Permitting decisions

Bespoke permit

We have decided to grant the permit for Sally Farm operated by Wot-A-Hen Limited.

The permit number is EPR/YP3339JW.

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 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 33 BAT conclusion measures in total within the BAT conclusion document dated 21st February 2017.

We have sent out a request 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 document referenced 'Sally Farm' attached to the email dated 04/03/18.

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 has confirmed it 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. This confirmation was in response to the Request for Further Information received 04/03/18, which has been referenced in Table S1.2 Operating Techniques of the Permit. 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 Phosphorous excretion	The Applicant has confirmed it will demonstrate it achieves levels of Phosphorous excretion below the required BAT-AEL of 0.45 kg P_2O_5/animal place/year by an estimation using manure analysis for total Phosphorous content. This confirmation was in response to the Request for Further Information received 04/03/18, which has been referenced in Table S1.2 Operating Techniques of the Permit. Table S3.3 of the Permit concerning process monitoring requires the Operator to undertake relevant monitoring that complies with these BAT Conclusions.

BAT measure	Applicant compliance measure
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	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	The approved OMP includes the following details for on Farm Monitoring and Continual Improvement: • On a daily basis, odour levels at the installation will be monitored.
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. The Applicant has confirmed they will report the dust emissions to the Environment Agency annually by multiplying the dust emissions factor for broilers by the number of birds on site. This confirmation was in response to the Request for Further Information received 04/03/18, which has been referenced in Table S1.2 Operating Techniques of the Permit.
BAT 31 Ammonia emissions from poultry houses -Laying hens	The BAT-AEL to be complied with is 0.13 kg NH3/animal place/year. The Applicant will meet this as the emission factor for layers with aviary type housing is 0.08 kg NH3/animal place/year. The Installation does not include an air abatement treatment facility, hence the standard emission factor complies with the BAT AEL.

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

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.

All new bespoke applications issued after the 21st February, including those where there is a mixture of old and new housing, 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 Sally Farm (dated 28/11/17) 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).

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: free range egg production, manufacture and selection of feed, feed delivery and storage, ventilation and dust, litter management, carcase disposal, house clean out, dirty water management, waste production/storage and materials storage.

A contingency plan has been included in the OMP. This includes contingency measures for the main sources of odour arising from the installation.

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

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. The Operator has provided a noise management plan (NMP) as part of the Application supporting documentation.

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 follows: ventilation fans, feed deliveries, egg collection, feeding systems, fuel deliveries, alarm systems, bird catching, clean out operations, maintenance and repairs, set up and placement and standby generator testing.

A contingency plan has been included in the NMP. This includes contingency measures for the main sources of noise arising from the installation.

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.

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

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 is 1 sensitive receptor within 100m of the Installation boundary, which is approximately 80 metres to the south east of the installation boundary and 180 meters south east of the nearest poultry house (the nearest point of the receptors assumed property boundary). It has been confirmed by the applicant that this building is occupied by farm employees. Following our guidance, a bio aerosol risk assessment is not required in this situation (in relation to bio aerosols farm workers are protected under Health and Safety Legislation).

Despite this, a bio aerosol risk assessment was provided by the operator and has been assessed and incorporated into the operating techniques.

Ammonia

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

There is one Site of Special Scientific Interest (SSSI) located within 5 km of the installation. There is also one Local Wildlife Site (LWS) located 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 Sally Farm will only have a potential impact on SSSI sites with a precautionary critical level of 1µg/m^3 if they are within 999 metres of the emission source.

Beyond 999 metres the PC is less than 0.2µg/m^3 (i.e. less than 20% of the precautionary 1µg/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 screens out of any further assessment.

Where the precautionary level of 1µg/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 1µg/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

Name of SSSI	Distance from site (m)
Pilmoor	5,056

Ammonia assessment - LWS

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 Sally Farm will only have a potential impact on the LWS site with a precautionary critical level of 1µg/m^3 if it is within 1996 metres of the emission source.

Beyond 1996 metres the PC is less than 1µg/m^3 and therefore beyond this distance the PC is insignificant. In this case the LWS is beyond this distance (see table below) and therefore screens out of any further assessment.

Table 2 – LWS Assessment

Name of SAC/SPA/Ramsar	Distance from site (m)
Brafferton Embankment	1,996

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.
Consultation	
Consultation	The consultation requirements were identified in accordance with the Environmental Permitting Regulations and our public participation statement. The application was publicised on the GOV.UK website. We consulted the following organisations: Heath and Safety Executive The Local Planning Authority – Harrogate Borough Council Environmental Health Department – Harrogate Borough Council Director of Public Health Public Health England The comments and our responses are summarised in the consultation section.
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	We considered the extent and nature of the facility at the site in accordance with RGN2 'Understanding the meaning of regulated facility', Appendix 2 of RGN 2 'Defining the scope of the installation' and Appendix 1 of RGN 2 'Interpretation of Schedule 1' 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.
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, landscape and nature conservation	The application is within the relevant distance criteria of a site of heritage, landscape or nature conservation, and/or protected species or habitat. We have assessed the application and its potential to affect all known habitats

Aspect considered	Decision
	identified in the nature conservation screening report as part of the permitting process. We consider that the application will not affect any sites of nature conservation, landscape and heritage, and/or protected species or habitats identified. We have not consulted Natural England on the application. The decision was taken in accordance with our guidance.
Environmental risk assessment	
Environmental risk	We have reviewed the operator's assessment of the environmental risk from the facility. The operator's risk assessment is satisfactory.
Operating techniques	
General operating techniques	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 operating techniques that the applicant must use are specified in table S1.2 in the environmental permit. The operating techniques are as follows: • The poultry houses are ventilated by high velocity ridge fans. • Manure is removed from the sheds by a belt removal system twice a week. • The area around the pop holes in managed to minimise erosion. The surfacing around the pop holes will be rolled stone and concrete. Bark chippings will be placed around the pop holes to minimise surface run off. This will be topped up periodically and will be taken away with the poultry litter at the end of the cycle. • Washwater is collected in underground tanks and is removed at the end of the cleaning cycle. 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.
Odour management	We have reviewed the odour management plan in accordance with our guidance on odour management. We consider that the odour management plan is satisfactory. See Key Issues.
Noise management	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. See Key Issues.
Permit conditions	
Use of conditions other than those from the	Based on the information in the application, we consider that we do not need to

Aspect considered	Decision
template	impose conditions other than those in our permit template.
Emission limits .	ELVs and/or equivalent parameters or technical measures based on BAT have been set for the following substances: • kg N excreted/animal place/year • kg P_2O_5 excreted/animal place/year • Kg NH_3/animal place/year See Key Issues.
Monitoring	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. These monitoring requirements have been imposed in order to meet the requirements of BAT Conclusions 24, 25 and 27 of the IRPP BAT Conclusions. We made these decisions in accordance with the IRPP BAT Conclusions. See Key Issues.
Reporting	We have specified reporting in the permit. This is in line with BAT Conclusions 24, 25 and 27 of the IRPP BAT Conclusions. We made these decisions in accordance with the IRPP BAT Conclusions. See Key Issues.
Operator competence	
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. The decision was taken in accordance with the guidance on operator competence and how to develop a management system for environmental permits.
Relevant convictions	The Case Management System and National Enforcement Database has been checked to ensure that all relevant convictions have been declared. No relevant convictions were found. The operator satisfies the criteria in our guidance on operator competence.
Financial competence	There is no known reason to consider that the operator will not be financially able to comply with the permit conditions.
Growth Duty	
Section 108 Deregulation Act 2015 – Growth duty	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. Paragraph 1.3 of the guidance says: "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

Aspect considered	Decision
	legislation." 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.

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 from
Environmental Protection – Harrogate Borough Council
Brief summary of issues raised
Concern about proximity of receptors, therefore, ensure that suitable noise, odour and dust management plans and an insect management plan should be provided. Suggests time limiting restrictions on noise generating activities based on potential for cumulative impact with high level roof fans.
Summary of actions taken or show how this has been covered
The nearest receptor is 80 metres from the installation boundary. This is however, occupied by farm workers, as advised by the applicant, who are unlikely to complain regarding odour, noise or insects and are protected under health and safety legislation with regards to bio aerosols. Odour, Noise and Bio aerosol (covering dust) Management Plans have been provided with the application. These have been assessed and the risk management procedures in place are considered sufficient. Time limiting restrictions, similar to those suggested, have been put in place for potentially noisy activities. In addition, contingency measures have been outlined in the Odour and Noise Management Plans should first line measures fail. We do not require an insect management plan as part of the permit application. However, the fugitive emissions condition (3.2.1 and 3.2.2) could be used to trigger the production of one should insects become an issue.

Response received from
Local Planning Authority – Harrogate Borough Council
Brief summary of issues raised
No specific issues raised. However, the Local Planning Authority has provide a copy of the Planning Officers Report detailing the reasoning behind the decision to grant planning permission. Planning permission for this site was granted on 15/11/17. The majority of the issues covered are not relevant to a permit determination, apart from section 2 which covers impact on Residential Amenity. This sections states *'….The closest residential properties are approximately 200 metres east of the proposed building and are occupied by the farm employees. Other residential properties, outside the applicant's ownership, are all in excess of 450 metres from the proposed building.* *The EHO has proposed a condition which requires a management plan to be submitted for approval. The management plan will consider noise, odour, insects and dust that may be created by the proposal and will detail the control measures that will be used to minimise any adverse impact of these on the occupiers of nearby residential properties. Subject to such a condition, it is considered that the impacts on residential amenity can be adequately controlled.'*
Summary of actions taken or show how this has been covered
Odour, Noise and Bio aerosol (covering dust) Management Plans have been provided with the application. These have been assessed and the risk management procedures in place are considered sufficient. In addition, contingency measures have been outlined in the Odour and Noise Management Plans should first line measures fail. We do not require an insect management plan as part of the permit application. However, the fugitive emissions condition (3.2.1 and 3.2.2) could be used to trigger the production of one should insects become an issue.

Response received from
Public Health England - Harrogate Borough Council
Brief summary of issues raised
The letter identifies the main emissions of public health significance as being emissions to air of bio aerosols, dust and ammonia. There is a residential receptor within 100 meters of the site boundary. The response highlights the need for a bio aerosol risk assessment and assumes that the installation will comply with the requirements of the permit, including the application of Best Available Techniques. This is considered in the response as ensuring that emissions present a low risk to human health.
Summary of actions taken or show how this has been covered
The nearest receptor is 80 metres from the installation boundary. This is however, occupied by farm workers, as advised by the applicant, who are protected under health and safety legislation with regards to bioaersols. This installation does not require a bioaersol risk assessment. However, one has been provided, which has been assessed and has been incorporated into the operating techniques of this permit.

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

- The Health and Safety Executive
- The Director of Public Health

This proposal was also publicised on the Environment Agency's website between 06/02/18 and 06/03/18, but no representations were received during this period.