O'Donnell referred to the UK Government's commitment to sustainability criteria and the non-domestic renewable heat incentive. She had listened to the objectors but felt this was a rare opportunity for East Lothian; it was the right place to develop an AD plant. She trusted the officer's judgement. She would be supporting the report recommendation.

Local Member Councillor McMillan said this was a very well written report that covered all objectives and detailed the opinions of all the professional advisers. He felt this was the right site; it was well hidden, there would be no visual impact. He referred to Mr Cockerton's comments about the harmful impact on existing tourism stating that the Council's Tourism

Officers indicated there would not be a detrimental impact. He referred to the Council's economic goals to set up and grow a business. The AD plant would bring benefits in the form of jobs and sustainability. On balance, he would be supporting the application.

Councillor Trotter cautioned that he was not sure on this occasion that refusal could be justified as if this happened the applicant would go to appeal. He had two major concerns; access was one and Councillor Findlay's suggestion dealt with this. His other concern was in relation to the timing of deliveries, he felt 11pm to 7am was too wide and 7pm to 7am would be better. If these were taken on board, he would be minded to support the application.

The Convener brought the discussion to a close. He appreciated that this was a very difficult application to determine. He referred to policies set by the UK and Scottish Governments as regards energy and farming, this development was supported by these policies; this had to be taken into consideration. Planning Officers had taken into account the views of all relevant national agencies. East Lothian was still a substantial farming community, which brought substantial income into the local economy; many local farmers were generally supportive of this proposal. The quarry site was well hidden. He noted points raised by Members about traffic access, tonnage of farm vehicles, distance and timings of deliveries. He asked the Committee to vote on variations of terms of two of the conditions.

Condition 8 – first variation – removal of *from a distance greater than 5 kilometres*

For: 10

Against: 2

Abstentions: 0

Condition 8 – second variation – addition of *including tractor trailers with a maximum gross weight of greater than 15 tonnes*

For: 10

Against: 0

Abstentions: 2

Condition 4 – timings to be altered from *11pm to 7am to 7pm to 7am*

For: 12

Against: 0

Abstentions: 0

The Convener then moved to the vote on the report recommendation (to grant consent) with the above variations to conditions 8 and 4:

For: 6

Against: 6

Abstentions: 0

Due to the equal number of votes, and in accordance with the Council's Standing Orders, the Convener used his casting vote – to grant consent.

Decision

The Committee agreed to grant planning permission subject to the following conditions:

- 1 No development shall take place on site unless and until final site setting out details have been submitted to and approved by the Planning Authority.

The above mentioned details shall include a final site setting-out drawing to a scale of not less than 1:200, giving:

- a. the position within the application site of all elements of the proposed development and position of adjoining land and buildings;

- b. finished ground and floor levels of the development relative to existing ground levels of the site and of adjoining land and building(s). The levels shall be shown in relation to an Ordnance Bench Mark or Temporary Bench Mark from which the Planning Authority can take measurements and shall be shown on the drawing; and
- c. the ridge height of the proposed shown in relation to the finished ground and floor levels on the site.

Reason:

To enable the Planning Authority to control the development of the site in the interests of the amenity of the area.

- 2 The capacity of the anaerobic digestion plant hereby approved shall not exceed 77,500 tonnes per annum.

Reason:

To restrict the capacity of the plant to that applied for, in the interests of the amenity of the area and road safety.

- 3 No household or commercial food waste or animal by-products shall be transported to, or processed within the anaerobic digestion plant hereby approved.

Reason:

In the interests of the amenity of the area.

- 4 No delivery vehicles shall access or egress the application site between 07.00pm - 07.00am on any day.

Reason:

In the interests of the amenity of the area.

- 5 There shall be no outside storage of feedstock.

Reason:

In the interests of the amenity of the area.

- 6 The anaerobic digestion plant and associated development all as hereby approved shall at all times operate in compliance with the following requirements:

(i) the Rating Level, LArTr, of noise emanating from any associated plant or machinery serving the proposed anaerobic digestion plant (when measured 3.5m from the façade of any neighbouring residential property) shall be no more than 5dB (A) above the background noise level, LA90T. All measurements to be made in accordance with BS 4142: 2014 "Methods for rating and assessing industrial and commercial sound";

(ii) noise associated with the operation of any plant and/or machinery within the anaerobic digestion plant and any other part of the development hereby approved shall not exceed Noise Rating curve NR20 at any octave band frequency between the hours of 2300-0700 and Noise Rating curve NR25 at any octave band frequency between the hours of 0700-2300 within any nearby residential property. All measurements to be made with windows open at least 50mm.

Reason:

In the interests of the amenity of any nearby residential property.

- 7 Prior to the commencement of development the 9 passing places on the C112 classified public road to the west and north of Bangley Quarry, which connects the A6137 and A199 public roads, shall be fully constructed to a minimum of the existing depth of the c-class road, be 15 metres long and have a localised overall road width of 6 meters, all in accordance with details to be submitted to and approved in advance by the Planning Authority.

Reason:

In the interests of road safety.

- 8 All HGV traffic, including tractor trailers with a maximum gross weight of greater than 15 tonnes, shall access the site only by way of the A199 public road and the C112 classified public road to the southwest of Bangley Quarry.

Reason:

In the interests of road safety.

- 9 No development shall take place until there has been submitted to and approved in writing by the Planning Authority a scheme of landscaping in the form of the provision of a tree and shrub planted earth bund to the north of the entrance of Bangley Quarry.

The formation of the bund and the tree and shrub planting comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner. The bund shall thereafter remain in place. If any of the new trees or shrubs die, are removed or become seriously damaged or diseased they shall be replaced in the next planting season with others of similar size and species, unless the Planning Authority gives written consent to any variation.

Reason:

In order to ensure the implementation of a landscaping scheme in the interests of the landscape character and visual amenity of the area.

- 10 Prior to the commencement of development a method statement in accordance with part 3.1.7 of the docketed 'Bangley Quarry AD Plant: Confidential Annex to the Ecology Survey Report' by mbec environmental consulting dated September 2017 shall be submitted to and approved by the Planning Authority in consultation with Scottish Natural Heritage. Development shall thereafter be carried out in accordance with method statement so approved.

Reason:

In the interests of nature conservation.

- 11 Prior to the commencement of development details of artwork to be provided on the site or at an alternative location away from the site shall be submitted to and approved by the Planning Authority and the artwork as approved shall be provided prior to the operation of the anaerobic digestion facility.

Reason:

To ensure that artwork is provided in the interest of the visual amenity of the locality or the wider area.

- 12 Should the anaerobic digestion plant hereby approved not supply gas for a continuous period of 12 months, it shall be deemed to have ceased to be required and, unless otherwise agreed in writing by the Planning Authority, shall be removed from the site, along with all associated plant and equipment. Within one month from the removal of the anaerobic digestion plant and all associated plant and equipment, details of the restoration of the cleared digestion plant site, including a restoration timetable, shall be submitted to and approved in advance by the Planning Authority. The cleared digestion plant site shall thereafter be restored in accordance with the details so approved.

Reason:

To ensure that any development which has ceased to serve its intended purpose is removed from the site, in the interests of the amenity of the area.

2. PLANNING APPLICATION NO. 17/00953/P: ERECTION OF 1 HOUSE, GARAGE AND ASSOCIATED WORKS AT LAND ADJACENT TO 5 VIEWFORTH, DUNBAR

A report was submitted in relation to Planning Application No. 17/00953/P. Esme Clelland, Planner, presented the report, summarising the key points. The proposed decision set out in the report was to grant consent.

Gary Fairbairn of Blueprint Design (Dunbar) Ltd, agent for the applicant, informed Members of reductions made to the width and height of the proposal to address some of the objections. Points raised regarding the type of building materials used had also been taken into account in the revised proposal.

Local Member Councillor McLennan, not a member of the Committee, said he had called in this application as he had been contacted by a few local residents who had expressed concerns. He was disappointed that none of the objectors had requested to address the Committee. He added that personally he was quite comfortable with the application.

Councillor Currie appreciated that the application had been altered to take account of the representations. He would be supporting the officer's recommendation to grant consent.

Councillor McMillan expressed support for the report recommendation. The proposed development was appropriate to its location and would integrate well into its surroundings.

The Convener moved to the vote on the report recommendation (to grant consent):

For: 12

Against: 0

Abstentions: 0

Decision

The Committee agreed to grant planning permission subject to the following conditions:

- 1 Prior to the commencement of development on site, final site setting out details shall be submitted to and approved in writing by the Planning Authority.

The above mentioned details shall include a final site setting-out drawing to a scale of not less than 1:200, giving:

- a. the position within the application site of all elements of the proposed development and position of adjoining land and buildings;
- b. finished ground and floor levels of the development relative to existing ground levels of the site and of adjoining land and building(s).

The levels shall be shown in relation to an Ordnance Survey datum or local datum from which the Planning Authority can take measurements and shall be shown on the setting out drawing. A minimum of three benchmarks must be provided relating to fixed points outwith the development site.

Thereafter, the development shall be implemented in accordance with the approved details.

Reason:

To ensure that the proposal is implemented in accordance with the approved plans and allow the Planning Authority to control the development in the interests of the visual amenity of the area.

- 2 Prior to commencement of development on site a Construction Method Statement shall be submitted to and approved in writing by the Planning Authority. This shall detail measures that will be employed to minimise the impact of construction activity on the amenity of the area, to control construction traffic, noise, dust. It will include details of the hours of construction work and wheel washing facilities.

Thereafter, the Construction Method Statement shall be implemented as approved for the period of construction of the development hereby approved.

Reason:

To minimise the impact on construction activity in the interests of road safety and amenity.

- 3 Notwithstanding the approved plans, prior to their use on site, details of the roof tiles to be used on the house hereby approved shall be submitted to and approved in writing with the planning authority. Thereafter the roof cladding shall be implemented as approved.

Reason:

To allow the consideration of details yet to be submitted in the interest of the visual amenity of the area.

- 4 Prior to the commencement of development on site full details of the construction and materials to be used for all the hard surfaced area and details of the provision for the drainage of surface water from the site shall be submitted to and approved in writing with the Planning Authority.

Thereafter, the details shall be implemented as approved.

Reason:

To allow the consideration of details yet to be submitted and to prevent surface water entering the curtilage of 6 Viewforth and attenuate surface water onto the public road.

- 5 Notwithstanding the approved plans, prior to the commencement of development, details of a boundary treatment along the northern boundary of the site shall be submitted to and approved in writing by the Planning Authority.

Thereafter, the approved boundary treatment shall be implemented prior to the occupation of the house hereby approved.

Reason:

To ensure that there is a suitable boundary treatment between the site and the garden of 6 Viewforth, in the interest of residential amenity.

Signed

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Councillor Norman Hampshire
Convener of the Planning Committee