

# Permitting decisions

## Variation

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We have decided to grant the variation for Three Nooks Wood operated by Mr Robert George Towers, Mr Richard George Towers, Mr Benjamin Richard Towers and Mrs Jane Marjorie Towers.

The variation number is EPR/MP3735ZY/V004.

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

## Purpose of this document

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

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

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

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

# Key issues of the decision

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

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

The BAT Conclusions document is as per the following link

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

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

There are some new requirements for permit holders. The conclusions include BAT Associated Emission Levels for ammonia emissions which will apply to the majority of permits, as well as BAT associated levels for nitrogen and 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 housing will need to meet BAT requirements upon permit issue. Existing housing will need to meet BAT requirements by 21/02/21. For new and existing housing, the process monitoring requirements for Nitrogen, Phosphorous, Ammonia and Dust have been included in the permit. Details have been provided as to how the new poultry housing will comply with these requirements. However, for existing housing details with regards to how the operator will comply with these BAT requirements will be the subject of a future sector permit review.

### New BAT conclusions review

There are 33 BAT conclusion measures in total within the BAT conclusion document dated 21<sup>st</sup> February 2017.

We have sent out a schedule 5 Notice (dated 08/3/18) requiring the Applicant to confirm that the new installation complies in full with all the BAT conclusion measures.

The Operator has confirmed their compliance with all BAT conditions for the new housing, in their email dated 11/03/18.

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 Operator has confirmed it will demonstrate it achieves levels of Nitrogen excretion below the required BAT-AEL of 0.6 kg N/animal place/year by an estimation using manure analysis for total Nitrogen content.  This confirmation was provided in the document 'Three Nooks Wood' received by email on 28/03/18. This 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 4 Nutritional management Phosphorous excretion	<p>The Operator has confirmed it will demonstrate it achieves levels of Phosphorous excretion below the required BAT-AEL of 0.25 kg P<sub>2</sub>O<sub>5</sub> animal place/year by an estimation using manure analysis for total Phosphorous content.</p> <p>This confirmation was provided in the document 'Three Nooks Wood' received by email on 28/03/18. This has been referenced in Table S1.2 Operating techniques of the Permit.</p> <p>Table S3.3 of the Permit concerning process monitoring requires the Operator to undertake relevant monitoring that complies with these BAT Conclusions.</p>
BAT 24 Monitoring of emissions and process parameters - Total nitrogen and phosphorous excretion	<p>Table S3.3 of the Permit concerning process monitoring requires the Operator to undertake relevant monitoring that complies with these BAT Conclusions</p>
BAT 25 Monitoring of emissions and process parameters - Ammonia emissions	<p>Table S3.3 of the Permit concerning process monitoring requires the Operator to undertake relevant monitoring that complies with these BAT Conclusions.</p>
BAT 26 Monitoring of emissions and process parameters - Odour emissions	<p>The approved OMP includes the following details for on Farm Monitoring and Continual Improvement:</p> <ul style="list-style-type: none"> <li>Daily olfactory checks for high housekeeping odours, coinciding with stock inspections (normally 07.00-10.00hrs and 16.00-18.00hrs). The frequency will be increased in the event of an odour complaint.</li> </ul>
BAT 27 Monitoring of emissions and process parameters -Dust emissions	<p>Table S3.3 of the Permit concerning process monitoring requires the Operator to undertake relevant monitoring that complies with these BAT Conclusions.</p> <p>The Operator has confirmed it will report dust emissions to the Environment Agency annually by multiplying the dust emissions factor for broilers by the number of birds on site.</p> <p>This confirmation was provided in the document 'Three Nooks Wood' received by email on 28/03/18. This has been referenced in Table S1.2 Operating techniques of the Permit.</p>
BAT 32 Ammonia emissions from poultry houses - Broilers	<p>The BAT-AEL to be complied with is 0.08 kg NH<sub>3</sub>/animal place/year.</p> <p>The Operator will meet this as the emission factor for broilers is 0.034 kg NH<sub>3</sub>/animal place/year.</p> <p>The Operator has confirmed it will demonstrate it achieves Ammonia emissions below the required BAT AEL of 0.08 kg NH<sub>3</sub>/animal place/year by an estimation using standard emission factors.</p> <p>This confirmation was provided in the document 'Three Nooks Wood' received by email on 28/03/18. This has been referenced in Table S1.2 Operating techniques of the Permit.</p> <p>The Installation does not include an air abatement treatment facility, hence the standard emission factor complies with the BAT AEL.</p>

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

### **Ammonia emission controls**

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

### **Ammonia emission controls – BAT conclusion 32.**

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

For variations all new housing on existing farms will need to meet the BAT-AEL.

## **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 Three Nooks Wood (dated 24/01/18) demonstrates that there are no hazards or likely pathway to land or groundwater and no historic contamination on site that may present a hazard from the same contaminants. **Therefore, on the basis of the risk assessment presented in the SCR, we accept that they have not provided base line reference data for the soil and groundwater at the site at this stage and although condition 3.1.3 is included in the permit no groundwater monitoring will be required.**

## **Odour**

Intensive farming is by its nature a potentially odorous activity. This is recognised in our 'How to Comply with your Environmental Permit for Intensive Farming' EPR 6.09 guidance

([http://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/297084/geho0110brsb-e-e.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/297084/geho0110brsb-e-e.pdf)).

Condition 3.3 of the environmental permit reads as follows:

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

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

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
- Ventilation and heating system
- Litter management
- Carcass disposal
- House clean out

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.

#### Odour Management Plan Review

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 two sensitive receptors within 400 metres of the Installation boundary, the nearest sensitive receptor (the nearest point of their assumed property boundary) is approximately 380 metres to the north 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:

- large vehicles travelling to and from site;
- vehicles/machinery on site;
- feed systems;
- operation of ventilation fans;
- alarm system/standby generator;
- personnel; and
- noise from birds.

The NMP sets out the preventative measures that will be taken on the installation as part of the daily management of noise risk at the site. Preventative measures have been specified for all of the potential noise sources from the installation. It is anticipated that these measures should be sufficient to address the risk of noise 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.

## Noise Management Plan Review

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

## **Ammonia**

There are two Special Protection Areas (SPA) and two Ramsar sites located within 10 kilometres of the installation. There are also four Local Wildlife Sites (LWS) 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 SPA/Ramsar.

Initial screening using ammonia screening tool version 4.5 has indicated that emissions from Three Nooks Wood will only have a potential impact on the SPA/Ramsar sites with a precautionary critical level of 1µg/m<sup>3</sup> if they are within 4518 metres of the emission source.

Beyond 4518 metres 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 the 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 – SPA/Ramsar Assessment**

<b>Name of SPA/Ramsar</b>	<b>Distance from site (m)</b>
Ribble & Alt Estuaries SPA	6,170
Morecambe Bay and Duddon Estuary SPA	6,292
Morecambe Bay Ramsar	6,290
Ribble & Alt Estuaries Ramsar	6,170

### **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 (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 Three Nooks Wood will only have a potential impact on the LWS sites with a precautionary critical level of 1µg/m<sup>3</sup> if they are within 531 metres of the emission source.

Beyond 531 metres the PC is less than 1µg/m<sup>3</sup> and therefore beyond this distance the PC is insignificant. In this case, all the LWS are beyond this distance (see table below) and therefore screen out of any further assessment.

**Table 2 – LWS Assessment**

<b>Name of LWS</b>	<b>Distance from site (m)</b>
Great Plumpton Sidings	1,511
St. George's Park Swamp	1,684
Wesham Marsh	1,343
Medlar Meadows	1,909

# 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. The decision was taken in accordance with our guidance on confidentiality.
<b>Consultation/Engagement</b>	
Consultation	<p>The consultation requirements were identified in accordance with the Environmental Permitting Regulations and our public participation statement.</p> <p>The application was publicised on the GOV.UK website.</p> <p>We consulted the following organisations:</p> <ul style="list-style-type: none"> <li>• Environment Protection – Fylde District Council</li> <li>• The Health and Safety Executive</li> </ul> <p>No responses were received.</p> <p>The application was also advertised on our website from 15/02/18 to 15/03/18. No comments were received.</p>
<b>The facility</b>	
The regulated facility	<p>We considered the extent and nature of the facility at the site in accordance with RGN2 'Understanding the meaning of regulated facility'.</p> <p>The extent of the facility is defined in the site plan and in the permit. The activities are defined in table S1.1 of the permit.</p>
<b>The site</b>	
Extent of the site of the facility	The operator has provided a plan which we consider is satisfactory, showing the extent of the site of the facility. The plan is included in the permit.
Site condition report	The operator has provided a description of the condition of the site, which we consider is satisfactory. The decision was taken in accordance with our guidance on site condition reports and baseline reporting under the Industrial Emissions Directive.
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 Stage 1 Habitats Regulations Assessment was completed and sent to Natural England on 19/02/18 'For Information Only'.</p>



Aspect considered	Decision
<b>Environmental risk assessment</b>	
Environmental risk	<p>We have reviewed the operator's assessment of the environmental risk from the facility.</p> <p>The operator's risk assessment is satisfactory.</p>
<b>Operating techniques</b>	
General operating techniques	<p>We have reviewed the techniques used by the operator and compared these with the relevant 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>• Housing design and management is in accordance with SGN EPR6.09 'How to comply with your environmental permit for intensive farming.</li> <li>• Ventilation is provided by high velocity roof mounted extraction fans with an emission point higher than 5.5 metres above ground level and an efflux speed of 11 metres per second, and gable end fans for summer cooling;</li> <li>• Poultry houses have a fully littered floor, are fully insulated and equipped with nipple drinking systems;</li> <li>• At the end of the cycle, dirty wash water is collected in underground tanks and then exported off site for spreading on third party land. Clean drainage systems are not contaminated;</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> <p>See Key Issues.</p>
Noise management	<p>We have reviewed the noise management plan in accordance with our guidance on noise assessment and control.</p> <p>We consider that the noise management plan is satisfactory.</p> <p>See Key Issues.</p>
<b>Permit conditions</b>	
Use of conditions other than those from the template	<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>
Emission limits	<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"> <li>• Nitrogen (kg N excreted/animal place/year)</li> </ul>

Aspect considered	Decision
	<ul style="list-style-type: none"> <li>• Phosphorus (kg P2O5 excreted/animal place/year)</li> <li>• Ammonia (Kg NH3/animal place/year)</li> </ul> <p>See Key Issues.</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 meet the requirements of BAT Conclusions 24, 25 and 27 of the IRPP BAT Conclusions.</p> <p>We made these decisions in accordance with the IRRP BAT Conclusions.</p> <p>See Key Issues.</p>
Reporting	<p>We have specified reporting in the permit. This is in line with BAT Conclusions 24, 25 and 27 of the IRPP BAT Conclusions.</p> <p>We made these decisions in accordance with the IRPP BAT Conclusions.</p> <p>See Key Issues.</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>
<b>Growth Duty</b>	
Section 108 Deregulation Act 2015 – Growth duty	<p>We have considered our duty to have regard to the desirability of promoting economic growth set out in section 108(1) of the Deregulation Act 2015 and the guidance issued under section 110 of that Act in deciding whether to grant this permit.</p> <p>Paragraph 1.3 of the guidance says:</p> <p>“The primary role of regulators, in delivering regulation, is to achieve the regulatory outcomes for which they are responsible. For a number of regulators, these regulatory outcomes include an explicit reference to development or growth. The growth duty establishes economic growth as a factor that all specified regulators should have regard to, alongside the delivery of the protections set out in the relevant legislation.”</p> <p>We have addressed the legislative requirements and environmental standards to be set for this operation in the body of the decision document above. The guidance is clear at paragraph 1.5 that the growth duty does not legitimise non-compliance and its purpose is not to achieve or pursue economic growth at the expense of necessary protections.</p> <p>We consider the requirements and standards we have set in this permit are 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>