

# Permitting decisions

## Bespoke permit

---

We have decided to grant the permit for North Farm operated by Sellmor Farming Limited.

The permit number is EPR/HP3330AY.

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

## 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 schedule 5 for information 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 email reference 'BAT Confirmation', dated 22/04/17 and their 'Odour Management Plan' dated 24/04/17.

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	0.8 (kg N excreted/animal place/year) BAT-associated total nitrogen excreted.  The nutritional strategy is constructed by professional nutritionists who formulate the diet to meet the birds needs and the requirement to meet the reduce levels of excretion as set out by BAT.  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	0.45 (kg P2O5 excreted/animal place/year) BAT-associated total phosphorus excreted.  The nutritional strategy is constructed by professional nutritionists who formulate the diet to meet the birds needs and the requirement to meet the reduce levels of excretion as set out by BAT.  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 parameters - Ammonia emissions	

BAT measure	Applicant compliance measure
BAT 26 Monitoring of emissions and process parameters - Odour emissions	Daily dynamic olfactory checks of any abnormal housekeeping odours as per the Odour Management Plan dated 24/04/2017.
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 31 Ammonia emissions from poultry houses - Laying hens	0.08 (kg NH <sub>3</sub> /animal place/year). Ammonia emissions will be reported annually through estimation using emission factors.

### **Ammonia emission controls – BAT conclusion 31.**

The new BAT conclusions include a set of BAT-AEL's for ammonia emissions to air from animal housing for laying hens. All new bespoke applications issued after the 21<sup>st</sup> February will now need to meet the BAT-AEL.

### **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 North Farm (dated 12/01/17) 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

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.

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:

- feed selection;
- ventilation;
- cleanout;
- carcass storage and disposal;
- feed delivery; and,
- dust build up.

### **Odour Management Plan Review**

This Odour Management Plan is considered acceptable having been assessed against the requirements of Integrated Pollution Prevention and Control (IPPC) SRG 6.02 (Farming): Odour Management at Intensive Livestock Installations and our 'Top Tips Guidance and Poultry Industry Good Practice Checklist' and with regard to the site specific circumstances at the installation. The operator is required to manage activities at the installation in accordance with condition 3.3.1 of the environmental permit and this Odour Management Plan. The Odour Management Plan includes odour control measures, in particular, procedural controls addressing odours by manure storage, cleaning out, ventilation, carcass removal, feed delivery, manure spreading and dust build up.

The Odour Management Plan is required to be reviewed at least every 4 years and/or after a complaint is received, whichever is the sooner.

There is the potential for odour pollution from the installation, however the operator's compliance with their Odour Management Plan, submitted with this application, should minimise the risk of odour pollution beyond the installation boundary. The risk of odour pollution at sensitive receptors beyond the installation boundary is not considered significant. We, the Environment Agency, have reviewed and approved the Odour Management Plan 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.

## Noise

There are sensitive receptors within 400 metres of the installation boundary. The applicant has therefore submitted a Noise Management Plan as part of the application supporting documentation.

Operations with the most potential to cause noise nuisance have been assessed as those involving delivery vehicles travelling to and from the farm, vehicles on site, feeding system, operation of ventilation fans, noise from birds, bird restocking, bird removal and loading on to vehicles and clean out operations. The Noise Management Plan covers control measures, in particular, procedural controls addressing ventilation fans, feed deliveries, feeding systems, bird restocking, clean out operations, and manure management.

There is the potential for noise from the installation beyond the installation boundary, however the operator's compliance with the Noise Management Plan, submitted with this application, should minimise the risk of noise pollution beyond the installation boundary. The risk of noise pollution at sensitive receptors beyond the installation boundary is therefore not considered significant. We, the Environment Agency, have reviewed and approved the Noise Management Plan. 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.

## Ammonia

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

There are three Special Area of Conservations (SAC), Special Protection Areas (SPA) and Ramsars located within 10 kilometres of the installation. There are two Sites of Special Scientific Interest (SSSI) located within 5 km of the installation. There are also three Local Wildlife Sites (LWS), Ancient Woodlands (AW) and Local Nature Reserves (LNR) within 2 km of the installation.

### **Ammonia assessment – SAC/SPA/Ramsar**

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<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 has indicated that emissions from North Farm will only have a potential impact on the SAC/SPA/Ramsar sites with a precautionary critical level of 1µg/m<sup>3</sup> if they are within 4,106 metres of the emission source.

Beyond 4,106m the PC is less than 0.04µg/m<sup>3</sup> (i.e. less than 4% of the precautionary 1µg/m<sup>3</sup> critical level) and therefore beyond this distance the PC is insignificant. In this case all SAC/SPA/Ramsars are beyond this distance (see table below) and therefore screen out of any further assessment.

Where the precautionary level of 1µg/m<sup>3</sup> 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 1µg/m<sup>3</sup> 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/SPA/Ramsar Assessment**

<b>Name of SAC/SPA/Ramsar</b>	<b>Distance from site (m)</b>
Lower Derwent Valley SAC	7,007
Lower Derwent Valley SPA	7,007
Lower Derwent Valley Ramsar	7,007

### **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 (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 5 km of the SSSI.

Initial screening using the ammonia screening tool version 4.5 has indicated that emissions from North 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 1,633 metres of the emission source.

Beyond 1,633m 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 all SSSIs 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 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 2 – SSSI Assessment**

Name of SSSI	Distance from site (m)
White Carr Meadow	4,855
Pocklington Canal	4,316

### Ammonia assessment - LWS/AW/LNR

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 has indicated that emissions from North Farm will only have a potential impact on the LWS/AW/LNR sites with a precautionary critical level of  $1\mu\text{g}/\text{m}^3$  if they are within 655 metres of the emission source.

Beyond 655m 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 LWS/AW/LNRs are beyond this distance (see table below) and therefore screen out of any further assessment.

**Table 3 – LWS/AW/LNR Assessment**

Name of LWS	Distance from site (m)
Scorbo Rush Plantation LWS	1,148
Field House Wood LWS	1,633

Thorpe Whin LWS did not screen out for distance. Screening using the ammonia screening tool version 4.5 has determined that the PC on the LWS for ammonia emissions, nitrogen deposition and 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 4 - Ammonia emissions**

Site	Critical level ammonia $\mu\text{g}/\text{m}^3$ *	Predicted PC $\mu\text{g}/\text{m}^3$	PC % of critical level
Thorpe Whin LWS	3	1.639	54.6

\* CL<sub>e</sub> 3 applied as no protected lichen or bryophytes species were found when checking Easimap layer

**Table 5 - Nitrogen deposition**

Site	Critical load kg N/ha/yr. [1]	Predicted PC kg N/ha/yr.	PC % of critical load
Thorpe Whin LWS	10	8.515	85.1

Note [1] Critical load values taken from APIS website ([www.apis.ac.uk](http://www.apis.ac.uk)) – 31/01/17

**Table 6 - Acid deposition**

Site	Critical load keq/ha/yr. [1]	Predicted PC keq/ha/yr.	PC % of critical load
Thorpe Whin LWS	1.05	0.608	57.9

Note [1] Critical load values taken from APIS website ([www.apis.ac.uk](http://www.apis.ac.uk)) - 31/01/17

No further assessment is required.

## Decision checklist

Aspect considered	Decision
<b>Receipt of application</b>	
Confidential information	<p>A claim for commercial or industrial confidentiality has been made.</p> <p>We have not accepted the claim for confidentiality. We consider that the inclusion of the relevant information on the public register would not prejudice the applicant's interests to an unreasonable degree. The reasons for this are given in the notice of determination for the claim.</p> <p>The decision was taken in accordance with our guidance on confidentiality.</p>
Identifying confidential information	<p>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.</p>
<b>Consultation</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>• Public Health England</li> <li>• East Riding Environmental Health</li> <li>• East Riding Department of Public Health</li> <li>• Health and Safety Executive</li> </ul> <p>The comments and our responses are summarised in the <a href="#">consultation section</a>.</p>
<b>Operator</b>	
Control of the facility	<p>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.</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	<p>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.</p>
Site condition report	<p>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.</p>



Aspect considered	Decision
	<p>The land around the site is predominantly used for arable and grass farming. The site is an existing farm that was operating below the Industrial Emissions Directive threshold. Poultry shed 3 to the north of site is a new development on previously agricultural land.</p> <p>The site is not within a Groundwater Catchment area or Source Protection Zone, but is within a Nitrate Vulnerable Zone.</p>
<p>Biodiversity, heritage, landscape and nature conservation</p>	<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><b>Environmental risk assessment</b></p>	
<p>Environmental risk</p>	<p>We have reviewed the operator's assessment of the environmental risk from the facility.</p> <p>The operator's risk assessment is satisfactory. See <a href="#">key issues</a> section for further explanation.</p>
<p><b>Operating techniques</b></p>	
<p>General operating techniques</p>	<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>The operating techniques that the applicant must use are specified in table S1.2 in the environmental permit.</p> <p>The operating techniques are as follows:</p> <ul style="list-style-type: none"> <li>• Ventilation is provided by gable end fans, with additional roof mounted ventilation in poultry shed 3;</li> <li>• All dirty wash water is diverted to sealed storage containers for removal from site;</li> <li>• Nipple drinkers used in all sheds; and,</li> <li>• Uncontaminated water has will be segregated from waste water.</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. Please see <a href="#">key issues</a> for further information.</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. Please see <a href="#">key issues</a> for further information.</p>
<p>Noise management</p>	<p>We have reviewed the noise management plan in accordance with our guidance on noise assessment and control.</p>

Aspect considered	Decision
	We consider that the noise management plan is satisfactory. Please see <a href="#">key issues</a> for further information.
<b>Permit conditions</b>	
Emission limits	<p>Technical measures [based on BAT] have been set for the following substances:</p> <ul style="list-style-type: none"> <li>• Nitrogen</li> <li>• Phosphorus</li> <li>• Ammonia</li> </ul> <p>See <a href="#">key issues</a> for further information.</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 comply with the relevant BAT measures. See <a href="#">key issues</a> for further information.</p>
Reporting	<p>We have specified reporting in the permit. We made these decisions in accordance with the relevant BAT measures. See <a href="#">key issues</a> for further information.</p>
<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 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>	
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 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</p>

Aspect considered	Decision
	<p>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

<b>Response received from</b>
Public Health England - 02/05/17
<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, all relevant domestic and European legislation, and will use 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>
Standard conditions have been included in the permit, no further action is necessary. See <a href="#">key issues</a> section for further explanation.

### Responses not received

The Health and Safety Executive, Local Authority Environment Health Department, and Director of Public Health were also consulted. No further consultation responses were received from these parties and no representations were made following publication of the notice on Gov.UK.