

# Permitting decisions

## Variation

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We have decided to grant the variation for Wytheford House Farm operated by David Davies Resources Ltd.

The variation number is EPR/ZP3033JP/V002.

We consider in reaching that decision we have taken into account all relevant considerations and legal requirements and that the permit will ensure that the appropriate level of environmental protection is provided.

### Purpose of this document

This decision document provides a record of the decision making process. It:

- highlights [key issues](#) in the determination
- summarises the decision making process in the [decision checklist](#) to show how all relevant factors have been taken into account
- shows how we have considered the [consultation responses](#)

Unless the decision document specifies otherwise we have accepted the applicant's proposals.

Read the permitting decisions in conjunction with the environmental permit and the variation notice. The introductory note summarises what the variation covers.

# Key issues of the decision

## New Intensive Rearing of Poultry or Pigs BAT Conclusions document

The new Best Available Techniques (BAT) Reference Document (BREF) for the Intensive Rearing of poultry or pigs (IRPP) was published on the 21st February 2017. There is now a separate BAT Conclusions document which will set out the standards that permitted farms will have to meet.

The BAT Conclusions document is as per the following link

<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017D0302&from=EN>

Now the BAT Conclusions are published **all new housing within variation applications** issued after the 21<sup>st</sup> February 2017 must be compliant in full from the first day of operation.

There are some new requirements for permit holders. The conclusions include BAT Associated Emission Levels for ammonia emissions which will apply to the majority of permits, as well as BAT associated levels for nitrogen and phosphorus excretion.

For some types of rearing practices stricter standards will apply to farms and housing permitted after the new BAT Conclusions are published.

**This variation determination includes a review only of BAT compliance for new housing introduced with this variation. A BAT review of existing housing compliance with BAT conclusions document is to be the subject of a sector permit review and is beyond the scope of this variation application permit determination.**

### New BAT conclusions review

There are 34 BAT conclusion measures in total within the BAT conclusion document dated 21<sup>st</sup> February 2017.

We have sent out a not duly made request (sent 27/07/18) requiring the Applicant to confirm that the new installation complies in full with all the BAT conclusion measures.

The Applicant has confirmed their compliance with all BAT conditions for the new housing, in their email received 27/07/18.

The following is a more specific review of the measures the Applicant has applied to ensure compliance with the above key BAT measures.

BAT measure	Applicant compliance measure
BAT 3 - Nutritional management - Nitrogen excretion	The Applicant will demonstrate it achieves levels of nitrogen excretion below the required BAT-AEL of 0.8 kg N/animal place/year by an estimation using manure analysis for total nitrogen content.  Table S3.3 of the Permit concerning process monitoring requires the Operator to undertake relevant monitoring that complies with these BAT Conclusions.
BAT 4 - Nutritional management - Phosphorus excretion	The Applicant will demonstrate it achieves levels of phosphorus excretion below the required BAT-AEL of 0.45 kg P <sub>2</sub> O <sub>5</sub> animal place/year by an estimation using manure analysis for total phosphorus content.  Table S3.3 of the Permit concerning process monitoring requires the Operator to undertake relevant monitoring that complies with these BAT Conclusions.
BAT 24 Monitoring of emissions and process parameters	Table S3.3 Process monitoring requires the operator to undertake relevant monitoring that complies with these BAT conclusions

BAT measure	Applicant compliance measure
- Total nitrogen and phosphorus excretion	
BAT 25 Monitoring of emissions and process parameters - Ammonia emissions	Table S3.3 of the Permit concerning process monitoring requires the Operator to undertake relevant monitoring that complies with these BAT Conclusions.
BAT 26 Monitoring of emissions and process parameters - Odour emissions	<p>The approved OMP includes the following details for on Farm Monitoring and Continual Improvement:</p> <p>It is proposed that formal monitoring should take place from week 12 to the end of the crop for the first 2 crops. This will involve standing on the public road at this location to sniff the air for odour first thing in a morning by the duty manager i.e. before becoming desensitized by actually entering one of the houses. The results of this air testing will be formally recorded and be available for inspection by the Environment Office. Providing no odour is detected during this period then the formal monitoring is suspended, it will be reinstated if a complaint is received.</p> <p>BAT 26 is only applicable to cases where an odour nuisance at sensitive receptors is expected and/or has been substantiated.</p>
BAT 27 Monitoring of emissions and process parameters -Dust emissions	<p>Table S3.3 Process monitoring requires the operator to undertake relevant monitoring that complies with these BAT conclusions.</p> <p>The Applicant will report the dust emissions to the Environment Agency annually by estimation using dust emission factors.</p>
BAT 31 Ammonia emissions from poultry houses -Laying hens (non-caged housing system)	<p>The BAT-AEL to be complied with is 0.13 kg NH<sub>3</sub>/animal place/year.</p> <p>The Applicant will meet this as the emission factor for layers with aviary housing is 0.08 kg NH<sub>3</sub>/animal place/year.</p> <p>The Installation does not include an air abatement treatment facility, hence the standard emission factor complies with the BAT AEL.</p>

### **More detailed assessment of specific BAT measures**

#### **Ammonia emission controls**

A BAT Associated Emission Level (AEL) provides us with a performance benchmark to determine whether an activity is BAT.

#### **Ammonia emission controls – BAT conclusion 31 (laying hens)**

The new BAT conclusions include a set of BAT-AEL's for ammonia emissions to air from animal housing for laying hens.

'New plant' is defined as plant first permitted at the site of the farm following the publication of the BAT conclusions on 21/02/17. 'Existing plant' is defined in the BREF as any plant that is not a 'new plant'. The key phrase is 'first permitted'.

**As per table above the NH<sub>3</sub> BAT AEL is complied with for laying hens based on an aviary system without the need for additional measures.**

## Industrial Emissions Directive (IED)

The Environmental Permitting (England and Wales) (Amendment) Regulations 2013 were made on the 20 February 2013 and came into force on 27 February 2013. These Regulations transpose the requirements of the IED.

This permit implements the requirements of the European Union Directive on Industrial Emissions.

## Groundwater and soil monitoring

As a result of the requirements of the Industrial Emissions Directive, all permits are now required to contain a condition relating to protection of soil, groundwater and groundwater monitoring. However, the Environment Agency's H5 Guidance states **that it is only necessary for the operator to take samples** of soil or groundwater and measure levels of contamination where there is evidence that there is, or could be existing contamination and:

- The environmental risk assessment has identified that the same contaminants are a particular hazard; or
- The environmental risk assessment has identified that the same contaminants are a hazard and the risk assessment has identified a possible pathway to land or groundwater.

H5 Guidance further states that it is **not essential for the Operator** to take samples of soil or groundwater and measure levels of contamination where:

- The environmental risk assessment identifies no hazards to land or groundwater; or
- Where the environmental risk assessment identifies only limited hazards to land and groundwater and there is no reason to believe that there could be historic contamination by those substances that present the hazard; or
- Where the environmental risk assessment identifies hazards to land and groundwater but there is evidence that there is no historic contamination by those substances that pose the hazard.

The site condition report (SCR) for Wytheford House Farm (received 27/07/18) demonstrates that there are no hazards or likely pathway to land or groundwater and no historic contamination on site that may present a hazard from the same contaminants. **Therefore, on the basis of the risk assessment presented in the SCR, we accept that they have not provided base line reference data for the soil and groundwater at the site at this stage and although condition 3.1.3 is included in the permit no groundwater monitoring will be required.**

## Odour

Intensive farming is by its nature a potentially odorous activity. This is recognised in our 'How to Comply with your Environmental Permit for Intensive Farming' EPR 6.09 guidance ([http://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/297084/geho0110brsb-e-e.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/297084/geho0110brsb-e-e.pdf)).

Condition 3.3 of the environmental permit reads as follows:

"Emissions from the activities shall be free from odour at levels likely to cause pollution outside the site, as perceived by an authorised officer of the Environment Agency, unless the operator has used appropriate measures, including, but not limited to, those specified in any approved odour management plan, to prevent or where that is not practicable to minimise the odour."

Under section 3.3 of the guidance an Odour Management Plan (OMP) is required to be approved as part of the permitting process, if as is the case here, sensitive receptors (sensitive receptors in this instance excludes properties associated with the farm) are within 400m of the Installation boundary. It is appropriate to require an OMP when such sensitive receptors have been identified within 400m of the installation to prevent, or where that is not practicable, to minimise the risk of pollution from odour emissions.

There are more than 20 relevant sensitive receptors within 400m of the installation boundary, as identified in the plan within the OMP.

The risk assessment for the Installation provided with the Application lists key potential risks of odour pollution beyond the Installation boundary, and refers to the OMP, which includes more details of risks and mitigation measures. These activities are as follows:

- Manufacture and selection of feed
- Feed delivery and storage details
- Ventilation system
- Litter management
- Carcass disposal
- House clean out procedure
- Used litter
- Dirty water management

### Odour Management Plan Review

The OMP was reviewed for the original proposal and has been amended to include additional sensitive receptors which are within 400m of the new part of the installation boundary included as a result of this variation. In addition, because these receptors are within 400m of the poultry houses the operator has proposed that some formal monitoring should take place from week 12 to the end of the crop for the first 2 crops. This will involve standing on the public road at this location to sniff the air for odour first thing in a morning by the duty manager i.e. before becoming desensitized by actually entering one of the houses. The results of this air testing will be formally recorded and be available for inspection by the Environment Agency. Providing no odour is detected during this period then the formal monitoring is suspended, it will be reinstated if a complaint is received.

### Conclusion

We are satisfied that all sources and receptors have been identified, and that the proposed mitigation measures will minimise the risk of odour pollution beyond the installation boundary.

## **Noise**

Intensive farming by its nature involves activities that have the potential to cause noise pollution. This is recognised in our 'How to Comply with your Environmental Permit for Intensive Farming' EPR 6.09 guidance. Under section 3.4 of this guidance a Noise Management Plan (NMP) must be approved as part of the permitting determination, if there are sensitive receptors within 400m of the Installation boundary.

Condition 3.4 of the Permit reads as follows:

Emissions from the activities shall be free from noise and vibration at levels likely to cause pollution outside the site, as perceived by an authorised officer of the Environment Agency, unless the operator has used appropriate measures, including, but not limited to, those specified in any approved noise and vibration management plan, to prevent or where that is not practicable to minimise the noise and vibration.

There are sensitive receptors within 400 metres of the Installation boundary as stated in the Odour section above. The Operator has provided a noise management plan (NMP) as part of the Application supporting documentation, and further details are provided below.

The risk assessment for the Installation provided with the Application lists key potential risks of noise pollution beyond the Installation boundary and refers to the NMP, which includes more details of risks and mitigation measures. These activities are as follows:

- large and small vehicles travelling to and from the site
- large vehicles on site (delivery of feed, egg collection, litter and dirty water removal)
- transfer of feed to storage
- operation of ventilation fans
- alarm system and standby generator

- noise from chickens
- personnel
- repairs to site

#### Noise Management Plan Review

The NMP was reviewed for the original proposal and has been amended to include additional sensitive receptors which are within 400m of the new part of the installation included as a result of this variation.

#### Conclusion

We are satisfied that all sources and receptors have been identified, and that the proposed mitigation measures will minimise the risk of noise pollution / nuisance.

### **Dust and Bioaerosols**

The use of Best Available Techniques and good practice will ensure minimisation of emissions. There are measures included within the Permit (the 'Fugitive Emissions' conditions) to provide a level of protection. Condition 3.2.1 'Emissions of substances not controlled by an emission limit' is included in the Permit. This is used in conjunction with condition 3.2.2 which states that in the event of fugitive emissions causing pollution following commissioning of the Installation, the Operator is required to undertake a review of site activities, provide an emissions management plan and to undertake any mitigation recommended as part of that report, once agreed in writing with the Environment Agency.

Guidance on our website concludes that applicants need to produce and submit a dust and bioaerosol management plan with their applications only if there are relevant receptors within 100 metres of their farm, e.g. the farmhouse or farm worker's houses. Details can be found via the link below:

[www.gov.uk/guidance/intensive-farming-risk-assessment-for-your-environmental-permit#air-emissions-dust-and-bioaerosols](http://www.gov.uk/guidance/intensive-farming-risk-assessment-for-your-environmental-permit#air-emissions-dust-and-bioaerosols).

As there are receptors within 100m of the Installation boundary, the Applicant was required to submit a dust and bioaerosol management plan in this format. There are 6 sensitive receptors within 100m of the Installation boundary, the nearest sensitive receptors (the nearest point of their assumed property boundary) are 5, 6 and 7 Wytheford Road adjacent to the west boundary of the original permitted installation, and east of the new part of the installation, as shown in the map submitted in support of the revised dust and bioaerosol management plan (reference Appendix 10 Dust Management Plan, received 27/07/18).

In the guidance mentioned above it states that particulate concentrations fall off rapidly with distance from the emitting source. This fact, together with the proposed good management of the Installation such as keeping areas clean from build-up of dust, and other measures in place to reduce dust and risk of spillages (e.g. litter and feed management/delivery procedures) all reduce the potential for emissions impacting the nearest receptors. The Applicant has confirmed the following measures in their operating techniques to reduce dust:

- No milling or mixing of feed will take place at the farm
- Feed delivery systems will be sealed
- Ventilation systems will be designed and operated to achieve optimum internal environmental conditions
- Litter management to maintain litter quality
- Clean out procedures – doors kept closed
- Used litter is transported in covered trailers

#### Conclusion

We are satisfied that the measures outlined in the Application will minimise the potential for dust and bioaerosol emissions from the Installation.

## **Ammonia**

There is one Site of Special Scientific Interest (SSSI) located within 5 km of the installation. There are also three Local Wildlife Sites (LWS) and nine Ancient Woodlands (AW) within 2 km of the installation.

### **Ammonia assessment – SSSI**

The following trigger thresholds have been applied for assessment of SSSIs:

- If the process contribution (PC) is below 20% of the relevant critical level (CLE) or critical load (CLO) then the farm can be permitted with no further assessment.
- Where this threshold is exceeded an assessment alone and in combination is required. An in combination assessment will be completed to establish the combined PC for all existing farms identified within 5 km of the SSSI.

Initial screening using the ammonia screening tool version 4.5 has indicated that emissions from Wytheford House Farm will only have a potential impact on SSSI sites with a precautionary critical level of  $1\mu\text{g}/\text{m}^3$  if they are within 1,698 metres of the emission source.

Beyond 1,698m the PC is less than  $0.2\mu\text{g}/\text{m}^3$  (i.e. less than 20% of the precautionary  $1\mu\text{g}/\text{m}^3$  critical level) and therefore beyond this distance the PC is insignificant. In this case the SSSI is beyond this distance (see table below) and therefore screen out of any further assessment.

Where the precautionary level of  $1\mu\text{g}/\text{m}^3$  is used, and the process contribution is assessed to be less than 20% the site automatically screens out as insignificant and no further assessment of critical load is necessary. In this case the  $1\mu\text{g}/\text{m}^3$  level used has not been confirmed by Natural England, but it is precautionary. It is therefore possible to conclude no likely damage to these sites.

**Table 1 – SSSI Assessment**

<b>Name of SSSI</b>	<b>Distance from site (m)</b>
Grinshill Quarries SSSI	5,680*

\* This site is included at >5km because the screening is based on an approximate centre point of the emissions and includes a buffer distance calculated from this centre point to the furthest point of the boundary to ensure all nature conservation sites within the threshold distance from the installation boundary have been included in the assessment

No further assessment is required.

### **Ammonia assessment - LWS/AW**

The following trigger thresholds have been applied for the assessment of these sites:

- If the process contribution (PC) is below 100% of the relevant critical level (CLE) or critical load (CLO) then the farm can be permitted with no further assessment.

Initial screening using ammonia screening tool version 4.5 has indicated that emissions from Wytheford House Farm will only have a potential impact on the LWS and AW sites with a precautionary critical level of  $1\mu\text{g}/\text{m}^3$  if they are within 587 metres of the emission source.

Beyond 587m the PC is less than  $1\mu\text{g}/\text{m}^3$  and therefore beyond this distance the PC is insignificant. In this case all LWS and AW are beyond this distance (see table below) and therefore screen out of any further assessment.

**Table 2 – LWS/AW Assessment**

<b>Name of LWS/AW</b>	<b>Distance from site (m)</b>
Poynton Springs LWS	1,930
Buggy Coppice LWS	2,267*
Wytheford Wood & Broom Coppice LWS	1,173
Crifton Coppice AW	2,586*
Forge Coppice AW	3,186*
Unnamed AW	2,025*
Myttons Coppice	2,690*
Lathams Coppice	3,180*
Hoo Coppice	2,409*
Buggy Coppice	2,267*
Unnamed AW	1,277
Brooms Coppice	1,808

\*\* These sites are included at >2km because the screening is based on an approximate centre point of the emissions and includes a buffer distance calculated from this centre point to the furthest point of the boundary to ensure all nature conservation sites within the threshold distance from the installation boundary have been included in the assessment

No further assessment is required.



## Decision checklist

Aspect considered	Decision
<b>Receipt of application</b>	
Confidential information	A claim for commercial or industrial confidentiality has not been made.
Identifying confidential information	We have not identified information provided as part of the application that we consider to be confidential.
<b>Consultation/Engagement</b>	
Consultation	<p>The consultation requirements were identified in accordance with the Environmental Permitting Regulations and our public participation statement.</p> <p>The application was publicised on the GOV.UK website.</p> <p>We consulted the following organisations:</p> <ul style="list-style-type: none"> <li>• HSE</li> <li>• Shropshire Council Environmental Health Department</li> <li>• Public Health England</li> <li>• Director of Public Health.</li> </ul> <p>The comments and our responses are summarised in the <a href="#">consultation section</a>.</p>
<b>The facility</b>	
The regulated facility	<p>We considered the extent and nature of the facility at the site in accordance with RGN2 'Understanding the meaning of regulated facility'.</p> <p>The extent of the facility is defined in the site plan and in the permit. The activities are defined in table S1.1 of the permit.</p>
<b>The site</b>	
Extent of the site of the facility	The operator has provided a plan which we consider is satisfactory, showing the extent of the site of the facility. The plan is included in the permit.
Site condition report	The operator has provided a description of the condition of the site, which we consider is satisfactory. The decision was taken in accordance with our guidance on site condition reports.
Biodiversity, heritage, landscape and nature conservation	<p>The application is within the relevant distance criteria of a site of heritage, landscape or nature conservation, and/or protected species or habitat.</p> <p>We have assessed the application and its potential to affect all known sites of nature conservation, landscape and heritage and/or protected species or habitats identified in the nature conservation screening report as part of the permitting process.</p>

Aspect considered	Decision
	<p>We consider that the application will not affect any sites of nature conservation, landscape and heritage, and/or protected species or habitats identified.</p> <p>We have not consulted Natural England on the application. The decision was taken in accordance with our guidance.</p>
<b>Environmental risk assessment</b>	
Environmental risk	<p>We have reviewed the operator's assessment of the environmental risk from the facility.</p> <p>The operator's risk assessment is satisfactory.</p>
<b>Operating techniques</b>	
General operating techniques	<p>We have reviewed the techniques used by the operator and compared these with the relevant Intensive Farming BREF dated 2017 and we consider them to represent appropriate techniques for the facility.</p> <p>The operating techniques that the applicant must use are specified in table S1.2 in the environmental permit.</p> <p>The operating techniques include the following:</p> <ul style="list-style-type: none"> <li>• Poultry houses 1 – 5 are ventilated by high velocity roof fans and all houses have gable end fan outlets used infrequently for temperature control in hot weather</li> <li>• Litter is exported off site and is spread on land owned by the operator or third parties</li> <li>• Dirty wash water is exported off site and spread on land owned by the operator</li> <li>• Roof water drains via sealed drains and land drains acting as soakaways to nearby surface waters</li> <li>• Feed is brought on to the installation pre-milled and stored on site in fully enclosed galvanised steel bins</li> <li>• Carcasses are collected daily and stored in sealed vermin proof containers prior to collection under the National Fallen Stock Scheme.</li> <li>• Phosphorus and protein levels are reduced over the laying period</li> </ul> <p>The proposed techniques for priorities for control are in line with the benchmark levels contained in the Sector Guidance Note EPR6.09 and we consider them to represent appropriate techniques for the facility. The permit conditions ensure compliance with relevant BREF.</p>
Odour management	<p>We have reviewed the odour management plan in accordance with our guidance on odour management.</p> <p>We consider that the odour management plan is satisfactory.</p>
Noise management	<p>We have reviewed the noise management plan in accordance with our guidance on noise assessment and control.</p> <p>We consider that the noise management plan is satisfactory.</p>

Aspect considered	Decision
<b>Permit conditions</b>	
Updating permit conditions during consolidation	We have updated permit conditions to those in the current generic permit template as part of permit consolidation. The conditions will provide the same level of protection as those in the previous permits.
Use of conditions other than those from the template	Based on the information in the application, we consider that we do not need to impose conditions other than those in our permit template.
Emission limits	We have decided that emission limits are required in the permit. BAT AELs have been added in line with the Intensive Farming sector BAT conclusions document dated 21/02/17. These limits are included in permit table S3.3.
Monitoring	<p>We have decided that monitoring should be carried out for the parameters listed in the permit, using the methods detailed and to the frequencies specified.</p> <p>These monitoring requirements have been imposed in order to ensure compliance with Intensive Farming BAT conclusions document dated 21/02/17.</p>
Reporting	<p>We have specified reporting in the permit.</p> <p>We made these decisions in order to ensure compliance with Intensive Farming BAT conclusions document dated 21/02/17.</p>
<b>Operator competence</b>	
Management system	There is no known reason to consider that the operator will not have the management system to enable it to comply with the permit conditions.
<b>Growth Duty</b>	
Section 108 Deregulation Act 2015 – Growth duty	<p>We have considered our duty to have regard to the desirability of promoting economic growth set out in section 108(1) of the Deregulation Act 2015 and the guidance issued under section 110 of that Act in deciding whether to grant this permit.</p> <p>Paragraph 1.3 of the guidance says:</p> <p>“The primary role of regulators, in delivering regulation, is to achieve the regulatory outcomes for which they are responsible. For a number of regulators, these regulatory outcomes include an explicit reference to development or growth. The growth duty establishes economic growth as a factor that all specified regulators should have regard to, alongside the delivery of the protections set out in the relevant legislation.”</p> <p>We have addressed the legislative requirements and environmental standards to be set for this operation in the body of the decision document above. The guidance is clear at paragraph 1.5 that the growth duty does not legitimise non-compliance and its purpose is not to achieve or pursue economic growth at the expense of necessary protections.</p> <p>We consider the requirements and standards we have set in this permit are</p>

Aspect considered	Decision
	reasonable and necessary to avoid a risk of an unacceptable level of pollution. This also promotes growth amongst legitimate operators because the standards applied to the operator are consistent across businesses in this sector and have been set to achieve the required legislative standards.

## Consultation

The following summarises the responses to consultation with other organisations, our notice on GOV.UK for the public and the way in which we have considered these in the determination process.

### Responses from organisations listed in the consultation section

<b>Response received from</b>
Public Health England (dated 16/08/18)
<b>Brief summary of issues raised</b>
It is assumed by PHE that the installation will comply in all respects with the requirements of the permit, including the application of Best Available Techniques (BAT). This should ensure that emissions present a low risk to human health.
<b>Summary of actions taken or show how this has been covered</b>
No action required

The Health and Safety Executive, Director of Public Health and Shropshire Council Environmental Health were also consulted, with a deadline for responses of 31/08/18 but no responses were received.

The application was also publicised on GOV.UK with a deadline for responses of 31/08/18 but no responses were received.