

# Permitting decisions

## Bespoke permit

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

The permit number is **EPR/ZP3033JP**

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 summarises the decision making process in the decision checklist to show how all relevant factors have been taken in to account.

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. The introductory note summarises what the permit covers.

# Key issues of the decision

## Introduction

This is a green field site with no current farm buildings within the installation boundary. The Applicant has decided to submit an EPR application prior to a submission for planning to the local council. As such there is no Environmental Impact Assessment to take into account as part of the determination.

## 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 installation farming permits 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 phosphorous excretion.

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

### 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 duly making request 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 installations or new housing, in their technical standards Appendix 7 within application supporting information dated 14/08/17, duly making response dated 06/10/17 and request for further information response dated 12/10/17.

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	Applicant has confirmed compliance with BAT via usage of following one of listed BAT 3 measures:  Multiphase feeding with a diet formulation adapted to the specific requirements of the production period.  The Applicant confirmed compliance with BAT AEL of <b>0.8 kg N</b> excreted/animal place/year for laying hens, in their response dated 12/10/17.
BAT 4 Nutritional management Phosphorous excretion	Applicant has confirmed compliance with BAT via usage of following one of listed BAT 4 measures:  Multiphase feeding with a diet formulation adapted to the specific requirements of the production period. The Applicant confirmed compliance with BAT AEL of <b>0.45 kg P<sub>2</sub>O<sub>5</sub></b> excreted/animal

BAT measure	Applicant compliance measure
	place/year for laying hens , in their response dated 12/10/17
BAT 24 Monitoring of emissions and process parameters - Total nitrogen and phosphorous excretion	Table S3.4 Process monitoring requires the operator to undertake relevant monitoring that complies with these BAT conclusions. Estimation using manure analysis for total nitrogen and phosphorous content
BAT 25 Monitoring of emissions and process parameters - Ammonia emissions	Monitoring for ammonia emissions will be based on emission factors.
BAT 26 Monitoring of emissions and process parameters - Odour emissions	Monitoring of humidity and temperature for optimum bird health and odour control will be carried out continuously.
BAT 27 Monitoring of emissions and process parameters -Dust emissions	Table S3.4 Process monitoring requires the operator to undertake relevant monitoring that complies with these BAT conclusions
BAT 30 Ammonia emissions from pig houses	<b>0.13 NH3/animal place/yr BAT AEL</b> for non-caged housing for laying hens.  Our emission factor for aviary systems, with frequent manure removal (three times per week) is 0.08 NH3/animal place/year and hence in compliance with BAT AEL without the need for additional measures

### **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. 'Existing plant' is defined in the BREF as any plant that is not a 'new plant'. The key phrase is 'first permitted'.

All new bespoke applications issued after the 21<sup>st</sup> February, including those where there is a mixture of old and new housing, will now need to meet the BAT-AEL.

**As per table above the NH3 BAT AEL is complied with for laying hens based on an aviary systems 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 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(dated 06/10/17) 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 **thirteen** relevant sensitive receptors beyond the installation boundary.

The risk assessment for the Installation provided with the Application lists key potential risks of odour pollution beyond the Installation boundary. These activities are as follows:

- Manufacture and selection of feed
- Feed delivery and storage details
- Ventilation system design
- Litter management
- House clean out procedure
- Used litter storage – no storage outside poultry houses.
- Dirty water management
- Carcass disposal.

## Odour Management Plan Review

We have reviewed the OMP submitted with the original Application. The final OMP dated 31/10/17 submitted includes the following improvements as we requested:

- More detailed list of relevant residential receptors within 400 metres of the installation boundary with national grid references for each relevant receptor.
- More specific contingency plan with abnormal scenarios with potential for elevated odour pollution and remedial actions to minimize risk of such odour pollution beyond installation boundary.
- Confirmation of all temporary manure pads being covered.

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 section 4.4.2 above. The Operator has provided a noise management plan (NMP) as part of the Application supporting documentation, and further details are provided in section 4.5.2 below.

The risk assessment for the Installation provided with the Application lists key potential risks of noise pollution beyond the Installation boundary. These activities are as per list of issues detailed below that are covered in the NMP.

We have assessed the NMP and the H1 risk assessment for noise and conclude that the Applicant has followed the guidance set out in EPR 6.09 Appendix 5 'Noise management at intensive livestock installations'. 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.

## Noise Management Plan Review

The Noise Management Plan covers

- Feed and material deliveries
- Animal movement
- Daily mucking out and manure loading/transport.
- Dirty water filling and emptying.

## Conclusion

We have assessed the NMP and the H1 risk assessment for noise and conclude that the Applicant has followed the guidance set out in EPR 6.09 Appendix 5 'Noise management at intensive livestock installations'. 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 Bio aerosols**

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.

There are two sensitive receptors within 100m of the Installation boundary, the nearest sensitive receptor (farmer owned property is at National Grid Reference SJ 57118 19982 just within the installation boundary).

Guidance on our website concludes that applicants need to produce and submit a dust and bio aerosol risk assessment 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 two receptors within 100m of the Installation, the Applicant was required to submit a dust and bio aerosol risk assessment in this format.

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:

- Manufacture and selection of feed
- Feed delivery and storage details
- Ventilation system design
- Litter management
- House clean out procedure
- Used litter storage – no storage outside poultry houses.

### Conclusion

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

## **Ammonia**

The applicant has demonstrated that the housing will meet the relevant NH3 BAT-AEL.

There is one Ramsar site located within 10 kilometres of the installation. There are no Sites of Special Scientific Interest (SSSI) located within 5 km of the installation. There are two Local Wildlife Sites (LWS) and four Ancient Woodlands within 2 km of the installation.

The screening has utilized a 450 m site centre distance to the installation boundary; this distance is particularly large as this is a free range facility.

### **Ammonia assessment –Ramsar**

The following trigger thresholds have been designated for the assessment of European/Ramsar sites:

- If the process contribution (PC) is below 4% of the relevant critical level (CL<sub>e</sub>) or critical load (CL<sub>o</sub>) 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 10 km of the SAC/SPA/Ramsar.

Initial screening using ammonia screening tool version 4.5 (dated 06/10/17) has indicated that emissions from Green Farm will only have a potential impact on the SAC/SPA/Ramsar site(s) with a precautionary critical level of  $1\mu\text{g}/\text{m}^3$  if they are within **3506** metres of the emission source.

Beyond **3506 m** the PC is less than  $0.04\mu\text{g}/\text{m}^3$  (i.e. less than 4% of the precautionary  $1\mu\text{g}/\text{m}^3$  critical level) and therefore beyond this distance the PC is insignificant. In this case all SAC/SPA/Ramsar(s) are 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 4% 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 significant effect

**Table 1 –Ramsar Assessment**

Name of /Ramsar	Distance from site (m)
Midland Meres and Mosses Phase 2 Ramsar.	9229

### **Ammonia assessment – LWS and 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 (CL<sub>e</sub>) or critical load (CL<sub>o</sub>) then the farm can be permitted with no further assessment.

Initial screening using ammonia screening tool version 4.5 dated 06/10/17 has indicated that emissions from Wytheford House Farm will only have a potential impact on the LWS/AW/NNR site(s) with a precautionary critical level of  $1\mu\text{g}/\text{m}^3$  if they are within **419** metres of the emission source.

Beyond **419 m** 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/AW/LNR(s) are beyond this distance (see table below) and therefore screen out of any further assessment.

**Table 2 – LWS/AW/LNR Assessment**

Name of LWS/AW/LNR	Distance from site (m)
Poynton Springs (LWS)	2413
Wytheford Woods and Broom Coppice (LWS)	759
Unknown Site 1 (AW)	877
Unknown Site 2 (AW)	1004
Brooms Coppice (AW)	1272
Hoo Coppice (AW)	2105

Therefore on this basis 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</b>	
Consultation	The consultation requirements were identified in accordance with the Environmental Permitting Regulations and our public participation statement.

Aspect considered	Decision
	<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>• Local council Environmental Health Department</li> <li>• Public Health England/Director of Public Health.</li> </ul> <p>No responses were received</p>
<b>Operator</b>	
Control of the facility	We are satisfied that the applicant (now the operator) is the person who will have control over the operation of the facility after the grant of the permit. The decision was taken in accordance with our guidance on legal operator for environmental permits.
<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' and Appendix 2 of RGN 2 'Defining the scope of the installation'.</p> <p>The extent of the facility is as 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> <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>A HRA assessment (formerly Appendix 11) dated 10/10/17 has been sent to Natural England for information only.</p>
<b>Environmental risk assessment</b>	
Environmental impact assessment	<p>In determining the application we have considered the Environmental Statement.</p> <p>We have also considered the planning permission and the committee report approving it.</p>
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>



Aspect considered	Decision
<b>Operating techniques</b>	
General operating techniques	<p>We have reviewed the techniques used by the operator and compared these with the relevant guidance notes and we consider them to represent appropriate techniques for the facility.</p> <p><u>The operating techniques that the applicant must use are specified in table S1.2 in the environmental permit.</u></p> <p>The operating techniques are as follows:</p> <ul style="list-style-type: none"> <li>• Feed selection and site details plus feed storage</li> <li>• Poultry housing design</li> <li>• General management</li> <li>• Livestock numbers and movements</li> <li>• Manure management</li> <li>• Carcass management</li> <li>• Bunding and containment features for raw materials</li> <li>• Odour, noise and dust management techniques</li> <li>• Clean and dirty water management including drainage.</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 BREFs.</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. We consider that the noise management plan is satisfactory.</p>
<b>Permit conditions</b>	
Raw materials	<p>We have specified limits and controls on the use of raw materials and fuels.</p>
Emission limits	<p>We have decided that emission limits are required in the permit. BAT AEL's have been added in line with the Intensive Farming sector BAT conclusions document dated February 2017. These limits are included in permit table S3.4</p>
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 new 2017 BAT conclusions document for intensive farming sector.</p>
Reporting	<p>We have specified reporting in the permit.</p> <p>We made these decisions in accordance with compliance with Intensive Farming BAT conclusions document dated February 2017</p>

Aspect considered	Decision
<b>Operator competence</b>	
Management system	<p>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.</p> <p>The decision was taken in accordance with the guidance on operator competence and how to develop a management system for environmental permits.</p>
Relevant convictions	<p>The Case Management System and National Enforcement Database has been checked to ensure that all relevant convictions have been declared.</p> <p>No relevant convictions were found. The operator satisfies the criteria in our guidance on operator competence.</p>
Financial competence	<p>There is no known reason to consider that the operator will not be financially able to comply with the permit conditions.</p>
<b>Growth Duty</b>	
<p>Section 108 Deregulation Act 2015 – Growth duty</p>	<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 vary 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. We consider the requirements and standards we have set in this permit are 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.</p>

# 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**

**No responses were received**