

Section 73 application to vary condition 3 of planning permission TW/15/504981 to allow the consented anaerobic digester to also process chicken manure from other Fridays' farms at Knoxbridge Farm, Cranbrook Road, Frittenden, Cranbrook, Kent, TN17 3BT – TW/15/508499 (KCC/TW/0341/2015)

A report by Head of Planning Applications Group to Planning Applications Committee on 9 December 2015

Application by Fridays Ltd and Rika Biofuels for Section 73 application to vary condition 3 of planning permission TW/15/504981 to allow the consented anaerobic digester to also process chicken manure from other Fridays' farms at Knoxbridge Farm, Cranbrook Road, Frittenden, Cranbrook, Kent, TN17 3BT – TW/15/504981 (KCC/TW/0341/2015)

Recommendation: Permission be granted subject to conditions

Local Member: Mr S Holden

Classification: Unrestricted

## Site

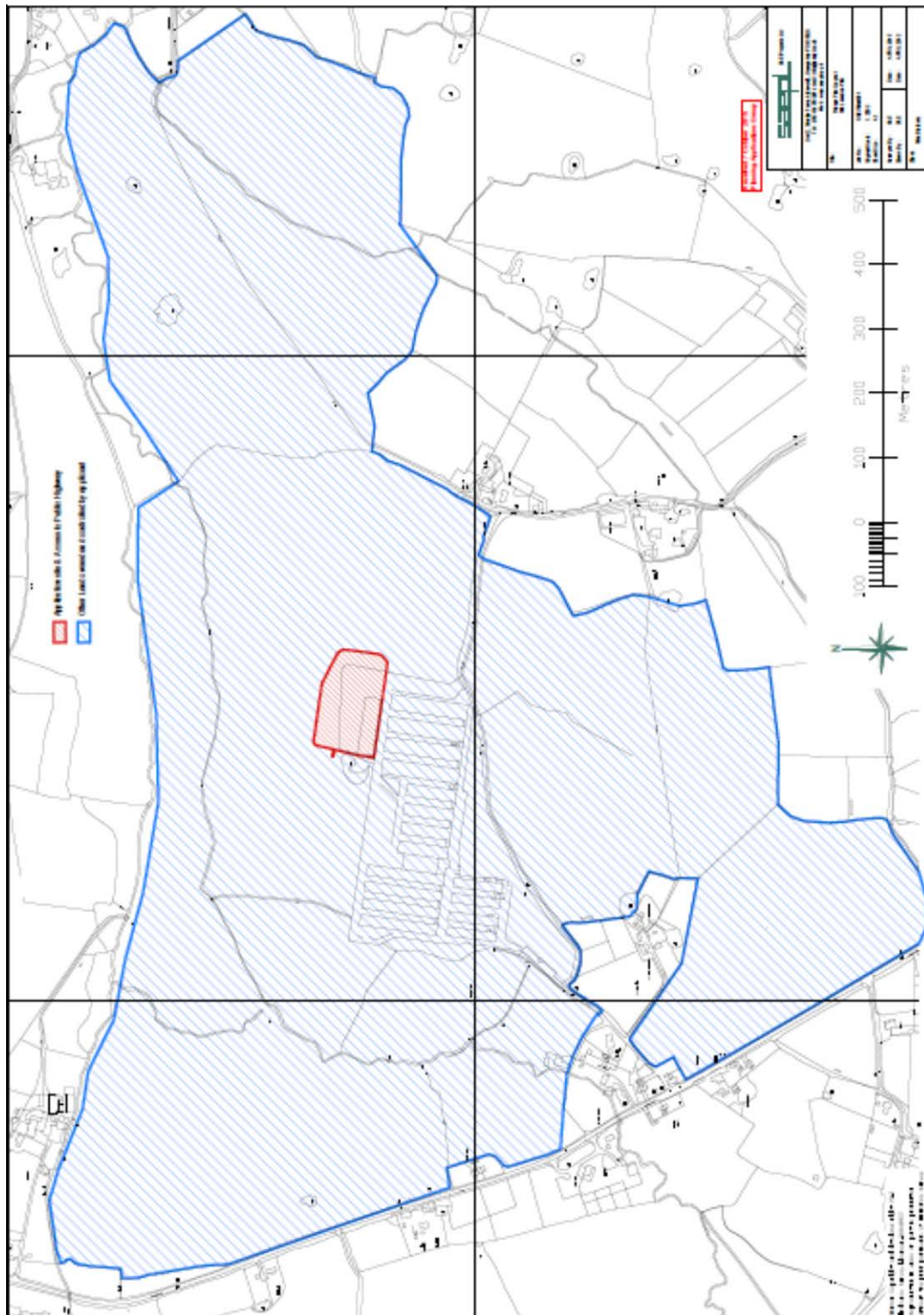
1. Knoxbridge Farm is an established egg producing farm located some 1.8 miles to the south of Staplehurst approximately 500 metres east of the A229 Cranbrook Road. The farm is surrounded by agricultural land with the nearest residential dwellings located some 300 metres to the east in a small cluster at Little Wadd Farm and at Great Wadd Farm located some 400 metres to the south east. A number of other properties adjoin the private site access located immediately off Cranbrook Road some 450 metres to the south west. The site is not subject to any statutory designations. (A site plan is attached).

## Background

2. Fridays Ltd is a family run business which focusses on producing eggs. Their customers include a number of major UK supermarket chains and employs some 270 staff. The laying hens produce around 33,000 tonnes of manure each year which under an existing Environmental Permit issued by the Environment Agency is currently taken away by tractor and trailer for disposal to local farmers who use the material as a fertiliser on their fields. However due to environmental Nitrate Vulnerable Zone Regulations, it is becoming increasingly difficult to find suitable land to spread the manure in winter months and is proving to be an increasing financial and logistical problem for the business.

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### SITE LOCATION PLAN



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### Planning History

3. The wider farm has an extensive planning history which relates to its ongoing use for colony egg production. Most recently in October this year permission was granted by Kent County Council ( Ref. TW/15/504981 ) under officer delegated authority for the installation of an Anaerobic Digester, comprising below ground digester, ammonium sulphate tank, lagoon and associated areas of hardstanding, together with relocated earth bund. The anaerobic digestion process creates biogas, which will be cleaned to produce biomethane and then fed into the national gas grid.
4. The specific benefits of the Knoxbridge Farm AD plant are:
  - It represents a renewable source of energy and will provide enough gas per annum to meet the needs of the farm and around 2000 homes.
  - It reduces the amount of greenhouse emissions by capturing the methane and ammonia produced naturally from hen manure.
  - The ammonium sulphate created as a by-product of the AD process is a widely used fertiliser and one which is largely odourless replacing the need for synthetic fertilisers.
  - It will remove the need for raw material to be taken away from the site and reduce the volume of material which needs to be disposed of.
5. The planning permission for the AD plant has a number of conditions including a restriction on the maximum waste throughput to 40,000 tonnes per annum allowing for seasonal fluctuations ( condition 4), a restriction on the maximum number of vehicle movements to and from the site to 76 each week ( i.e. no more than the number currently generated from the existing operations ) (condition 5) and the plant being restricted to only accepting the chicken manure waste from Knoxbridge Farm (condition 3).

### Proposal

6. This latest application seeks to vary condition 3 of planning permission TW/15/504981 to allow the AD plant to process chicken manure from other Fridays Farms where that becomes necessary to ensure that the digester can operate to its full design capacity as much as possible.
7. As currently worded condition 3 states;

*' The development hereby permitted shall only accept the chicken manure waste arising produced from the applicant's chicken farming activities at Knoxbridge Farm and no other materials shall be imported to and processed at the site from elsewhere'.*

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The applicant is now proposing that condition 3 be varied such that it shall now read:

*'The development hereby permitted shall only accept the chicken manure arisings produced from the applicant's chicken farming activities'*

8. In support of their proposal the applicants have indicated that currently the Knoxbridge farm typically produces some 33,000 tonnes of manure per annum equating to 38 loads per week. The manure produced in any one week and across a particular year fluctuates as laying flocks are in place for some 13 months before they are then replaced in a staged process, so the number of hens on site at any one time can vary. The 40,000 tonne design capacity of the consented AD plant reflects that potential fluctuation and ensures there is sufficient capacity within the system to deal with times of peak production. However, the applicants state that typically the amount of manure produced at the Knoxbridge site will fall below that 40,000 tonne design capacity. Therefore in order for the plant to operate in an economically viable manner it will be necessary for it to operate at or close to its design capacity whenever possible. The variation of condition 3 of the permission as proposed would allow that to occur, by providing the ability for the applicants to import manure from their other farms when necessary.
9. No other variations to the permission are sought and therefore conditions 4 and 5 in respect of restrictions on waste throughputs and vehicle movements would still apply in the event of permission being granted to the variation proposed.
10. Planning Policy

The most relevant National Policy and Government Guidance together with Development Plan Policies are summarised below:

**The National Planning Policy Framework (NPPF) March 2012:** came into force on 27 March 2012 and should be read in conjunction with the National Planning Policy for Waste published in October 2014 which sets out detailed waste planning policies that local planning authorities should have regard to when discharging their responsibilities to the extent that they are appropriate to waste management.

The NPPF sets out the Government's planning policies and its aim to secure sustainable development in a timely matter. The role of the planning system is seen as contributing to the achievement of sustainable development. The NPPF identifies 3 dimensions to sustainable development which create 3 overarching mutually dependent roles in the planning system namely economic, social and environmental. In this context the NPPF sets out 12 core land-use planning principles which should underpin both plan-making and decision taking. Of particular relevance these include supporting the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change, and encouraging the reuse of existing resources and encourage the use of renewable resources (for example, by the development of renewable energy); In facilitating the delivery of these roles and objectives the Framework requires that local planning authorities should look for

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solutions rather than problems. Local Planning Authorities (LPAs) are therefore expected to work proactively with applicants to secure development that improve the economic, social and environmental conditions of the area in a sustainable manner.

Planning Policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy, local and neighbourhood plans should amongst other matters:

- Support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well-designed new buildings;
- Promote the development and diversification of agricultural and other land-based rural businesses;

Local Planning Authorities should therefore now approach decision-making in a positive way to foster the delivery of sustainable development with decision-takers at every level seeking to approve applications for sustainable development where possible.

**Waste Management Plan for England (WMPE) 2013:** The key aim of the WMPE is to help achieve the Government's objective of moving towards a zero waste economy as part of the transition to a sustainable economy. In particular this means using the 'waste hierarchy' (waste prevention, re-use, recycling, recovery and finally disposal as a last option) as a guide to sustainable waste management.

**National Planning Policy for Waste (October 2014) (NPPW):** The NPPW should be read in conjunction with amongst others the NPPF and the WMPE. The NPPW retains many of the key messages contained in Planning Policy Statement 10 (PPS10): Planning for Sustainable Waste Management which it replaced, in particular the need to drive waste management up the waste hierarchy recognising the need for a mix of types and scale of facilities, and that adequate provision must be made for waste disposal. It advises that in preparing Local Plans, waste planning authorities should ensure that the need for waste management facilities is considered alongside other spatial planning concerns, recognising the positive contribution that waste management can bring to the development of sustainable communities. They should also consider the likely impact on the local environment and on amenity.

**UK National Renewable Action Plan (UKNRAP) 2010 -** The UKNRAP recognises the need for the UK to radically increase its use of renewable energy which should look to make the most of our renewable resources in order to provide a secure basis for the UK's future energy needs. It seeks to increase the proportion of energy obtained from renewable sources in order to increase the security of our energy supplies and also provide opportunities for investment in new industries and new technologies. The UK Government believes that climate change is one of the gravest threats we face, and that urgent action at home and abroad is required. It is considered that the development of renewable energy sources along with other types of low carbon development will enable the UK to play its full part in international efforts to reduce the production of harmful

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greenhouse gases. This is consistent with the objectives as now set out in the NPPF which sees planning as supporting the delivery of renewable and low carbon energy and associated infrastructure in order to provide resilience to the impacts of climate change.

The UKNRAP sets out measures that will enable the UK to reach its target for 15% of energy consumption to be from renewable sources by 2020 although this should not be seen as representing an upper limit. In 2009 the Department for Energy and Climate Change (DECC) published the results of analysis and modelling to demonstrate how it might be possible to meet this target. It concluded that this target is feasible through domestic action which could be achieved with a proportion of around 30% of electricity demand, including 2% from small-scale sources and 12% of heat demand coming from renewables. The UKNRAP indicated that it was intending to take steps to identify and address those issues that affect the timely deployment of established renewable technologies such as the planning system.

**Kent Waste Local Plan March 1998 (Saved Policies):** Policy W11 sets out the criteria against which proposals are required to be considered including support for waste management development within major established or committed industrial or industrial type areas. Policy W17 sets out the need to ensure airborne emissions will not adversely affect neighbouring land uses and amenity. Policy W18 requires adequate controls over noise, dust odours and other emissions. Policy W19 provides Surface and Ground Water protection. Policy W20 Land Stability, Drainage and Flood Control. Policy W21 seeks the satisfactory protection of Ecological Interests. Policy W22 Road Traffic and Access. Policy W25 Site Design and External Appearance.

**Emerging Policy ( Kent Minerals and Waste Local Plan (KMWLP) 2013-30 (Proposed Main and Additional Modifications) July 2015:**

As set out in the NPPF the purpose of the planning system is to contribute to the achievement of sustainable development. The NPPF requires that policies in local plans should follow the approach of the presumption in favour of sustainable development. The KMWLP is therefore founded on this principle. Policy CSW 1 gives effect to this principle where when considering waste 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, National Planning Policy for Waste and the Waste Management Plan for England. Policy CSW 2 seeks to deliver waste management solutions for Kent requiring proposals for waste management to demonstrate how the proposal will help drive waste to ascend the Waste Hierarchy whenever possible.

The KMWLP has been given public scrutiny before a Planning Inspector at an Independent Examination (IE) held earlier in April and May this year representing a key stage in its preparation towards formal adoption. Having listened to the various representations and in order to try and alleviate any concerns, during the course of the IE a number of modifications to the Plan were discussed with the Inspector to ensure soundness and legal compliance issues and also to improve the Plan. These modifications were then subject to formal consultation and with that process having been completed, responses to the modifications have been collated and submitted to the

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Inspector for him to take into consideration in the preparation of his final report which is expected at the end of this year prior to the Plan being formally adopted.

The NPPF advises that decision-takers may give great weight to relevant policies in emerging plans according amongst other matters to the degree of consistency of the relevant policies in the emerging Plan to the policies in the Framework ( i.e the closer the policies in the emerging Plan to the policies in the Framework, the greater the weight that may be given). In my opinion the emerging policies in the KMWLP are fully consistent with the NPPF and as such should therefore be accorded significant weight in the determination of this application.

## 11. Consultations

**Tunbridge Wells Borough Council:** Views awaited

**Frittenden Parish Council:** Recommend that the application be approved but wish it to be noted that they are extremely unhappy that the variation now sought was not included in the original application. They believe the planning agent must have been fully aware at that time that the amount of chicken manure produced at Knoxbridge Farm fluctuated and, therefore left capacity for manure to be imported from other Fridays' farms.

**Staplehurst Parish Council:** Raise no objection provided the agreed limit on weekly vehicle movements remain unchanged and is monitored.

**Environment Agency:** Raise no objection.

**Kent Highways and Transportation:** Note that it is not proposed to increase the total number of movements at the site which is already limited by condition and on that basis the highway authority would not seek to raise objections.

**Amey (noise, odour):** Since the application does not propose any increase in the number of vehicle movements it is considered that there would not be any adverse effects from noise. With regard to odour the increase from 33,000 tonnes to the full operational capacity of the plant to 40,000 tonnes is not in itself likely to result in any adverse effects. The applicant has asserted that there will be a net reduction in odour as untreated manure that would have previously removed from site by trailer will now be retained and treated in a controlled environment. The treated material is largely odourless and the movement of this material is inherently less malodorous than the transporting of untreated manure. The proposed importation of untreated material up to a maximum of 7000 tonnes per annum is clearly considerably less than the 33,000 tonnes currently removed from the site. Therefore unless the imported material is more malodorous than that currently being transported off site there is no reason to conclude that odour will be an issue.

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#### Local Member

12. The local County Member Mr S Holden, was notified of the application on 25 November 2015.

#### Publicity

13. The application was publicised by the posting of a site notice, an advertisement in a local newspaper, and the individual notification of 13 residential properties.

#### Representations

14. In response to the publicity, 7 letters of representation have been received. The key points raised can be summarised as follows:
  - Extending the catchment area for the digester radically alters the nature of the operation.
  - Noxious loads will travel over a greater distance along lanes and roads which would not otherwise be affected.
  - There will be increased traffic.
  - The proposal changes the operations from a recyclable green use to a commercial waste operation.
  - The whole of Staplehurst already protests over the strong smell of chicken manure.

#### Discussion

15. In considering this proposal regard must be had to the Development Plan Policies outlined in paragraph 9. above. Section 38(6) of the Planning and Compulsory Purchase Act (2004) states that applications must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. Therefore the proposal needs to be considered in the context of the Development Plan Policies, Government Guidance and other material planning considerations arising from consultation and publicity.
16. In support of the original application (Ref. TW/15/504981) the applicant made reference to what he considered were the benefits of the proposed development in terms of it being able to provide a renewable source of energy. Other environmental benefits which would derive included a reduction in greenhouse gas emissions along with significant improvements to odour control given that the processed digestate would be largely odourless compared to the existing operations which involve the collection and disposal of a raw malodorous material which is taken away from the farm by tractor and trailer before being used by farmers as a soil conditioner on their fields. The digestate would also help displace the use of synthetic fertilisers. Finally the development would reduce the volume of material needing to be disposed of



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resulting in a reduction in the number of vehicle movements. However, in order to provide a sufficient level of flexibility the applicant sought an upper limit of some 76 movements per week which equates to the same number of movements generated by their existing operations. This limit has now been stipulated under condition 5. of the current permission. Other factors that were taken into account included potential impacts on air quality along with those from noise, flood risk and ecology, none of which drew any objections either from consultees or local residents.

17. The application was considered to fully accord with relevant development plan policies and was also consistent with Government policy and guidance which seeks to radically increase the use of renewable energy as a means of addressing the impacts from climate change through the use of low carbon developments. Having regard to advice in the NPPF which states that it expects LPAs to work proactively with applicants to secure development that is consistent with the principles of sustainable development in a timely manner, given that there were no objections to the application either from consultees or local residents permission was granted under officer delegated authority subject to a number of conditions including those referred to in paragraph 5.above.
18. In my opinion, the key material planning considerations in this particular case can be summarised by the following headings:
  - Traffic Impacts
  - Potential Impacts from Odour

#### Traffic Impacts

19. Objections have been raised on the grounds that noxious loads would travel over greater distances along lanes and roads which would not otherwise be affected and that the proposal changes operations from a recyclable green use to a commercial waste operation.
20. As explained above, condition 5. of the existing permission restricts the number of vehicle movements to and from the site to a maximum of 76 movements per week. The current proposal would not result in any increase in vehicle movements above those already permitted at the site. On this basis Kent Highways and Transportation have not raised any objection on highway grounds.
21. As mentioned in paragraph 6. above, the proposal seeks to allow the importation of chicken manure from other Friday's Farms only. It is not proposed to import waste from any other sources. At present manure from the other four Friday's Farms has to be collected and disposed of elsewhere. Therefore this raw material is already having to be transported from these sites along the local road network to be spread on land as a soil conditioner. Currently manure from the application site and the other four Fridays Farms namely; Tolhurst Farm which lies approximately 0.5 miles to the south of the application site, Summerhill Farm some 2.5 miles away located immediately east of Staplehurst, Chequer Tree Farm located to the south east of Cranbrook some 4.5 miles from the application site and Combwell Farm located east of the A21 north of

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Flimwell which is the furthest approximately 7 miles distant, is taken to a range of farms around Kent. Many of these farms to which this raw manure is currently taken are considerably further away from these four Fridays farms than the Fridays farms are from the application site. The applicant therefore asserts that the amendment sought to condition 3. of the existing permission would create a benefit by allowing some raw manure from other Friday's farms which would otherwise be transported over a much greater distance, to first be processed at the application site before then being disposed of as an inert digestate. I am satisfied that given the existing restriction on vehicle movements which would continue to apply, there would be no overall increase in vehicle journey miles transporting raw materials and therefore concur with the applicant that it is most likely that vehicle journey miles overall would be less compared to the applicant's existing farming operations. Accordingly I do not consider there are any overriding highway grounds for refusing the application.

#### Potential Impacts from Odour

22. One of the benefits in granting permission to the original application was that apart from providing a sustainable green source of energy there would also be environmental benefits, particularly in terms of reducing the adverse impacts from odour caused by the spreading of raw malodorous material on nearby fields. Notwithstanding objections raised on the grounds that noxious loads of material would travel over greater distances along lanes and roads which would not otherwise be affected, this material is already being transported along the local road network. Furthermore, as demonstrated above it is most likely that the vehicle journey miles that the raw materials would be transported would be less than they are currently under the existing Fridays farming operations. In my view any adverse impacts from odour caused by transporting the material to the application site would therefore be no worse than may be currently occurring from the existing handling and transportation of this material and are likely to be less. Taking this into account, when weighed against the overall benefits that would derive in terms of reducing the malodorous impacts which would otherwise be caused by the continuing practice of the spreading of raw materials on farmland as a soil conditioner as opposed to the spreading of digestate which is virtually odourless, in my opinion this would represent an overall improvement upon Friday's Farms current practices. I am also mindful of the comments made by the County Council's Odour advisor Amey who have advised that there is no reason to conclude that odour would be an issue. Accordingly, I do not consider there are any overriding objections to the proposal on the grounds of unacceptable impacts from odour.

#### Conclusion

23. Permission already exists for the installation of an Anaerobic Digestion Plant to process chicken manure waste arisings from the applicant's farm at Knoxbridge Farm. The current proposal would allow for a relatively small quantity of similar waste arisings to be imported and processed at the site from other Friday's Farms whilst not exceeding existing maximum waste throughput and vehicle movement restrictions. I

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I am satisfied having regard to comments from KHT and the County Council's odour advisor Amey that there are no overriding grounds for refusing the application either on adverse traffic or odour impacts. In my opinion the proposal represents an overall improvement to the applicants existing farming operations. The proposal accords with relevant development plan policies and is consistent with national policy and government guidance in so far as it represents sustainable development and as such having regard to advice in the NPPF the application should in my view be permitted. Accordingly I would recommend that permission be granted subject to the imposition of a condition such that the site shall only accept chicken manure arisings produced from the applicants' own chicken farming activities and that no other waste arisings shall be imported from elsewhere. I would also recommend the imposition of all those other conditions imposed on the previous permission.

#### Recommendation

24. I RECOMMEND that PERMISSION BE GRANTED to vary condition (3) of Planning Permission Reference TW/15/504981 SUBJECT TO the following condition:

- 1. The development hereby permitted shall only accept chicken manure arisings produced from the applicants' own chicken farming activities and no other waste arisings shall be imported to the site from elsewhere.*

together with the re-imposition of all those other conditions previously imposed on permission reference TW/15/504981.

Case Officer: Mike Clifton
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Tel. no: 03000 413350
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Background Documents: see section heading
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