

Planning (Regulatory) Committee

Item No.

Report title:	C/2/2016/2011; Land at Cross Bank Road, King's Lynn PE30 2HD
Date of meeting:	31 March 2017
Responsible Chief Officer:	Tom McCabe, Executive Director of Community and Environmental Services
Proposal and applicant: Erection of anaerobic digestion facility (to process up to 14,000 tonnes of biomass/ slurry) including reception/office building and workshop, two digesters, two storage tanks, combined heat and power plant, energy crop storage area, and ancillary plant (Michael Stollery, Mikram Ltd).	

Executive summary

In total, 72 letters in opposition to the scheme have been received from local residents largely on the basis of the adverse impact on amenity (noise odour, dust etc.), highways, the byway, inappropriate location. 17 letters of support (jobs, energy production, infrastructure available etc.). The Borough Council of King's Lynn & West Norfolk has objected on the basis of unacceptable traffic, flood risk & supporting information relating to the construction phase.

The application documentation has failed to enable officers to determine whether the proposed development during its construction and operation would be acceptable or whether it would result in an unacceptable impact on the safe use of Cross Banks Road in the Fisher Fleet and Dock areas. Officers are unable to determine whether the benefits of the proposed development in terms of energy generated are outweighed by the impact on public safety and economic activity which is a policy requirement.

The level of information submitted in support of the construction phase of the development does not enable officers to determine whether the amenity of local residents and businesses could be protected to an acceptable level during site construction. Therefore officers cannot establish whether the facility can be constructed in a manner which would satisfy the relevant policies.

The proposed development is not acceptable in flood risk terms, the applicant has not provided an adequate justification for locating this type of facility in flood zone 3 as such the proposal fails the sequential test. Therefore the application is considered to not be in accordance with the policy requirements.

Recommendation:

It is recommended that the Executive Director of Community and Environmental Services be authorised to:

- I. **Refuse permission for the grounds outlined in section 12.**

1. The Proposal

- 1.1 Type of development : Construction of anaerobic digestion plant, electricity generating plant and concrete hard standing.
- 1.2 Site area : 0.8 hectares
- 1.3 Annual tonnage : 12,000 tonnes of cereal/ beet feedstock
2,000 tonnes of animal waste (slurry) when the principal feedstock is unavailable
- 1.6 Duration : Permanent
- 1.7 Hours of working / operation : 09:00 – 17:00 Monday to Friday
09:00 – 13:00 Saturday (harvest times only)
No operation Sunday or Bank Holidays
- 1.8 Vehicle movements and numbers : Harvest time
(2 x 5 week period March & September).
7 x 30 tonne deliveries per day.
Outside harvest time
3 deliveries per day (digestate off site and slurry in).
- 1.9 Access : A1078 (Edward Benefer Way) to Cross Banks Rd (private port road) & Byway Open to All Traffic (BOAT).
- 1.10 Landscaping : Landscaping scheme of native planting shrubs and hedgerow to screen the development on 3 of the 4 boundaries.
- 1.13 Description of proposal
- 1.14 The application seeks permission for an anaerobic digestion plant to process cereal crops/slurry in the open countryside positioned on a man-made earth embankment which forms the eastern flood defence for the Great Ouse in King's Lynn. The site is accessed via Cross Bank Road which is an un-adopted section of private carriageway and a byway open to all traffic (BOAT). The proposal also includes an ancillary reception/office building, a workshop, two digesters, two storage tanks, a combined heat & power plant, energy crop storage area, flare stack, ancillary plant and new vehicular access.
- 1.15 The applicant states that the plant would produce up to 9 GWhrs of renewable energy per annum (providing the equivalent power for 2,000 households). The

digestion process would also produce hot water and steam. The applicant states that the electricity and hot water/steam will be used by two local companies. However the pipe work/cabling/infrastructure required for this to happen has not been included in the red line application area and as such this can be given little or no weight in the decision.

- 1.16 The total site area is 0.8 ha. The facility would comprise a reception building, 2 x primary digesters (low profile rectangular tanks), storage tanks, energy crop silage clamp (measuring 79m x 31m), combined heat and power plant, and ancillary plant. A Bio-Gas boiler has been specified within the process building.
- 1.17 The applicant has applied to process up to 12,000 tonnes of cereal/ beet feedstock per annum, supplemented by 2000 tonnes of animal waste (slurry) when the principal feedstock is unavailable. The application makes no provision for processing food waste. Therefore the percentage of waste throughput now equates to approximately 14%.
- 1.18 The facility would be staffed initially by 2 full time employees (or equivalent), who would be responsible for the day to day management of the facility. The applicant states that as a by-product of the AD process, the plant will produce approximately 6,000 to 7,000 tonnes of liquid digestate per annum, which is said will be taken from site for use as a soil improver on the farm from which the principal feedstock will be supplied (unconfirmed).
- 1.19 The Environment Agency has confirmed that an Environmental Permit will be required to control operations on site.
- 1.20 The application includes a proposal to amend the width and the surfacing of the BOAT. It is proposed that the width will be increased to 6 metres consisting of a 2.5 metre wide, type 1 surfaced section on the shore side to be used by pedestrians and for horse riding and a 3.5 metre wide metalled section on the eastern side for vehicles.
- 1.21 The application also proposes a landscaping scheme which the applicant states has been designed to mitigate the views towards the site and integrate the site in to the surroundings.

2. Site

- 2.1 The site is located in open countryside on top of the flood defence on the north bank of the River Great Ouse to the east of Cross Bank Road, approximately 2km to the north west of King's Lynn town centre and some 200m to the north of the defined built environment. It is adjacent to an established industrial estate, which extends south and west to the urban fringes of King's Lynn. The site measures approximately 0.8 hectares and is centred on OS grid reference 560850, 322099.
- 2.2 Access to the site is from Cross Bank Road, which runs along and leads through the port area on to Edward Benefer Way. Links to King's Lynn and beyond, including east-west connectivity, are via the A148 to the A47 and the A149.

- 2.3 An existing mature hedgerow and intermittent trees separate the site from the river Great Ouse to the west. The River Great Ouse occupies a wide channel to the west of Cross Bank Road and King's Lynn sewage works lies to the north west of site, across the river. Industrial buildings are located to the south east. The eastern boundary of the site adjoins a drainage ditch with open farmland beyond.
- 2.4 The site is located some 500m from the closest dwelling, and approximately 800m from The Wash National Nature Reserve and 1.7km from the closest European designated site, RAMSAR, or SSSI. It lies within Flood Zone 3.

3. Constraints

- 3.1 The following constraints apply to the application site:
- Site is accessed via and immediately abuts King's Lynn BOAT1.
 - Flood Defence Bank
 - The application site is 1.7km (south) of the Wash SPA and the Wash & North Norfolk Coast SAC
 - Kings Lynn Footpath 2.5 metres
 - 7 listed buildings (II) within 35 metres.

4. Planning History

- 4.1 C/2/2015/2040 - Erection of anaerobic digestion facility (to process cereal crops/food waste) including ancillary reception/office building and workshop, two digesters, two storage tanks, energy crop storage area, combined heat & power plant, flare stack, ancillary plant and new vehicular access. **(Withdrawn)**

5. Planning Policy

Development Plan Policy

- 5.1 **Norfolk Minerals and Waste Local Development Framework Core Strategy and Minerals and Waste Development Management Policies Development Plan Document 2010-2016 (2011) (NMWDF)**

- CS7 – Recycling, composting, anaerobic digestion and waste transfer stations
- CS13 – Climate change and renewable energy generation
- CS14 – Environmental Protection
- CS15 –Transport

Development Management Policies

- DM1 – Nature conservation
- DM3 –Groundwater and surface water
- DM4 – Flood risk
- DM8 – Design, local landscape and townscape character

- DM10 – Transport
- DM12 – Amenity
- DM13 – Air quality

5.2 Norfolk Minerals and Waste Local Development Framework: Waste Site Specific Allocations DPD (2013)

- WAS 05 – Land at Estuary Road, King's Lynn

5.3 King's Lynn & West Norfolk Borough Council, Core Strategy (July 2011)

- CS01 – Spatial Strategy
- CS08 – Sustainable Development
- CS11 – Transport
- CS12 – Environmental Asset

5.4 King's Lynn & West Norfolk Borough Council, Site Allocations and Development Management Policies Plan (September 2016)

- DM1 – Presumption in Favour of Sustainable Development
- DM2 – Development Boundaries
- DM15 – Environment, Design and Amenity
- DM20 – Renewable Energy

5.5 Adopted Neighbourhood

There are no adopted neighbourhood plans for the application site and waste is not a matter for neighbourhood plans in any event.

Other Material Considerations

5.6 The National Planning Policy Framework (2012)

- 1: Building a strong competitive economy
- 10: Meeting the challenge of climate change, flooding and coastal change
- 11: Conserving and enhancing the natural environment
- 12: Conserving and enhancing the historic environment

5.7 National Planning Policy for Waste (2014)

5.8 Waste Management Plan for England (2013)

5.9 National Anaerobic Digestion Strategy and Action Plan (2011)

6. Consultations

- 6.1 County Councillor (Mr David Collis) : No comments received at the time of writing the report.

- 6.2 County Councillor (Miss Alexandra Kemp) : The applicant has not dealt with the issue of slopes and levels onsite, from the water management point of view, or provided calculations or modelling. Expect more detail due to size and as there is potential to pollute waterways and the River Ouse. Environmental Health has unresolved reservations on the impact on air quality on Clockcase Lane Clenchwarton in my Division opposite the site during the construction phase, when 80,000 m³ of soil, will be removed from the town's flood defences when deep piling will be driven into the river bank. Food security impact to grow 12,000 tonnes of crop per annum for energy production, instead of processing food waste. As the plans have not always matched OS maps it has been impossible to determine if the clamps will be within 10 metres of water courses which could impact on the River Ouse re; manufacturers specifications.
- 6.3 Borough Council of King's Lynn and West Norfolk (Planning) : Objection due to an unacceptable impact on the users of Cross Banks Road and the potential to interfere with the operations of the dock. The flood risk assessment is technically deficient. Concerns relating to noise and odour.
- 6.4 Borough Council of King's Lynn and West Norfolk (Scientific Officer, Environmental Quality) : Concerned that section 10 (CMP) appears to be a direct copy of BRE 2003 "Control of dust from construction and demolition activities. As no satisfactory construction management plan is in place. Recommend that should permission be granted it contains a condition requiring submission and approval of a construction management plan.
- 6.5 Borough Council of King's Lynn and West Norfolk (Community Safety and Neighbourhood Nuisance Officer) : Requests a condition requiring submission of a detailed construction management plan prior to commencement of the development. Concerned that the Construction Environmental Management Plan references legislation from India and Australia and makes incorrect reference to contact a port in Australia in the event of an oil spill. The document is unacceptable and clearly lacks an understanding of what is required. Requests conditions to control odour and noise in the proximity of properties on Cross Bank Road. Requests conditions to control vehicle movement numbers during harvest and non-harvest times.

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| 6.6 | Borough Council of King's Lynn and West Norfolk (Emergency Planning) | : | Suggests conditions requiring the site operator to sign up to the Environment Agency Floodline Warnings Direct (FWD) service and submission of a flood evacuation plan. |
| 6.7 | Highway Authority (NCC) | : | No concerns with regard to the suitability of the access onto the A1078 Edward Benefer Way. Recommends conditions requiring submission of construction details, PROW surfacing improvements |
| 6.8 | Public Rights of Way Officer (NCC) | : | Require construction of the access to the appropriate full carriageway (road) specification. Requires a temporary traffic regulation order to suspend when necessary the public vehicular traffic (except for residents) for the duration of the reconstruction of the Byway. Not sure of the justification for the provision of a “sleeping policeman” for traffic calming measures. Requires a long term maintenance agreement for the surface of the byway. Applicant to dedicate additional width to the BOAT in order to accommodate the width required for access traffic and recreational/private use alongside. |
| 6.9 | Ecologist (NCC) | : | No objection. Satisfied with the measures outlined in the Construction Management Plan for management of Japanese Knotweed and with the measures to minimise the risk of disturbance of protected species. Satisfied with the ecological supervision set out in the Construction Management Plan. |
| 6.10 | Norfolk Historic Environment Service (NCC) | : | The proposed development will not have any significant impact on the historic environment and we do not wish to make any recommendations for archaeological work. |
| 6.11 | Sustainability Manager (NCC) | : | No objection. Using the figures quoted in the Carbon Footprint document the combined carbon footprint figure equates to 16,102.73 kg/CO ₂ e (16.1T). The value of this scheme is the thought has gone into containing vehicle movements, and also targeting a locally available, renewable feedstock. |

6.12	Lead Local Flood Authority (NCC)	: To ensure that development is undertaken in line with Paragraph 103 of the National Planning Policy Framework has suggested wording for a condition.
6.13	Green Infrastructure Officer (NCC)	: No objection clarification is still required regarding boundary treatment of the site, particularly to the south and regarding gradients on the eastern boundary.
6.14	Natural England	: No objection.
6.15	Environment Agency	: No objection subject to condition requiring development to be in accordance with the FRA and addendums.
6.16	Health and Safety Executive	: The HSE does not advise against the granting of planning permission for this application.
6.17	RSPB	: No comments received at the time of writing the report.
6.18	Associated British Ports (ABP)	: No objection subject to the applicant entering into a road user agreement with ABP. ABP would be pleased if a condition restricting vehicle movements to a maximum of one per hour was introduced.
6.19	UK Power Networks	: Satisfied that the stand-off of circa 9.5m is sufficient for the proposed works not to affect UK Power Networks apparatus.
6.20	King's Lynn Internal Drainage Board	: The Board requests that one or more pre-commencement conditions be imposed relating to drainage matters to ensure that surface water drainage issues are satisfactorily addressed prior to works taking place.
6.21	Marine Management Organisation	: Advise that activities taking place below the mean high water mark may require a marine license. Provides further advice relating to marine planning, minerals & waste plans and local aggregate assessments.
6.22	Anglian Water	: This application is not intending to connect to the mains sewer for either foul sewage or disposal of surface water, therefore Anglian water would have no comments to make.
6.23	Ramblers Association	: No comments received at the time of writing the

report.

- 6.24 National Grid : No comments received at the time of writing the report.
- 6.25 Norfolk Fire and Rescue Service (NCC) : No comments received at the time of writing the report.
- 6.26 Representations
The application was subject to 5 separate rounds of consultations which included neighbour notification letters. The application was also advertised by means of site notices and an advertisement in the Eastern Daily Press newspaper.
- 6.27 79 letters of objection/concern have been received from individuals / households and businesses since the application was received in May 2016. The concerns raised are:
1. Impact the development would have on Byway Open to All Traffic and users of and access to The Point
 2. Cross Bank Road not suitable for vehicle movements
 3. Cross Bank Road lacks pedestrian and cycle paths
 4. Cross Bank Road already heavily used.
 5. Operation of the swing bridge will result in tail backs
 6. Impact on area for enjoyment which is the closest point to King's Lynn in countryside.
 7. Traffic generation during the construction phase
 8. Inappropriate site for this type of development.
 9. The Boat is not suitable for HGV's.
 10. Impact on the amenity of vehicle movements on the residents of the Old Battery House and residents of the terraced properties on Cross banks Road.
 11. Effect of traffic on people riding horses along the BOAT
 12. Impact of the proposed structures on the landscape.
 13. The development encroaches on to the BOAT.
 14. The curve on the BOAT will become dangerous with the intensification of traffic and improved surfacing and speeds.
 15. Impact on wildlife
 16. Potential for odour
 17. Anaerobic Digester that is fed by maize especially grown for and then transported to it, cannot be considered a truly 'green' energy.
 18. Widening of the BOAT would lead to urbanisation.
 19. Impact on local residents
 20. Devalue properties
 21. Damage to flood defences
 22. Monitoring and enforcement of the development if approved
 23. Not visually pleasing impact on landscape
 24. Impact on hedge on the upper sea defence
 25. Slippage of the sea defence caused by HGV's – EA no objection re; effect on

defence

26. Construction phase disruptions to boat
27. Disrupt fisher fleet activities cross bank road
28. Parking along cross bank road renders it to be a single carriageway
29. Loading and unloading of fish (Jan- March & June – Sept/Oct)
30. No pavement through port area
31. Pollution to shellfish beds as a result of spills of digestate etc. land drain discharged from IDB no pollution control 2-3 miles downstream cockle beds
32. Impact of the HGV's on the landscape given height on top of the bank
33. Reputation of the operator
34. Air pollution and contradiction in the air quality report, dust
35. Odour
36. Rotten maize in the clamp will give odour
37. Re-directing boat
38. Questions applicants ability to run the plant
39. Not an allocated site
40. Impact on listed buildings
41. Toxic flammable atmosphere
42. Impact on health
43. Erection of a fence
44. Not a green issue but money making
45. Site is contaminated and digging will disturb contaminants
46. Gas main
47. Altering BOAT requires written approval from residents
48. The by way improvements will result in more anti-social behaviour
49. Land should be used to grow more food and not for highly subsidised schemes which are of no benefit to the local community.
50. No confidence that the unimpeded access will maintained for residents.
51. It would have been fairer to withdraw the application and resubmit as information is getting confusing.
52. The application site is too small and narrow for the development.
53. HGV's travelling from the other side of the Great Ouse will have a long way to travel because they are not allowed through the town.
54. Having the site access directly on to the byway causes safety concerns. No visibility splays in this area.
55. Growing maize is subsidised soil destruction.
56. 76% of the emissions from the proposed process is from transportation.
57. Lack of detailed information regarding the site operation.
58. The carbon footprint document and transport statement contradict one another in parts relating to vehicle movements, supply of electricity to grid.
59. The transport statement makes inaccurate reference to diverting the byway.
60. The low density of maize means that 30 tonnes cannot be delivered at a time as such the vehicle movements will increase to cater for this.
61. What measure would be put in place to control the vehicle movement numbers.
62. People living close to the source of the crops should be consulted.
63. There is a bewildering array of documents submitted which contain contradictory information.
64. The block plan (revision 1) is incomplete and of no use.
65. The carbon footprint document is at best educated guess work.

66. Allocated waste site WAS05 was apparently not suitable for an AD plant and that the policy identified a number significant constraints and traffic generation impacts which would adversely impact residential amenity if this site was fully developed. If this is the case with this allocated site then surely the same must apply to this proposed un-allocated site given its close proximity and the fact residential amenity will also be adversely affected and users of a PROW will also be affected contrary to the requirements of policies CS14 and DM12.
67. This proposal is not a waste facility. Its specific purpose is to turn specially grown crops (subsidised by the tax payer?) into energy for the benefit of businesses.
68. We are all well aware that Dow Chemicals and KL Technologies intend to utilise the power, hot water and steam. Where and how will these pipes be constructed as there are no documents/drawings on how the energy will be physically transported to the 'customers'?

6.28 17 letters of support have been received from individuals/households and businesses since the application was received in May 2016. The issues raised are:

1. The jobs/employment it would bring back to the area;
2. Welcome the proposal to bring back unused building and premises into economic use to boost other local business operations;
3. Proposal would bring back life into the village that used to be a busy and vibrant employment area
4. Would be beneficial to local businesses and adjoining industrial estates;
5. Green energy should be embraced for our future generations.
6. Improved management of the area and litter picking.
7. Increase in vehicle movements is small compared with summer & Christmas increases.
8. Surrounding infrastructure is able to support the slight rise in traffic.
9. Access roads and infrastructure are good. The average daily increase (of vehicle movements) is insignificant.
10. The area is highly industrialised and not visited by many.
11. A belief that this type of development is needed.
12. Small scale traffic numbers compared to ABP vehicle movements
13. This a commercial area where you would expect to see commercial traffic.
14. The improvements to Cross Bank Road will help businesses to continue to develop in the area.
15. Renewable energy to the benefit of the local community.
16. Most of the HGV traffic in the port enter the dock at the first entrance.
17. The application can demonstrate that it is viable, it has customers for its Electricity and Steam and importantly they will be used very locally.
18. Noise and odour will be tightly controlled.

7. Assessment

7.1 The issues to be assessed for this application are:

7.2 Principle of development

A basic principle when assessing planning applications is outlined in Section 38(6) of the Town and Country Planning Compulsory Purchase Act 2004 which

states:

“if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise”.

7.3 The amount of waste to be processed on the site equates to approximately 14% of the total throughput of material. Therefore in terms of the development plan, the County Planning Authority considers the relevant documents in relation to this application are:

- The Norfolk Minerals and Waste Local Development Framework Core Strategy and Minerals and Waste Development Management Policies Development Plan Document 2010-2016 (2011) (NMWDF).
- Norfolk Minerals and Waste Local Development Framework Waste Site Specific Allocations DPD (2013).
- King's Lynn & West Norfolk Borough Council, Core Strategy (2011).
- King's Lynn & West Norfolk Borough Council, Site Allocations and Development Management Policies Plan (2016).

Whilst not part of the development plan, policies within the National Planning Policy Framework and National Planning Policy for Waste (2014) are also a further material consideration of significant weight.

7.4 The National Planning Policy Framework (NPPF) does not deal with waste policy specifically but it does propose the creation of renewable energy as a core planning principle (para 17). In addition, it establishes the presumption in favour of development that is sustainable (para 11-16) and gives encouragement to projects that would lead to a reduction in greenhouse gases (para 95).

7.5 The Government's National Planning Policy for Waste (2014) is the most direct relevant national guidance. This document underlines that the planning system is pivotal to the timely and adequate provision of waste facilities and it sets out the Government's strategy for sustainable waste management. This scheme would assist with the overarching thrust of dealing with waste in a more sustainable manner i.e. to generate power. The application is therefore considered to comply with the aims and objectives of this and the Waste Management Plan for England (2013). The National Planning Policy for Waste also underlines that the need for a facility is only required to be demonstrated where a proposal is not consistent with an up to date local plan.

7.6 In this instance the up to date local plan Waste Site Specific Allocations Document 2013 allocates an alternative site WAS 05 in the vicinity for a range of waste uses anaerobic digestion not being one. Currently covering the whole site is a solar panel installation which was approved by the Borough Council of King's Lynn & West Norfolk.

- 7.7 The Government's National Anaerobic Digestion Strategy and Action Plan, published in 2011, includes a commitment to increase energy from waste through anaerobic digestion.
- 7.8 Policy CS 7 Recycling, composting, anaerobic digestion and waste transfer stations of the NMWDF (2011) is consistent with national policy and states that "...the development of new, ...anaerobic digestion facilities... will be considered favourably as long as they would not cause unacceptable environmental, amenity and/or highways impact.
- 7.9 Policy CS08 "Sustainable Development" states that the Borough Council and its partners will support and encourage the generation of energy from renewable sources. These will be permitted unless there are unacceptable locational or other impacts that could not be outweighed by wider environmental, social, economic and other benefits.
- 7.10 The application site is outside of the development boundary for King's Lynn policy DM 2 "Development Boundaries" from King's Lynn & West Norfolk Borough Council, Site Allocations and Development Management Policies Plan (September 2016) is relevant. The policy states that the areas outside development boundaries (excepting specific allocations for development) will be treated as countryside where new development will be more restricted and will be limited to that identified as suitable in rural areas by other policies of the local plan. The suitable development includes renewable energy generation (under Policy DM20 "Renewable Energy").
- 7.11 Policy DM20 "Renewable Energy," states that proposals for renewable energy and associated infrastructure will be assessed to determine whether or not the benefits they bring in terms of the energy generated are outweighed by the impacts they would have on:
- Sites of international, national or local nature or landscape conservation importance, whether directly or indirectly, such as the Norfolk Coast Area of Outstanding Natural Beauty (AONB), Sites of Special Scientific Interest (SSSIs) and Ramsar Sites;
 - The surrounding landscape and townscape;
 - Designated and un-designated heritage assets, including the setting of assets;
 - Ecological interests (species and habitats);
 - Amenity (in terms of noise, overbearing relationship, air quality and light pollution);
 - Contaminated land;
 - Water courses in terms of pollution;
 - Public safety (including footpaths, bridleways and other non-vehicular rights of way in addition to vehicular highways as well as local, informal pathway networks);
 - Tourism and other economic activity.

In addition the Borough Council will seek to resist proposals where there is a significant loss of agricultural land or where land in the best and most versatile

grades of agricultural land) are proposed to be used.

Development may be permitted where any adverse impacts can be satisfactorily mitigated against and such mitigation can be secured either by planning condition or by legal agreement.

- 7.12 Officers therefore consider that in principle the development of an anaerobic digestion plant in open countryside within the borough of west Norfolk is potentially acceptable and supported by the national/ local policies and guidance listed above. This is subject to a full assessment of whether the benefits such a facility would bring are outweighed by the impacts and if adverse impacts exist the can be satisfactorily mitigated against.
- 7.13 **Amenity (noise, dust, light pollution etc)**
- 7.14 The protection of amenity for people living in close proximity of waste management facilities is a key consideration and NMWDF policy DM12: *Amenity* states that development will only be permitted where "...unacceptable impact to local amenity will not arise from the construction and /co-operation of the facility." This echoes policy NMWDF CS14: *Environmental protection* which also seeks to avoid unacceptable impacts on amenity.
- 7.15 Policy DM15 Environment, Design and Amenity of King's Lynn & West Norfolk Borough Council, Site Allocations and Development Management Policies Plan (September 2016) states that proposals will be assessed against their impact on neighbouring uses and their occupants and development that has a significant adverse impact on the amenity of others will be refused.
- 7.16 Policy DM20 "Renewable Energy," states that proposals for renewable energy and associated infrastructure will be assessed to determine whether or not the benefits they bring in terms of the energy generated are outweighed by the impacts they would have on amenity (in terms of noise, overbearing relationship, air quality and light pollution).
- 7.17 The nearest residential properties to the application site are numbers 1–7 St Edmunds Terrace and the Old Battery House all of these properties have back gardens which abut the proposed access, the properties are approximately 25 metres from the proposed access road. The properties are approximately 1.1km from the operational part of the site. In the other direction and positioned beyond the site and accessed via Cross Banks Road are numbers 1-4 Point Cottages which are located approximately 510 metres from the operational part of the site and share an access with the site. The nearest business building is located approximately 220 metres from the site.
- 7.18 With regards to the actual regulation of an operation such as this, in accordance with paragraph 122 of the NPPF and the National Planning Policy for Waste, the County Council needs to be satisfied that the facility can in principle operate without causing an unacceptable impact on amenity by taking advice from the relevant regulation authority (the Environment Agency (EA)). Officers have not been made aware of the site currently benefitting from having an Environmental Permit. It is the role of the Environmental Permit as issued by the Environment

Agency to actually control emissions such as noise, odour and dust through conditions. The EA in their consultation response commented that it has no objection to the proposal.

7.19 Amenity - Construction Phase

- 7.20 The construction of the proposed development is significant in that it would involve removing approximately 8,000m³ of soil from the flood defence, piling to add stability, pouring of concrete to create a base for the scheme and construction of the digesters. The applicant has submitted a construction management plan (CMP) and a construction environmental management plan to support of the application. The applicant explains in the CMP that site preparation would take place from April with excavation commencing from April to July. The contract duration thereafter would be 12-14 weeks. This means that construction activities having started in April will continue until October/November. Officers consider this to be quite a considerable length of time particularly when considered with the particular constraints associated with this site i.e. flood defence, access, countryside location this justifies the requirement for details of the construction phase to be fully understood prior to determination of the application. This position is supported by policy DM12 "Amenity" of NMWDF (2011).
- 7.21 The CMP sets out project organisation & responsibilities, communication co-ordination, staff training, operational control, checking & corrective action, detailed construction method statements, working arrangements on the byway, working hours, air quality, ecology supervision and the complaints procedure.
- 7.22 The Environmental Quality Team from the Borough Council of King's Lynn and West Norfolk raise concern that the CMP does not follow a logical sequence of identifying, quantifying and providing mitigation proposals for risks of dust emissions. The reason being that dust is not identified as a potential risk in section 7.1 principal risks. The information in the air quality section 10 of the CMP appears to have been directly copied from the BRE 2003 document Control of dust from construction and demolition activities. The legal team of a company (IHS Markit) have contacted officers on this matter to confirm that in their opinion there has been an infringement of copyright in relation to the CMP and requested that the material be removed from the Council's website. Further legal advice has been received from NP Law who recommend that it is not appropriate for the Council to consider or rely on material which is in breach of copyright and that the report should be removed from the Council's website.
- 7.23 The applicant in support of the application also submitted a Construction Environmental Management Plan which has been found to contain references to Indian legislation (Environmental Protection Act 1986) and Australian guidance and legislation (AS 2436-1981 Guide to Noise Control on Construction, Maintenance and Demolition Sites and Environmental Protection (Noise) Regulations 1997). It also makes reference to the Pilbara Ports Authority in Australia and includes their telephone number as contact in the event an oil spill. The Community Safety and Neighbourhood Nuisance Team has been dismissive of this document and did not consider its content in full. They consider the

document to be unacceptable and clearly demonstrating a lack of understanding of what is required.

- 7.24 Residents have raised concerns that during the construction phase there will be an unacceptable number of vehicle movements associated with the construction which will cause disruption to users of the byway and local residents.
- 7.25 The applicant states in the CMP that 8,000 m³ of spoil will have to be removed from site. The transport management plan details that soil removal will be in 10 tonne HGV's and will require 800 lorries (1600 movements) between April and July. This equates to approximately 47 lorries or 94 movements per week. The applicant has also provided numbers of HGV's required for the remainder of the construction period, this equates to approximately 710 vehicles or 1420 movements. Therefore in total there will be approximately 3,020 movements between April and November.
- 7.26 Officers acknowledge that the applicant made efforts to demonstrate a level of control for activities during the construction phase. However given the extended construction period and the potential for disturbance officers consider that the level of information submitted in support of the construction phase of the development does not enable officers to determine whether the amenity of local residents and businesses could be protected to an acceptable level during site construction. Therefore officers consider that the applicant has not been able to demonstrate that the facility can be constructed in a manner which would satisfy the requirements of NMWDF policy DM12, policies DM15 & DM 20 of King's Lynn & West Norfolk Borough Council, Site Allocations and Development Management Policies Plan (September 2016).
- 7.27 Amenity – Operational site
Operational Site – noise
- 7.28 The applicant has provided a noise assessment which considers the noise impact associated with externally located fixed plant and machinery, on-site mobile plant and vehicle movements on the surrounding road network.
- 7.29 The assessments highlights that the gas-burning CHP engine housed in an attenuated enclosure, the emergency/backup flare stack specified with sufficient capacity (m³/h) to control gas generation at the site, storage tanks, digesters and peripheral plant and equipment are the noise generating elements of the proposed on site operations. The applicant monitored noise levels at two locations in 2011 (considered to still be relevant by the applicant). Appropriate noise limits have been derived in accordance with King's Lynn and West Norfolk Borough Council guidance.
- 7.30 The assessment concludes that noise levels from fixed/ static plant associated with the proposed AD facility would meet the noise limits as required by the Local Planning Authority. The noise assessment contains a noise management plan which includes details of how noise levels will be controlled.
- 7.31 The Environmental Quality Team and Community Safety and Neighbourhood

Nuisance (Central and Community Services) Team from the Borough Council of King's Lynn and West Norfolk have not objected on the grounds of unacceptable noise resulting from the onsite operation.

- 7.32 Residents have raised concerns that during should the application be approved, operation of the site would lead to an unacceptable impact on area to the detriment of the general public's enjoyment. Also that the site is inappropriate for this type of development.
- 7.33 The Environment Agency has also been consulted and raise no objection on the grounds of noise generated on site. The environmental permit which would need to be issued by the Environment Agency would control emissions such as noise.
- 7.34 Officers consider that the applicant has demonstrated that operations on site if controlled by the noise management plan which can be secured by condition and the requirements of the environmental permit (as yet unknown) would not give rise to an unacceptable noise impact on the amenity for local residents, businesses and visitors. As such the application is considered acceptable in this regard and in accordance with NMWDF policies CS14 & DM12 & policy DM15 King's Lynn & West Norfolk Borough Council, Site Allocations and Development Management Policies Plan (September 2016).

Operational Site – air quality

- 7.35 NMWDF policy DM13: *Air Quality* seeks to only permit development where development would not impact negatively on Air Quality Management Areas (AQMA), or lead to the designation of new ones. Furthermore, NPPF paragraph 109 requires that new and existing development should be prevented 'from contributing to unacceptable levels of air pollution'.
- 7.36 The applicant has provided an air quality assessment identifying the air pollution sources which will be present at the facility, estimates air pollution emissions from the proposed facility, quantify impacts on sensitive receptors based upon the emission values and assesses the significance of these impacts. The assessment considers that the potential sources of emissions to air are odour from feedstock & digestate storage and combustion pollutants from Combined Heat and Power (CHP) process. The CHP process involves essentially powering an engine generator using the biogas generated through the AD process. Power is produced by the generator and heat from the running of the engine.
- 7.37 The assessment concludes that as the facility has been designed around the principal of containment, releases to air will be minimal. This, combined with the distance to receptors, will result in the impact of the AD facility being negligible in air quality terms. The assessment carries on to state that should control measures detailed in the site management plan be followed during typical operation and abnormal events, any potential impacts will be reduced even further.
- 7.38 The applicant has confirmed that the biogas boiler being proposed will be used and controlled under the environmental permit.

- 7.39 Residents have raised concerns that proposed use of the site for anaerobic digestion will result in unacceptable odorous, toxic and flammable emissions to air.
- 7.40 The Environmental Quality Team from the Borough Council of King's Lynn and West Norfolk have not objected on the grounds of unacceptable emissions to air during onsite operation and are satisfied that the use of the biogas boiler will be used and controlled under the environmental permit.
- 7.41 Officers therefore conclude that the proposed onsite operations would not lead to any unacceptable emissions to air, would be controlled by the environmental permit and as such this aspect of the proposed development is considered acceptable and therefore in accordance with NMWDF policy DM13 and paragraph 122 of the NPPF.

Operational site – access (air quality & noise)

- 7.42 The applicant in the air quality assessment states that traffic movements have been screened against the Environmental protection UK thresholds. The assessments concludes that in this location, more than 500 cars and / or 100 HGV per day would need to use the site for an air quality assessment to be needed. This is well above even peak movements.
- 7.43 The Environmental Quality Team from the Borough Council of King's Lynn and West Norfolk have not objected on the grounds unacceptable emissions to air from use of the access during operation of the site.
- 7.44 The noise assessment considers the potential level of noise expected to be generated by vehicle movement specifically at a nominal distance of 8 metres from the carriageway in the vicinity of the properties at St Edmund's Terrace which are located approximately 22 metres from the carriageway. The level at the 8 metres is considered to be 53.5dB LAeq, 1hr during the peak harvest period. Which it's considered would fall below the level at which serious annoyance would occur in accordance with the World Health Organisation guidelines for community noise.
- 7.45 The Environmental Quality Team from the Borough Council of King's Lynn and West Norfolk has not objected. The Community Safety and Neighbourhood Nuisance (Central and Community Services) Team has suggested conditions to control vehicle movement numbers during the operation of the site during and outside the harvest periods and that the applicant be required to keep records of all vehicle movements and tonnages and that these records are made available upon request. They also suggest a condition requiring an "offsite" traffic noise management plan which would educate drivers of their responsibilities.
- 7.47 There has been a significant number of objections received from local residents who are concerned that the vehicles bring materials on to and off of the site will cause a high level of disturbance (noise and dust) which will have a negative impact on their residential amenity.

- 7.48 Officers conclude that the access arrangements at the levels being proposed for the operational phase would not lead to any unacceptable emissions to air and as such this aspect of the proposed development is considered acceptable. Officers also conclude that the scale of importation and exportation of material being proposed during the operation phase, in the type of vehicles being proposed has potential to have a noise impact on the amenity of the residents of St Edmund's Terrace. However the advice received from the Community Safety and Neighbourhood Nuisance (Central and Community Services) Team recommends that this can be controlled by condition. Officers accept the advice and conclude that subject to the conditions set out above the development impacts can be mitigated to an acceptable level. The development is therefore considered to be in accordance with NMWDF policies CS14 & DM12 & policy DM15 King's Lynn & West Norfolk Borough Council, Site Allocations and Development Management Policies Plan (September 2016).

Lighting

- 7.49 The applicant has included with the submission details of the exterior lighting for consideration. This includes details of the proposed specification for the light fittings & locations, details of proposed light spill, proposed management arrangements and timing of lighting.
- 7.50 External lighting will be provided to illuminate the following areas of the application site:
- Site entrance gate
 - Digester control buildings
 - Maize hopper exterior
 - Car parking area
 - CHP area
- 7.51 The applicant confirms that the lighting scheme proposed will use horizontally mounted floodlights with low power LED's mounted at max 3M height for control room lighting. The upward lighting ratio from this form of fitting will be 0%. As such the applicant considers that light spill from the proposed development would not extend beyond the boundaries of the site. The applicant concludes that the development will not have a significant effect on resident receptors.
- 7.52 The lighting proposed for the site entrance, foot path and control areas and Low level eyelid bulkhead lighting will be activated by PIR detectors and will remain illuminated on a timer. The applicant that the setting will be for "*shortest necessary period.*" Light fittings based outside of the main Bund will be operated via a manual switch, located near to the area being illuminated.
- 7.53 Neither the Environmental Quality Team and Community Safety and Neighbourhood Nuisance (Central and Community Services) Team object to the proposed development.
- 7.54 Officers therefore consider that the lighting being proposed is acceptable and in

accordance with NMWDF policies CS14 & DM12 & policy DM15 King's Lynn & West Norfolk Borough Council, Site Allocations and Development Management Policies Plan (September 2016).

Operational site – odour

- 7.55 The applicant in describing the proposal states that digestate will be transported from site in closed tanks so that any dust and odour associated with the processing operation will be effectively contained. It is confirmed that no slurry will be stored on site as it will be piped directly from tankers to digesters hence containing the odour. The air quality assessment which supports the application concludes that due to the facility being designed around the principal of containment, there will be minimal releases to air. This, combined with the distance to receptors, will result in the impact of the proposed development being negligible in air quality terms.
- 7.56 The Community Safety and Neighbourhood Nuisance officer has spoken with the Environment Agency who confirm that a permit would be required for the activities specified in the application. This would involve a separate consultation process and onsite plant odour and noise management would be assessed through this process. The Environment Agency will assume the role of the lead regulatory body once the development becomes operational. The Officer recommends a condition that prior to the first use of the development an offsite odour management plan to protect residents along Cross Bank Road shall be submitted to and approved in writing by the Local Planning Authority. This is due to only the site being covered by the environmental permit.
- 7.57 Officers conclude that subject to condition that the development would not lead to any unacceptable emissions of odour and as such this aspect of the proposed development is considered compliant with NMWDF policy DM12 and as such acceptable.
- 7.58 **Design**
- 7.59 The application consists of a storage clamp area, primary digester & secondary digester (rectangular), digestate storage area, dry digestate collection, 2 CHP engines, bund wall, administration portacabin, car parking, feeder and acoustic fencing.
- 7.60 The rectangular digestion tanks measures 4.8m high but will sit 1.5m below the level of the embankment, so will stand 3.3m above the level of the access track. The maximum storage clamp height is 5m and also sits below the level of the embankment. The top of the clamp will be 3.5m above the ground level of the access track.
- 7.61 The primary digester, membrane on top of secondary digester, CHP and storage tanks are proposed to be finished in a moss green colour (RAL 6005).
- 7.62 Policy DM8 of the NMWDF (2011) states that Development will be permitted if it will not harm the conservation of, or prevent the enhancement of, key characteristics of its surroundings with regard to the character of the landscape

and townscape, including consideration of its historic character and settlement pattern, taking into account any appropriate mitigation measures.

- 7.63 Policy DM15 Environment, Design and Amenity states that the scale, height, massing, materials and layout of a development should respond sensitively and sympathetically to the local setting. Proposals will be assessed against their impact on neighbouring uses and their occupants and development that has a significant adverse impact on the amenity of others or which is of a poor design will be refused.

Layout

- 7.64 Officers are satisfied that the layout being proposed in design terms would meet the requirements of the operation and is in accordance with the requirements of national and local policy.

Scale, Height & Massing

- 7.65 The rectangular digestion tanks measures 4.8m high but will sit 1.5m below the level of the embankment, so will stand 3.3m above the level of the access track. The maximum storage clamp height is 5m and also sits below the level of the embankment. The top of the clamp will be 3.5m above the ground level of the access track. The combined heat and power structures will not extend above the height of the storage clamp and will therefore be viewed with the development as a backdrop.
- 7.66 The applicant has also proposed a landscaping scheme to mitigate any impact the development would have on the wider landscape due to the scale, height and massing.
- 7.67 Officers therefore consider that the proposed structures and equipment are of functional design and would be consistent with this type of facility. As such in design terms the proposed structures in terms of their scale, height and massing are considered to be acceptable subject to a suitable landscape scheme being agreed.

Materials/Appearance

- 7.68 The materials being proposed are functional and have been selected to be fit for the purpose that they are intended for. The buildings are of an agricultural appearance and the choice of colour i.e. moss green colour (RAL 6005) results in a development which is visually appropriate to a rural location.

Conclusion – Design

- 7.69 Officers consider that the proposed development by virtue of its layout, scale, height, massing and choice of materials is acceptable should a suitable landscaping scheme be proposed. Therefore subject to the introduction of a suitable landscape scheme the proposed development is considered to be acceptable and in accordance with policy DM8 of the NMWDF (2011) and policy DM15 Environment, Design and Amenity of King's Lynn & West Norfolk Borough

7.70 Landscape / Trees

- 7.71 Policy DM20 “Renewable Energy,” states that proposals for renewable energy and associated infrastructure will be assessed to determine whether or not the benefits they bring in terms of the energy generated are outweighed by the impacts they would have on the surrounding landscape and townscape.
- 7.72 Policy CS14 “Environmental Protection,” of the NMWDF (2011) states that protection and enhancement of Norfolk’s natural and built environments is a vital consideration for future waste management facilities. Developments must ensure that there are no unacceptable adverse impacts on, and ideally improvements to....The character and quality of the landscape and townscape, including nationally designated landscapes (the Norfolk Coast Area of Outstanding Natural Beauty).
- 7.73 The applicant has provided a Landscape and Visual Impact Assessment (LVIA) which considers the development proposal in line with current industry best practice guidelines.
- 7.74 The site lies within the Landscape Character Area (LCA) of North Wootton, and Landscape Character Type (LCT) of Drained Coastal Marshes (King’s Lynn and West Norfolk Landscape Character Assessment, 2007). Key characteristics of this LCT include;
- Large, geometric arable fields that are intensively farmed and bordered by ditches and dykes.
 - The River Great Ouse cutting through the landscape with significant sections canalised and embanked.
 - Views both distant and panoramic, defined by wide open skies and a simple uninterrupted horizon often defined by the sea wall.
 - A notable absence of vertical elements across most of the area with no obvious landmarks or points of focus aside from the strong visual line of the sea walls and embanked rivers.
 - Although greatly influenced by humans, the majority of the landscape feels both physically and perceptually remote.
- 7.75 The application has been amended throughout the process such that the height and massing of the proposed structures are now of a scale that would be sympathetic to the landscape. This has resulted in the Green Infrastructure Officer concluding that the impact on the wider landscape is acceptable subject to a suitable landscaping scheme to mitigate impacts for users of the BOAT and other public rights of way to the east and west, including the Sir Peter Scott Walk.
- 7.76 The applicant has submitted a landscape scheme which they specify has been designed to ensure that the development is integrated into the surrounding landscape in a satisfactory manner and to safeguard visual amenity. The scheme includes:

- Planting of a hedgerow along the site's western boundary
- Earthwork bunding and planting of a wider band of shrubs on the eastern side of the site

Native plant species are being proposed which are claimed to be suitable for the localised conditions and informed by those found in the surrounding area.

It is said that the planting will mitigate the effects of the development in views towards the site, including points on public footpaths to the north-east. The planting will integrate the site into the adjacent drained coastal marsh landscape character. Safeguard the visual amenity of users of the Byway Open to All Traffic (BOAT) along the western edge of the site. Provides habitat for species present on the site and adjacent areas by maintaining linkages with adjacent habitats, enabling species to flourish. Observes the need to retain vehicle movement along the BOAT.

- 7.77 Officers have queried whether there is sufficient land area available to accommodate the development including the proposed landscaping. The applicant has provided a site plan which includes a red line which appears to be based on the outer edge of the red line taken from the location plan. Officers having assessed both plans consider that the site plan demonstrates that sufficient space is available to accommodate the proposed development including the landscaping albeit with potential for encroachment on the BOAT (see rights of way section of the report).
- 7.78 The Green Infrastructure Officer has considered the proposed development and the landscaping scheme and is generally satisfied with the content. Further clarification is still required regarding boundary treatment of the site, particularly to the south, where fencing is proposed along the bund wall and slope the gradients proposed for the eastern boundary. These are details that can be dealt with by condition through the submission of a final landscaping scheme prior to commencement.
- 7.79 The proposed development subject to condition is considered to be in accordance with Policy CS12 of King's Lynn & West Norfolk Borough Council, Core Strategy (July 2011). Policies DM15 & DM20 of King's Lynn & West Norfolk Borough Council, Site Allocations and Development Management Policies Plan (September 2016). Policy CS14 of the NMWDF (2011).
- 7.80 **Biodiversity and geodiversity**
- 7.81 DM1 Nature conservation of the NMWDF (2011) states that developments that would harm.... Locally designated nature conservation and geodiversity sites and/or habitats, species or features identified in UK and Norfolk biodiversity and geodiversity action plans will only be permitted if it can be demonstrated that sufficient measures to mitigate harm to the site, habitat(s) and/or species can be put in place, preferably in advance of development.
- 7.82 A Preliminary Ecological Appraisal has been submitted with the application, dated March 2016. The County Ecologist is satisfied that the appraisal provides an

adequate assessment of the site. The appraisal makes recommendations for mitigation to prevent disturbance to protected species such as reptiles, nesting birds and potentially water voles /otters (which no evidence was found during the surveys but as transient species may arrive before site clearance work begins). Hedgehog habitat was also identified and as a UK Priority species for conservation. The County Ecologist request that a condition be introduced which requires the applicant to adhere to the recommended mitigation suggested in the appraisal in order to prevent contravening European protected species legislation or The Wildlife and Countryside Act 1981.

- 7.83 The County Ecologist also recommends that mitigation relating to nesting birds and ground nesting birds will be required if the excavation and construction work takes place between April and September. If the work is requested to take place prior to winter high tides, it will coincide with the nesting bird period and mitigation such as removing the vegetation on the site during the prior winter period and keeping short during the nesting period will be required. The County Ecologist concludes that if the proposed mitigation is carried out there will not be any significant impact on ecology during the construction phase.
- 7.84 On this basis subject to condition the proposal is considered to comply with policy DM1 Nature conservation of the NMWDF (2011) and Section 11 of the NPPF: Conserving and enhancing the natural environment.

Appropriate Assessment

- 7.85 The site is situated 1.7 kilometres of the Wash SAC, SPA, RAMSAR. The County Ecologist assessed the application in accordance with Regulation 61 of the Conservation of Habitats and Species Regulations 2010, and based on the information submitted to the County Planning Authority (CPA), considered that the development would not have a significant impact on this or any other protected habitat. Accordingly, no Appropriate Assessment of the development is required. This is also the view of Natural England as such Officers are satisfied with the County Ecologist's and Natural England's conclusions.
- 7.86 **Transport**
- Highways
- 7.87 NMWDF Policies CS15 "Transport" and DM10 "Transport" requires that proposed new waste facilities in terms of access will be satisfactory where anticipated HGV movements, taking into account any mitigation measures proposed, do not generate, inter alia, unacceptable risks/impacts to the safety of road users and pedestrians, the capacity and efficiency of the highway network, or to air quality and residential and rural amenity, including from air and noise.
- 7.88 Policy CS11 "Transport," of King's Lynn & West Norfolk Borough Council, Core Strategy (July 2011) states that new development should demonstrate that they have been designed to provide for safe and convenient access for all modes.
- 7.89 Policy DM20 "Renewable Energy," states that proposal for renewable energy will be assessed to determine whether or not the benefits they bring in terms of the energy generated are outweighed by the impacts.... Public safety including vehicular access.

- 7.90 Vehicular access to the site is achieved from A1078 (Edward Benefer Way) on to Cross Banks Rd which is a metalled private port road which leads to a Byway Open to All Traffic (BOAT) which is part metalled and part constructed from shell materials. The shell material part of the BOAT is currently maintained by the applicant.
- 7.91 A transport statement was submitted which provides details of the traffic to be generated by the development. The figures quoted indicate that the 12,000 tonnes of beet Pulp and Maize will be delivered in bulk 30 tonne container HGV's to the site over two 30 day periods, which denotes the harvest period, typically March and September. The harvest period deliveries will last for 5 weeks with deliveries only occurring Monday through to Saturday, i.e. one of two 30 day delivery period. The peak movements during the harvest period being 7.1 deliveries and 3.1 per outside of the harvest period. As follows:
- 6,000 tonnes of Beet Pulp which will be delivered over 30 days around March. Deliveries will be Monday through to Saturday.
 - 6,000 tonnes of Maize which will be delivered over 30 days around March. Deliveries will be Monday through to Saturday.
 - 2,000 tonnes of animal waste will be delivered when Beet Pulp and Maize is not being delivered over 30 days around March and 30 days around September. Deliveries will be Monday through to Saturday.
- 7.92 There has been a significant number of objections received from local residents regarding the impact associated with the HGV movements and the potential for HGV queues to form back on to the A1078 Edward Benefer Way as a result of the operation of the swing bridge.
- 7.93 There has been support shown for the application with it considered that the increase in vehicle movements would be small/insignificant when compared with summer & Christmas increases. The Surrounding infrastructure is able to support the slight rise in traffic and the access roads.
- 7.94 The highway authority having considered the proposal conclude the site benefits from good access directly from the adopted road network via the A1078 Edward Benefer Way (which is a Principal Road) via a right turn lane. Therefore raises no concerns regarding highways access. They are satisfied that in principle the surfacing scheme for the BOAT is suitable as such subject to the inclusion of the suggested conditions relating to parking arrangements for construction workers, a construction traffic management plan and full details of the surfacing design & materials the Highway Authority would not wish to restrict the granting of the application.
- 7.95 Officers consider that the site access from the A1078 Edward Benefer Way on to port area of Cross Banks Road is suitable for the expected vehicle movements and therefore acceptable in highways terms. The distance between the swing bridge and the highway (approximately 130 metres) is considered sufficient to

avoid queues backing on to the highway. Therefore the proposed development in its current form is considered to be in accordance with policy CS15 “Transport,” & policy DM10 “Transport” of the NMWDF (2011). Policy CS11 “Transport,” of King’s Lynn & West Norfolk Borough Council, Core Strategy (July 2011) and policy DM20 of King’s Lynn & West Norfolk Borough Council, Site Allocations and Development Management Policies Plan (September 2016).

Rights of Way

- 7.96 Policy DM20 “Renewable Energy,” of King’s Lynn & West Norfolk Borough Council, Site Allocations and Development Management Policies Plan (September 2016) states that proposals for renewable energy and associated infrastructure will be assessed to determine whether or not the benefits they bring in terms of the energy generated are outweighed by the impacts they would have on public safety (including footpaths, bridleways and other non-vehicular rights of way in addition to vehicular highways as well as local, informal pathway networks).
- 7.97 The applicant is proposing to replace the un-metalled section of the BOAT with a 6 metre wide carriageway made up of 2.5 metre of type 1 surfacing shore side for pedestrian and equestrian usage and 3.5 metres metalled section on the eastern side of the track for vehicular access.
- 7.98 The applicant in the construction management plan provides an explanation of how operations will be managed to prevent “blocking” the BOAT during the construction phase.
- 7.99 The County Council has carried out a survey of the site which when overlain with the proposed access arrangements demonstrates that the operation area and proposed landscaping would encroach on the BOAT. The County Council’s Public Rights of Way Officer in response explained that the legally recorded width of the BOAT is 4m. The actual track on the ground is mostly wider than that (say 6m). He considers it difficult to define where within the physical width of the BOAT, lies the legal width. Therefore the Officer considers that some encroachment from the eastern side would effectively be de minimis if the legal width still remains in a useable condition. A wider route is being proposed wherever possible (6m) which is likely to mean moving the BOAT a bit further towards the hedge. That width would be dedicated (increase from 4m to 6m) to ensure that the public use remains on the legal route.
- 7.100 In light of this situation residents who can only access their property via the BOAT have made representation which states that they are seeking a legal view regarding the legal standing of the right of way. The County Council’s Public Rights of Way Officer considers that the issue is essentially a private rights issue and not a public rights issue. He also considers that if there was any encroachment onto the private rights then the applicant will need written consent from the rights holders to make any changes to it. Officers in considering this issue agree that the issue appears to be a private rights issue and should planning permission be granted that the applicant will have 3 years to implement the permission and resolve this issue.

- 7.101 There has been a significant number of objections received from local residents who are concerned that the development will have an unacceptable impact on the BOAT and the users of the BOAT including horse riders. They also are concerned that the BOAT is unsuitable for the vehicle movements being proposed, the operation site encroaches on to the BOAT. They are concerned with the potential for impact the changes to the BOAT will have on the landscape and the proposed widening will result in urbanisation of the area. Concern has also been raised regarding the HGV movements and potential for damage to the flood defences. It is stated that the alterations to the BOAT will require written approval from the residents. Residents are concerned that the alterations to the BOAT will increase use and potential for anti-social behaviour and that the alterations will mean greater speed and result in a safety issue particularly at the point where the BOAT meets the flood defence.
- 7.102 In support of the application a representation has been received which states that the application will improve the management of the area and litter picking.
- 7.103 The County Council's Public Rights of Way Officer raises no objection subject to the following:
- Detail design to be agreed with Highways regarding construction specification including surface treatments in line with BHS advisory documents. *The revised scheme has been agreed in principle with highways subject to final details being submitted prior to commencement of the development.*
 - Applicant to dedicate additional width to the BOAT in order to accommodate the width required for access traffic and recreational/private use alongside. *The applicant has agreed in principle.*
 - Incorporation of a maintenance agreement to ensure long term maintenance of the surface for its public purpose. *The applicant has submitted a draft legal agreement.*
 - Ensuring that during the construction phase the route is kept open for the private access to property. *A construction management plan has been submitted which makes reference to works will be managed. See section below.*
 - If the route is required to be closed for public traffic on safety grounds at any point, then a temporary traffic regulation order will be required. *Agreed by the applicant.*
- 7.104 The County Council's Green Infrastructure Officer has the considered the impacts that the amendments to the BOAT and the traffic movements would have on the landscape and raises no objection.
- 7.105 Officers consider that this section of the proposed access i.e. from the dock area along the route of the BOAT and along the top of the flood defence is difficult to justify. However there has not been any objections received from the stakeholders as such the proposed development and the impact associated vehicle movements during the construction and operational phases is considered to be acceptable and therefore in accordance with policy DM20 "Renewable Energy," of King's Lynn & West Norfolk Borough Council, Site Allocations and

Development Management Policies Plan (September 2016).

Port/Dock/Fisher Fleet Area

- 7.106 Policy DM20 “Renewable Energy,” of King’s Lynn & West Norfolk Borough Council, Site Allocations and Development Management Policies Plan (September 2016) states that proposals for renewable energy and associated infrastructure will be assessed to determine whether or not the benefits they bring in terms of the energy generated are outweighed by the impacts they would have on public safety.
- 7.107 The dock area is in private ownership and rights exist to allow access through the area. As you enter the dock area you encounter entrances to the ports either side of the Cross Bank Road approximately 70 metres from the junction with the A1078 Edward Benefer Way. The swing bridge which enables large shipping to enter the ports is a further 83 metres along Cross Bank Road. Beyond the swing bridge the road narrows and there is a crossroad with “Central Road,” which also provides access in to the port area. Beyond this area there is a section known as “Fisher Fleet.” This section has a dock area and landing stage for the fisher fleet who unload their fishing boats along Cross banks Road and park their vehicles along the dock wall in the carriage way.
- 7.108 The dock area as a whole including the Fisher Fleet is not public highway, nor does it form part of the BOAT. As such it is not in the remit of the highways authority or the Public Rights of Way Officer to provide comments for this area.
- 7.109 There has been concern raised by a member of the fisher fleet that regarding site access along Cross Bank Road as it passes the Fisher Fleet, and the effects upon this will have on King's Lynn fishermen's activities.
- 7.110 The Borough Council of King’s Lynn and West Norfolk planning committee has objected to the proposed development due to the impact upon the users of Cross Bank Road. They consider that the increased movement of traffic through the dock area has potential to interfere with the operations of the dock with an adverse impact upon the operations of a major employer.
- 7.111 The applicant has submitted a Transport Management Plan to support the application which includes “3 spot surveys,” conducted between the hours of 08:00 17:00 on weekdays. The surveys measure the number of vehicles entering Cross Bank Road from Edward Benefer Way. The surveys demonstrate that during the survey periods 40% of the vehicles entering the dock turned off before reaching the Fisher Fleet Area. During the peak periods for the docks this rises to 62%. The number of vehicles which carried on past the fisher fleet area remains stable during both periods. The applicant states that the reason for this that all the extra traffic, enters the port at the first entrance and not travelling through the dock and onto the Fisher Fleet. The survey results report that the number of HGV’s travelling along the Fisher Fleet section during the periods measured equals 19 HGV movements. The application seeks during the peak harvest period to increase the number of HGV’s by a further 14 movements (7 in, 7 out). This represents an increase of approximately 74%. This level of increase is only being proposed for two (undefined) 30 day block periods per annum.

- 7.112 The Transport Management Plan includes estimated vehicle numbers for the construction period this set out in the amenity section of this report. This equates to approximately 3,020 movements between April and November. This represents another significant percentage increase in the number of vehicles using the dock area. For reference the Transport Management Plan also includes under roles and responsibilities a reference to a duty of care to prevent harm under Indian legislation.
- 7.113 Officers consider that it is important that the applicant provides a full appraisal of whether the dock and fisher fleet areas are capable of accommodating the proposed levels of vehicular activity both during the construction and the operational stages. Officers would have expected as much information as possible of the current activities in these areas along with technical details of the carriageway i.e. width and parking arrangements. A further comprehensive assessment of whether Cross Banks Road can cope with the current levels of activity in these areas and whether the proposed increases can be accommodated without compromising safety is essential.
- 7.114 The transport management plan lacks details of the internal vehicle movements associated with the port and fisher fleet activities. The plan also lacks a technical appraisal of the carriageway. The transport management plan therefore does not provide an assessment of whether the carriageway is technically capable of accommodating the proposed vehicle movement numbers. It also lacks an assessment of whether there safety implications for existing users of Cross Bank Road in these areas.
- 7.115 Officer consider that the applicant has not provided sufficient information to demonstrate that the proposed development during the construction and operation phases would not result in an unacceptable impact on the safe use of Cross Banks Road in the Fisher Fleet and Dock areas. Officers therefore cannot determine whether or not the benefits of the proposed development in terms of energy generated are outweighed by the impact on public safety and economic activity which is a requirement of policy DM20 of King's Lynn & West Norfolk Borough Council, Site Allocations and Development Management Policies Plan (September 2016). As such in this regard the officers are unable to recommend approval of the application.
- 7.116 **Sustainability**
- 7.117 Policy CS13 "Climate change and renewable energy generation," of NMWDF (2011) states that all opportunities for new waste developments to generate renewable energy on-site will be welcomed and should be explored fully.
- 7.118 Policy CS08 "Sustainable development," of King's Lynn & West Norfolk Borough Council, Core Strategy (July 2011) states that the Council will support and encourage the generation of energy from renewable sources. These will be permitted unless there are unacceptable locational or other impacts that could not be outweighed by wider environmental, social, economic and other benefits.
- 7.119 Policy DM1 "Presumption in favour of sustainable development" of King's Lynn & West Norfolk Borough Council, Site Allocations and Development Management Policies Plan (September 2016) states that when considering development

proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. The Council will work proactively and jointly with applicants to find solutions that allow proposals to be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.

- 7.120 Policy DM 20 – Renewable Energy of King’s Lynn & West Norfolk Borough Council, Site Allocations and Development Management Policies Plan (September 2016) states that proposals for renewable energy and associated infrastructure, will be assessed to determine whether or not the benefits they bring in terms of the energy generated are outweighed by the impacts.
- 7.121 The sustainability credentials of the proposed development have been brought in to question through representation on the basis that it is clear that the harvesting and transporting of the feedstock to the facility also creates emissions.
- 7.122 In support of the sustainability credentials the applicant states that the proposed development will generate 9 GWh of power and surplus heated water which will be used to provide local, sustainable and renewable energy. The applicant states that they already have a Power Purchase Agreement (PPA) with Dow Chemicals (the nearest neighbour) and is in the process of negotiating a PPA with KL Technologies. Both companies are keen to use the electricity as this will help offset rising energy costs.
- 7.123 The applicant states that anaerobic digestion is a key part to play in reducing reliance on fossil fuels and is Government’s preferred option for the treatment of organic waste streams. Officers consider that this statement is supported in the Government’s National Anaerobic Digestion Strategy and Action Plan (the Strategy), published in 2011, where there is a commitment to increasing energy from waste through anaerobic digestion.
- 7.124 The applicant in the Carbon Footprint document provides an assessment of the annual carbon emissions associated with the proposed AD plant. The document also calculates how much carbon would be required to generate an equivalent amount of electricity by “traditional methods.” The document concludes 3,847kg of Co₂ would be emitted per annum by the plant and the equivalent traditional method would emit 15,946 KG Co₂. The Council’s Sustainability Manager calculates a different figure for the proposed AD plant and this equates to 15,726 KG Co₂ but does not raise an objection and considers the proposal to be sustainable. A representation has been received in response which states that the Co₂ resulting from the AD process would be released in any event because as the crops bio degrade they release Co₂ as part of the atmospheric process.
- 7.125 The government in the UK Bioenergy Strategy (2012) whilst not planning policy is a material consideration for this type of application sets out their responsibilities to ensure that their policies only support bioenergy use in the right circumstances. The strategy is based on the following four principles, which in summary are:

1. Policies that support bioenergy should deliver genuine carbon reductions that help meet UK carbon emissions objectives to 2050 and beyond.
2. Support for bioenergy should make a cost effective contribution to UK carbon emission objectives in the context of overall energy goals.
3. Support for bioenergy should aim to maximise the overall benefits and minimise costs (quantifiable and non-quantifiable) across the economy.
4. At regular time intervals and when policies promote significant additional demand for bioenergy in the UK, beyond that envisaged by current use, policy makers should assess and respond to the impacts of this increased deployment on other areas, such as food security and biodiversity.

- 7.126 Principle 1 recognises that policies should only support bioenergy where the reductions in emissions through the use of bioenergy exceed any new emissions created as a consequence of the policy. If you apply this principle to the consideration of this individual application on the basis of the information provided it is unclear whether the emissions required to grow, harvest and transport the feedstock to site would be less than the emissions required to generate the same amount of electricity from the grid. The precise answer to this depends on haulage distances which are not completely clear although the source is believed to be grown locally. It is widely acknowledged that anaerobic digestion is a sustainable method of generating electricity.
- 7.127 Officers in conclusion note that the government supports this type of development. Officers also note the comments of the Sustainability Manager who considers the proposal to be a sustainable method for generating electricity. It is clear is that energy would be generated from a renewable source rather than using finite resources. Officers on balance consider that the proposed development is acceptable in this regard. The proposal is therefore considered to comply with policy CS13 of NMWDF (2011), policy CS08 "Sustainable development," of King's Lynn & West Norfolk Borough Council, Core Strategy (July 2011) and policies DM1 and DM 20 of King's Lynn & West Norfolk Borough Council, Site Allocations and Development Management Policies Plan (September 2016).

Food growing

- 7.128 The government in the UK Bioenergy Strategy (2012) includes a principle (4) which responds to the issue of ensuring that the production of biomass for bioenergy must not pose a threat to food security, in the UK. The Anaerobic Digestions Strategy and Action Plan produced also makes the same point.
- 7.129 Officers consider that the proposed development is relatively small in scale such would not have a significant adverse impact on food security. Any reduction in capacity is likely to be a relatively small amount and on such a small scale this would not be an unacceptable consequence of the development.
- 7.130 **Impact on Heritage Assets**

- 7.131 Section 66 (1) of the Planning (Listed Buildings and Conservations Areas) Act 1990 requires that the Local Planning Authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 7.132 The relevant paragraphs in Chapter 12 of the NPPF which specifically address the need for conserving and enhancing the historic environment are paragraphs 126 – 141. They also allow for “harm” or “loss” to heritage assets arising from development to be justified in certain circumstances.
- 7.133 Paragraph 132 states:
‘When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation. The more important the asset, the greater the weight should be.
- 7.134 Paragraph 134 states:
“Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.”
- 7.135 Policy CS01 “Spatial strategy,” of King’s Lynn & West Norfolk Borough Council, Core Strategy (July 2011) states that development priorities for the borough will be to protect and enhance the heritage assets.
- 7.136 Policy CS12 “Environmental assets” of King’s Lynn & West Norfolk Borough Council, Core Strategy (July 2011) states that Development should seek to avoid, mitigate or compensate for any adverse impacts on heritage assets as well as seeking to enhance sites through the creation of heritage interest.
- 7.137 Policy DM15 Environment, Design and Amenity of King’s Lynn & West Norfolk Borough Council, Site Allocations and Development Management Policies Plan (September 2016) states that Development must protect and enhance the amenity of the wider environment including its heritage value. Proposals will be assessed against heritage impact.
- 7.138 Policy DM 20 – Renewable Energy of King’s Lynn & West Norfolk Borough Council, Site Allocations and Development Management Policies Plan (September 2016) states that proposals for renewable energy and associated infrastructure, will be assessed to determine whether or not the benefits they bring in terms of the energy generated are outweighed by the impacts upon designated and un-designated heritage assets, including the setting of assets.
- 7.139 Policy CS14 “Environmental protection of NMWDF (2011) states that developments must ensure that there are no unacceptable adverse impacts on heritage assets and their setting.
- 7.140 The Applicant in their Heritage Statement concludes that the proposed scheme takes careful account of its context, including 7 Listed Buildings located at St Edmunds Terrace. The statement is said to take account of national planning policy (NPPF paragraphs 133 and 134) and shows that, whilst there will be a

small increase in noise, dust and vibration as a result of additional HGV movements passing along Cross Bank Road, this would not have a harmful impact on the listed buildings or their setting.

- 7.141 Having considered all of the information Officers consider that there will be an increase in noise, dust and vibration as a result of additional HGV movements passing along Cross Bank Road. The applicant in the heritage statement have concluded that there will be no harm to the listed buildings or their setting Officers agree with this conclusion. As such an assessment against the requirements of section 66 (1) of the Planning (Listed Buildings and Conservations Areas) Act 1990 is not required. Therefore officers consider that the proposed development is in accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, the NPPF, policies CS01, CS12 of King's Lynn & West Norfolk Borough Council, Core Strategy (July 2011), DM15, DM20 of King's Lynn & West Norfolk Borough Council, Site Allocations and Development Management Policies Plan (September 2016) and CS14 of NMWDF (2011).
- 7.142 **Groundwater/surface water**
- 7.143 Policy CS14 "Environmental Protection" of NMWDF (2011) states that developments must ensure that there are no unacceptable adverse impacts on, and ideally improvements to natural resources including water and that enhancement of Norfolk's natural and built environments is a vital consideration for future waste management facilities in the county.
- 7.144 Policy DM3 "Groundwater and Surface Water" of NMWDF (2011) states that that proposed developments would not adversely impact upon groundwater quality or resources and surface water quality or resources.
- 7.145 Policy DM15 Environment, Design and Amenity of King's Lynn & West Norfolk Borough Council, Site Allocations and Development Management Policies Plan (September 2016) states that proposals will be assessed against their impact on neighbouring uses. Proposals will be assessed against a number of factors including water quality.
- 7.146 The applicant has provided details of how surface water drainage will be managed during operation and construction. The drainage principle is to contain the surface water within the bunded area of the site for use within the process. Rainwater captured in the CHP bund will be pumped into the bunded area. The applicant has provided calculations of the expected quantities of rainwater likely to be stored on the site during a 1:100 year rainfall event. The applicant has also provided calculations which demonstrate that depth of water which would lay within the bunded area when empty and full. Drawings have also been provided which demonstrate the falls on site.
- 7.147 King's Lynn Drainage Board considers that in order to ensure that surface water drainage issues related to all elements of the applicant's proposals are satisfactorily addressed prior to works taking place one or more pre-commencement conditions should be imposed relating to drainage matters,

should the application be approved. The Lead Local Flood Authority to assist officers has suggested the wording that a condition should contain.

- 7.148 Based on the advice received Officers consider that the proposed development is in accordance with policy CS14 “Environmental Protection” & DM3 “Groundwater and Surface Water” of NMWDF (2011) and policy DM15 Environment, Design and Amenity of King’s Lynn & West Norfolk Borough Council, Site Allocations and Development Management Policies Plan (September 2016).
- 7.149 **Flood risk**
- 7.150 Policy CS01 “Spatial Strategy” of King’s Lynn & West Norfolk Borough Council, Core Strategy (July 2011) states that one of the development priorities for the borough will be to avoid areas at risk of flooding whilst recognising the role of King’s Lynn and that some development at risk of flooding will be acceptable to maintain sustainability.
- 7.151 Policy CS08 “Sustainable Development” of King’s Lynn & West Norfolk Borough Council, Core Strategy (July 2011) states that the Council’s Strategic Flood Risk Assessment (SFRA) findings will be used to guide future developments away from areas of high flood risk. Development proposals in high flood risk areas will need to demonstrate that:
- The type of development is appropriate to the level of flood risk identified in the SFRA.
 - Flood risk is fully mitigated through appropriate design and engineering solutions.
- 7.152 Policy CS13 “Climate change and renewable energy generation,” of NMWDF (2011) states potential waste developers will need to demonstrate that the sites can be developed, operated without unacceptable flood risk to the site itself, and also to ‘downstream’ land uses, taking into account potential climate change impacts.
- 7.153 Policy DM4 “Flood Risk” of NMWDF (2011) states that the SFRA’s will be used to inform decisions for waste management facilities and that a flood risk assessment will be required for all development in flood zone 3. The County Planning Authority will expect developers, through site layout, design and access, to ensure flood risk is not increased as a result of all waste management sites.
- 7.154 The EA has noted that the proposal is in flood zone 3 and, being very close to the flood embankments of the Gt Ouse, represents a high risk and high consequence location for development. The proposed development would see the excavation of a man-made earth embankment which forms the eastern flood defence for the Great Ouse in King’s Lynn. The applicant in mitigation states that the concrete bund wall surrounding the proposed site would extend to 300mm above the current level of the BOAT which is referenced at +7.26.AOD.
- 7.155 The Borough Council of King’s Lynn and West Norfolk has objected to the proposal on the grounds that the flood risk assessment is technically deficient

and currently does not allow the MWPA to determine that the exception test has been met. Since these comments have been received a revised Flood Risk Assessment has been received. The borough council although prompted have not provided any further comments.

- 7.156 The Environment Agency on the basis of the information provided has not raised an objection subject to the development being carried out in accordance with the submitted details. This is on the basis the requirements of the National Planning Policy Framework will only be met if the height of the bund and flood gate shall be a minimum of 300mm above the adjacent access track, if no development takes place until a detailed method of work has been submitted to, and approved in writing by the local planning authority. Also only if the measures detailed within the FRA submitted with this application, addendums & Engineering Support Practice Ltd are implemented and secured by way of planning conditions on any planning permission. The EA advises that it is for the *“Local Planning Authority to determine whether or not there are other sites available at lower flood risk as required by the Sequential Test in the NPPF.”*
- 7.157 Officers note that the site and the surrounding area is in flood zone 3, the nearest area of land outside of zone 3 is approximately 2.8km away. Paragraph 101 of the NPPF states that new development should be steered to areas with the lowest probability of flooding. A sequential risk based approach to site selection is therefore recommended. Development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. The applicant in their assessment of this proposal has not considered any other alternative sites at lower risk of flooding. In justifying this site the applicant states that the electricity and heat will be used by commercial users in the vicinity. However this usage has not been confirmed and nor has the necessary pipework required to transport the heat to the potential end users been included in the application area. Therefore little weight can be placed on this. As such Officers consider that potentially there are alternative sites available with a suitable connection to the grid at a lower risk of flooding. As such with the information/justification submitted officers consider that the site fails the sequential test.
- 7.158 The applicant in the flood risk assessment states that a site specific flood emergency preparedness emergency plan will be agreed with the Emergency Planning Department of BCKLWN. Officers are not aware of a plan being agreed. This information ideally should be known in advance of any development and contained within the construction management plan.
- 7.159 The EA has confirmed that a flood defence consent will be required. Under the terms of the Water Resources Act 1991 and the Anglian Regional Byelaws, prior written consent of the Environment Agency is required for any proposed works or structures, in, under, over or within 9 metres of the top of the bank of the River Great Ouse Tidal River which is designated a “main river.”
- 7.160 Officers conclude that the proposed development is not acceptable in flood risk terms, the applicant has not provided an adequate justification for locating this type of facility in flood zone 3. The information to demonstrate emergency

procedures in the event of flooding is lacking from the submission but could be secured through condition if required. Therefore the application is considered to not be in accordance with policies CS01 & CS08 of King's Lynn & West Norfolk Borough Council, Core Strategy (July 2011) and policies CS13, DM4 of NMWDF (2011) and section 10 of the NPPF.

7.161 Cumulative impacts

7.162 NMWDF Policy DM15: Cumulative Impacts seeks to consider fully the cumulative impact of developments in conjunction with existing proposals. This echoes the National Planning Policy for Waste which also identifies the cumulative effect of existing and proposed waste facilities on the well-being of the local community as a material consideration.

7.163 In this instance, there is another existing permitted waste management facility on the opposite bank of the Great Ouse. The applicant has not provided supporting information demonstrating how the proposal relates to other development nearby and details of how any cumulative effects are proposed to be mitigated satisfactorily. However in this instance it is clear that the access arrangements for the two sites are not linked and the only linking factor is in landscape terms. The Green Infrastructure Officer has not raised any concerns in this regard. On this basis the proposal is compliant with the policy.

7.164 Environmental Impact Assessment

7.165 In accordance with the Town and Country Planning Environmental (Impact Assessment) Regulations 2011 the application was screened on receipt and re-screened at the determination stage and it is that it does not meet the criteria contained within Schedules 1 or 2 for an Environmental Impact Assessment. Therefore this is not required.

7.166 Responses to the representations received

7.167 The application was advertised by means of neighbour notification letters, site notices, and an advertisement in the Eastern Daily Press newspaper.

7.168 A large number of objections were received to the scheme raising a number of different issues. Many of these, including those that relate to amenity, have already been addressed in the report i.e. noise, odour, visual impact etc.

With regard to adverse impact on property prices the potential the local residents would not be able to sell their properties, these are not a material consideration in the assessment of the application.

With regards to the following points:

- Monitoring and enforcement of the development if approved – the council has a monitoring and enforcement team who would carry out proactive monitoring and take enforcement action as appropriate.
- Reputation of the operator – not a material consideration.
- Questions applicant's ability to run the plant - the application sits with the land and the applicant may not in fact be the operator if permission were to be granted.

- Not a green issue but money making – the financial incentives or otherwise associated with development is not a material consideration.
- The by way improvements will result in more anti-social behaviour – there is no evidence to support this claim therefore given no weight in determining the application.
- It would have been fairer to withdraw the application and resubmit as information is getting confusing – it is for the applicant to withdraw the application or not. Officers note that there has been a lot of information submitted in support of the application. The applicant provided a documents list to assist which has been posted on the Council's website.
- HGV's travelling from the other side of the Great Ouse will have a long way to travel because they are not allowed through the town – The Sustainability Manager considers that the development is sustainable.
- The carbon footprint document and transport statement contradict one another in the parts relating to vehicle movements, supply of electricity to grid – Officers consider that there are number of contradictions within the documentation which if the application were to be approved would need to be addressed through condition.
- The low density of maize means that 30 tonnes cannot be delivered at a time as such the vehicle movements will increase to cater for this – the vehicle movement numbers have been specified by the applicant. Conditions will be in place to ensure vehicle movements numbers are not exceeded should permission be granted.
- People living close to the source of the crops should be consulted – This is not a requirement. The application has been widely advertised.
- The block plan (revision 1) is incomplete and of no use – further elaboration required, the plan appears to be complete.
- This proposal is not a waste facility. Its specific purpose is to turn specially grown crops (subsidised by the tax payer?) into energy for the benefit of businesses - the financial incentives or otherwise associated with development is not a material consideration.

The Community Infrastructure Levy

- 7.169 The development is exempt from CIL in accordance with the King's Lynn & West Norfolk Borough Council CIL charging schedule (February 2017).

8. Resource Implications

- 8.1 **Finance:** The development has no financial implications from the Planning Regulatory perspective.
- 8.2 **Staff:** The development has no staffing implications from the Planning Regulatory perspective.
- 8.3 **Property:** The development has no property implication from the Planning Regulatory perspective.
- 8.4 **IT:** The development has no IT implications from the Planning Regulatory perspective.

9. Other Implications

9.1 **Human rights**

9.2 The requirements of the Human Rights Act 1998 must be considered. Should permission not be granted Human Rights are not likely to apply on behalf of the applicant.

9.3 The human rights of the adjoining residents are engaged under Article 8, the right to respect for private and family life and Article 1 of the First Protocol, the right of enjoyment of property. A grant of planning permission may infringe those rights but they are qualified rights, that is that they can be balanced against the economic interests of the community as a whole and the human rights of other individuals. In making that balance it may also be taken into account that the amenity of local residents could be adequately safeguarded by conditions albeit with the exception of visual amenity. However, in this instance it is not considered that the human rights of adjoining residents would be infringed.

9.4 The human rights of the owners of the application site may be engaged under the First Protocol Article 1 that is the right to make use of their land. An approval of planning permission may infringe that right but the right is a qualified right and may be balanced against the need to protect the environment and the amenity of adjoining residents.

9.5 **Equality Impact Assessment (EqIA)**

9.6 The Council's planning functions are subject to equality impact assessments, including the process for identifying issues such as building accessibility. None have been identified in this case.

9.7 **Legal Implications:** There are no legal implications from the Planning Regulatory perspective.

9.8 **Communications:** There are no communication issues from a planning perspective.

9.9 **Health and Safety Implications:** There are no health and safety implications from a planning perspective.

9.10 **Any other implications:** Officers have considered all the implications which members should be aware of. Apart from those listed in the report (above), there are no other implications to take into account.

10. Section 17 – Crime and Disorder Act

10.1 It is not considered that the implementation of the proposal would generate any issues of crime and disorder, and there have been no such matters raised during the consideration of the application.

11. Risk Implications/Assessment

11.1 There are no risk issues from a planning perspective.

12. Conclusion and Reasons for Refusing the Planning Permission

12.1 The application documentation has failed to enable officers to determine whether the proposed development during its construction and operation would be acceptable or whether it would result in an unacceptable impact on the safe use of Cross Banks Road in the Fisher Fleet and Dock areas. Officers are unable to determine whether the benefits of the proposed development in terms of energy

generated are outweighed by the impact on public safety and economic activity which is a requirement of policy DM20 of King's Lynn & West Norfolk Borough Council, Site Allocations and Development Management Policies Plan (September 2016).

- 12.2 The application documentation has failed to provide sufficient information in support of the construction phase of the development to enable officers to determine whether the amenity of local residents and businesses could be protected to an acceptable level during site construction. Therefore officers cannot establish whether the facility can be constructed in a manner which would satisfy the requirements of NMWDF policy DM12 and policies DM15 & DM 20 of King's Lynn & West Norfolk Borough Council, Site Allocations and Development Management Policies Plan (September 2016).
- 12.2 The application documentation has failed to demonstrate that the proposed development is acceptable in flood risk terms. The applicant has not provided an adequate justification for locating this type of facility in flood zone 3 as such the proposal fails the sequential test. The application is considered to not be in accordance with policies CS01 & CS08 of King's Lynn & West Norfolk Borough Council, Core Strategy (July 2011), policies CS13 & DM4 of NMWDF (2011) and section 10 of the NPPF.

Background Papers

Norfolk Minerals and Waste Local Development Framework Core Strategy and Minerals and Waste Development Management Policies Development Plan Document 2010-2016 (2011)

<https://www.norfolk.gov.uk/what-we-do-and-how-we-work/policy-performance-and-partnerships/policies-and-strategies/minerals-and-waste-planning-policies/adopted-policy-documents>

King's Lynn & West Norfolk Borough Council, Core Strategy (July 2011)

https://www.west-norfolk.gov.uk/downloads/download/68/core_strategy_document

King's Lynn & West Norfolk Borough Council, Site Allocations and Development Management Policies Plan (September 2016).

https://www.west-norfolk.gov.uk/info/20093/site_allocations_and_development_management_policies_plan/514/adopted_plan

The National Planning Policy Framework (NPPF) (2012)

<http://planningguidance.planningportal.gov.uk/>

Planning Practice Guidance (2014)

<http://planningguidance.planningportal.gov.uk/>

National Planning Policy for Waste (2014):

<https://www.gov.uk/government/publications/national-planning-policy-for-waste>

Waste Management Plan for England (2013)

<https://www.gov.uk/government/publications/waste-management-plan-for-england>

Officer Contact

If you have any questions about matters contained in this paper or want to see copies of any assessments, eg equality impact assessment, please get in touch with:

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If you need this report in large print, audio, braille, alternative format or in a different language please contact 0344 800 8020 or 0344 800 8011 (textphone) and we will do our best to help.