

Permitting decisions

Bespoke permit

We have decided to grant the permit for Hellinghayes Poultry Farm operated by Mr William Elsworthy. The permit number is EPR/FP3434DK.

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. The introductory note summarises what the permit covers.

Key issues of the decision

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 Hellinghayes Poultry Farm (dated 16/02/17) 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.**

Odour

We, the Environment Agency, have reviewed and approved the Odour Management Plan (OMP) and consider it complies with the requirements of our H4 Odour management guidance note. We agree with the scope and suitability of key measures, but this should not be taken as confirmation that the details of equipment specification design, operation and maintenance are suitable and sufficient. That remains the responsibility of the operator.

The OMP should be reviewed on a regular basis to ensure that it reflects the most up to date management practices and infrastructure.

Ammonia emissions

There is one Special Area of Conservation (SAC) site located within 10 kilometres of the installation. There are also twenty-one Local Wildlife Sites (LWS) and Ancient Woodlands (AW) within 2 km of the installation.

Ammonia assessment – SAC

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

- If the process contribution (PC) is below 4% of the relevant critical level (CL_e) or critical load (CL_o) 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.

Sites screen out through distance

Initial screening using ammonia screening tool version 4.5 has indicated that emissions from Hellinghayes Poultry Farm will only have a potential impact on the SAC site with a precautionary critical level of $1\mu\text{g}/\text{m}^3$ if it is within 3,160 metres of the emission source.

Beyond 3,160 metres 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 the SAC is beyond this distance (see table below) and therefore screens 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 – SAC Assessment

Name of SAC	Distance from site (m)
Culm Grasslands SAC	7,370 m

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.

Sites that screen out through distance

Initial screening using ammonia screening tool version 4.5 has indicated that emissions from Hellinghayes Poultry Farm will only have a potential impact on the LWS/AW sites with a precautionary critical level of $1\mu\text{g}/\text{m}^3$ if they are within 551 metres of the emission source.

Beyond 551 metres the PC is less than $1\mu\text{g}/\text{m}^3$ and therefore beyond this distance the PC is insignificant. In this case the following LWS/AWs are beyond this distance (see table below) and therefore screen out of any further assessment.

Table 2 – LWS/AW Assessment

Name of LWS/AW	Distance from site (m)
Mouseberry LWS	2,107 m
West Burrow Moor LWS	2,068 m
Wheadon Farm LWS	872 m
South Venhay LWS	1,969 m
Wheadon Ground LWS	1,321 m
Affeeton Moor LWS	2,194 m
Cuddenhay Farm LWS	1,908 m
Cuddenhay Moor LWS	1,919 m
East Lutworthy LWS	1,730 m
Rackleigh Moor(s) LWS	1,270 m
Thornham LWS	1,479 m
Higher Adworthy LWS	1,072 m
Stuckey Farm LWS	1,788 m
West Yeo Meadow LWS	1,137 m
West Yeo Moor LWS	788 m
West Yeo Valley LWS	1,490 m
Newhouse Meadows LWS	1,802 m
Yeo Copse LWS	1,947 m
Yeo Copse AW	2,021 m

Sites that screen out as <100%

Screening using the ammonia screening tool version 4.5 has determined that the PC on the LWS sites for ammonia emissions/nitrogen deposition/acid deposition from the application site are under the 100% significance threshold and can be screened out as having no likely significant effect. See results below.

Table 3 - Ammonia emissions

Name of LWS	Critical level ammonia $\mu\text{g}/\text{m}^3$	Predicted PC $\mu\text{g}/\text{m}^3$	PC % of critical level
Lower Adworthy LWS	3*	2.052	68.4
West Yeo Bridge Fields LWS [2]	3*	1.052	35.1

* CLe 3 applied as no protected lichen or bryophytes species were found when checking easimap layer

Note [2] Although West Yeo Bridge Fields LWS screens out on distance based on the central NGR with a buffer of 200m, if measured from the site boundary to the closest point of the LWS the distance is actually 436m so PC's have been calculated as a precaution.

Table 4 – Nitrogen deposition

Name of LWS	Critical load kg N/ha/yr [1]	Predicted PC kg N/ha/yr	PC % of critical load
Lower Adworthy LWS	20	10.66	53.3
West Yeo Bridge Fields LWS [2]	20	5.465	27.3

Note [1] Critical load values taken from APIS website (www.apis.ac.uk) – 24/11/16

Note [2] Although West Yeo Bridge Fields LWS screens out on distance based on the central NGR with a buffer of 200m, if measured from the site boundary to the closest point of the LWS the distance is actually 436m so PC's have been calculated as a precaution.

Table 5 – Acid deposition

Name of LWS	Critical load keq/ha/yr [1]	Predicted PC keq/ha/yr	PC % of critical load
Lower Adworthy LWS	4.72	0.761	16.1
West Yeo Bridge Fields LWS [2]	4.72	0.390	8.3

Note [1] Critical load values taken from APIS website (www.apis.ac.uk) – 24/11/16

Note [2] Although West Yeo Bridge Fields LWS screens out on distance based on the central NGR with a buffer of 200m, if measured from the site boundary to the closest point of the LWS the distance is actually 436m so PC's have been calculated as a precaution.

No further assessment is required.

New Intensive Rearing of Poultry 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 21st 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 21st February 2017.

We have sent out a schedule 5 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 installation, in their document reference Doc 2A submitted on 14/05/17.

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	Broilers 0.6 kg N excreted/animal place/year. Feed is specifically made by nutritionists to suit bird type and age. Nitrogen excretion levels will be met and verified and reported annually by means of either mass balance calculation or manure analysis.
BAT 4 Nutritional management Phosphorous excretion	Broilers 0.25 kg P ₂ O ₅ excreted/animal place/year. Feed is specifically made by nutritionists to suit bird type and age. Phosphorus excretion levels will be met and verified and reported annually by means of either mass balance calculation or manure analysis.
BAT 24 Monitoring of emissions and process parameters - Total nitrogen and phosphorous excretion	Table S3.3 Process monitoring requires the operator to undertake relevant monitoring that complies with these BAT conclusions.
BAT 25 Monitoring of emissions and process parameter - Ammonia emissions	
BAT 26 Monitoring of emissions	Sniff tests will be undertaken to monitor odour by a third party

BAT measure	Applicant compliance measure
and process parameters - Odour emissions	if/when complaints are received.
BAT 27 Monitoring of emissions and process parameters - Dust emissions	Table S3.3 Process monitoring requires the operator to undertake relevant monitoring that complies with these BAT conclusions.
BAT 32 Ammonia emissions from poultry houses - Broilers	0.08 kg NH ₃ /animal place/year. Ammonia emissions will be reported annually through estimation using emission factors.

More detailed assessment of specific BAT measures

Ammonia emission controls – BAT conclusion 32

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

Biomass boilers

The applicant is installing two biomass boilers with an aggregate net rated thermal input not exceeding 0.33 MW.

The Environment Agency has assessed the pollution risks and has concluded that air emissions from small biomass boilers are not likely to pose a significant risk to the environment or human health providing certain conditions are met. Therefore a quantitative assessment of air emissions will not be required for poultry sites where:

- the fuel will be derived from virgin timber, miscanthus or straw, and;
- the biomass boiler appliance and installation meets the technical criteria to be eligible for the Renewable Heat Incentive, and;
- the aggregate boiler net rated thermal input is less than or equal to 4 MWth, and no individual boiler has a net thermal input greater than 1 MWth, and;
- the stack height must be a minimum of 5 metres above the ground (where there are buildings within 25 metres the stack height must be greater than 1 metre above the roof level of buildings within 25 metres) and;
- there are no sensitive receptors within 50 metres of the emission point(s).

This is in line with the Environment Agency's document "Air Quality and Modelling Unit C1127a Biomass firing boilers for intensive poultry rearing", an assessment has been undertaken to consider the proposed addition of the biomass boiler(s).

Our risk assessment has shown that the biomass boilers should meet the requirements of the criteria above, and are, therefore, considered not likely to pose a significant risk to the environment or human health and no further assessment is required.

Decision checklist

Aspect considered	Decision
Receipt of application	
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. The decision was taken in accordance with our guidance on confidentiality.
Consultation	
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"> • Public Health England • The Director of Public Health – Devon County Council • The Health and Safety Executive • Environment Protection – North Devon District Council <p>The comments and our responses are summarised in the consultation section.</p>
Operator	
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.
The facility	
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>
The site	
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 and baseline reporting under the Industrial Emissions Directive.
Biodiversity, heritage,	The application is within the relevant distance criteria of a site of heritage,

Aspect considered	Decision
landscape and nature conservation	<p>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>An Appendix 11 was completed and sent to Natural England on 05/05/17 'For Information Only'.</p> <p>In accordance with the Environment Agency's Air Quality Technical Advisory Guidance 14: "for combustion plants under 5MW, no habitats assessment is required due to the size of combustion plant". Therefore this proposal is considered acceptable and no further assessment is required.</p>
Environmental risk assessment	
Environmental risk	<p>We have carried out a risk assessment on behalf of the operator.</p> <p>See Key Issues</p>
Operating techniques	
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. The applicant has also confirmed their compliance with all BAT conditions for the new installations.</p> <p>The operating techniques are as follows:</p> <ul style="list-style-type: none"> • Housing design and management is in accordance with SGN EPR6.09 'How to comply with your environmental permit for intensive farming'; • The houses are naturally ventilated with a fully littered floor, well insulated and equipped with nipple and cup drinking systems. Ventilation is provided by hinged side outlets which open and close to allow air flow through the houses; • Drainage from animal housing and water from cleaning out is collected in underground storage tanks. Clean drainage systems are not contaminated; • The biomass boiler appliance and it's installation meets the technical criteria to be eligible for the Renewable Heat Incentive; • The stacks are 1m or more higher than the apex of the adjacent buildings; and • The fuel is derived from virgin timber. <p>The proposed techniques for priorities for control are in line with the benchmark levels contained in the SGN EPR6.09 'How to comply with your environmental permit for intensive farming (version 2)' and we consider them to represent appropriate techniques for the facility. The permit conditions</p>

Aspect considered	Decision
	<p>ensure compliance with relevant BREFs and BAT Conclusions.</p> <p>The operating techniques that the applicant must use are specified in table S1.2 in the environmental permit.</p>
<p>Operating techniques for emissions that screen out as insignificant</p>	<p>Emissions of ammonia, acid deposition and nitrogen deposition have been screened out as insignificant, and so we agree that the applicant's proposed techniques are BAT for the installation.</p> <p>We consider that the emission limits included in the installation permit reflect the BAT for the sector.</p> <p>See Key Issues.</p>
<p>Odour management</p>	<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> <p>See Key Issues.</p>
<p>Noise management</p>	<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>
<p>Permit conditions</p>	
<p>Use of conditions other than those from the template</p>	<p>Based on the information in the application, we consider that we do not need to impose conditions other than those in our permit template.</p>
<p>Raw materials</p>	<p>We have specified limits and controls on the use of raw materials and fuels.</p> <p>We have specified that only virgin timber (including wood chips and pellets), straw, miscanthus or a combination of these. These materials are never to be mixed with or replaced by, waste.</p>
<p>Emission limits</p>	<p>ELVs and/or equivalent parameters or technical measures based on BAT have been set for the following substances:</p> <ul style="list-style-type: none"> • kg N excreted/animal place/year • kg P2O5 excreted/animal place/year • Kg NH3/animal place/year <p>See Key Issues.</p>
<p>Monitoring</p>	<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 meet the requirements of the relevant BAT Conclusions.</p> <p>We made these decisions in accordance with the IRRP BAT Conclusions.</p> <p>See Key Issues.</p>
<p>Reporting</p>	<p>We have specified reporting in the permit. This is in line with the relevant BAT</p>

Aspect considered	Decision
	<p>Conclusions.</p> <p>We made these decisions in accordance with the IRRP BAT Conclusions.</p> <p>See Key Issues.</p>
Operator competence	
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 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>
Growth Duty	
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 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

Response received on 26 May 2017 from
Public Health England (PHE)
Brief summary of issues raised
<p>PHE noted that the installation has the potential to cause fugitive emissions (ammonia, bioaerosols and dust), pollution to ground and surface water (leachate and spillages) and emissions which may cause nuisance (odour). Given the close proximity of some sensitive receptors, they recommended that odour and dust control should be a priority and that the regulator should be satisfied that risk assessments have been completed satisfactorily.</p> <p>PHE also noted that quantitative information on point source emissions from the biomass boilers/generators was not provided so they were unable to comment on those.</p> <p>It is assumed by Public Health England that the site will comply in all respects with the Environmental Permitting (England and Wales) Regulations 2016 and that the regulator will ensure that the main public health risks from this type of activity will be appropriately managed and regulated.</p>
Summary of actions taken or show how this has been covered
<p>The operator has submitted a dust (including bio-aerosols) risk assessment and an odour management plan, which have been reviewed and approved by the Environment Agency.</p> <p>Likely impacts have been assessed during the determination as unlikely to have a significant impact and therefore we have included standard conditions which require the operator to action any emissions management plan should a substantiated negative impact be notified. Conditions 3.1.1, 3.2.1 and 3.3.1 concerning fugitive emissions and odour, are included in the permit.</p> <p>Information regarding the biomass boilers has been provided and likely impacts have been assessed during the determination as unlikely to have a significant impact.</p>

Response received on 09 June 2017 from
Director of Public Health – Devon County Council
Brief summary of issues raised
Confirmed that the Director of Public Health has no comments on this proposal but advised that the response from PHE should be considered.
Summary of actions taken or show how this has been covered
No action required.

The following organisations were consulted, however no responses were received:

- Environmental Protection – North Devon District Council
- The Health and Safety Executive

This proposal was also publicised on the Environment Agency's website between 11/05/17 and 09/06/17, but no representations were received during this period.