

# Permitting decisions

## Bespoke permit

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We have decided to grant the permit for Moss House Farm operated by W G Farms Ltd.

The permit number is EPR/WP3530DR.

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

#### 1) 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 was published on the 21 February 2017. There is now a separate BAT Conclusions document which sets out the standards that permitted farms have to meet. Now that the BAT Conclusions are published, all new installation farming permits issued after the 21 February 2017 must be compliant in full from the first day of operation. 'New plant' is defined as plant first permitted at the site of the farm following the publication of the BAT conclusions. 'Existing plant' is defined in the BREF as any plant that is not a 'new plant'.

There are some new requirements for permit holders. The conclusions include BAT Associated Emission Levels (BAT-AELs) for ammonia which apply to the majority of permits as well as BAT-AELs for nitrogen and phosphorous excretion. A BAT-AEL provides us with a performance benchmark to determine whether an activity is BAT. For some types of rearing practices stricter standards apply to farms and housing permitted after the new BAT Conclusions are published.

There are 33 BAT conclusion measures in total within the BAT Conclusions document dated 21 February 2017. The new BAT Conclusions include a set of BAT-AELs for ammonia emissions to air from animal housing for broilers and therefore an ammonia emission limit value has been included within the permit. Some of the ammonia BAT-AELs allow a higher value for existing plant.

<b>BAT Measure</b>	<b>Applicant Compliance Measure</b>
BAT 3 – nutritional management for nitrogen excretion.	BAT-AEL for broilers 0.2 to 0.6kgN/animal place/yr.
BAT 4 - nutritional management for phosphorous excretion.	BAT-AEL for broilers 0.05 to 0.25kgP/animal place/yr.
BAT 24 – monitoring of emissions and process parameters for total nitrogen and phosphorous excreted.	Table S3.3: Process monitoring. This table requires the Applicant to undertake relevant monitoring that complies with these BAT Conclusions.
BAT 25 - monitoring of emissions and process parameters for ammonia emissions.	
BAT 27 - monitoring of emissions and process parameters for dust emissions.	
BAT 32 – ammonia emissions from poultry houses for broilers.	BAT-AEL for broilers is 0.01 to 0.08kgNH <sub>3</sub> /animal place/yr.

All new bespoke applications issued after the 21 February, including those where there is a mixture of old and new housing, will now need to meet the BAT-AEL. With regards to specific BAT measures that the Applicant has to ensure compliance with, BAT 27 (monitoring of dust emissions and process parameters) will be required. The requirements are given in Table S3.3 - process monitoring requirements – and the Applicant is required to undertake relevant monitoring that complies with these BAT conclusions.

The Applicant confirmed that the new installation has been constructed to and complies in full with all the BAT conclusion measures. The Applicant has confirmed their compliance with the BAT conditions for the new housing and that the installation will meet the new BAT AEL's in their application (Technical Standards) dated 05 October 2017.

The changes have been incorporated within the permit template for application EPR/WP3530DR/A001, the main alterations to the permit are as follows but are not limited to:

- Sections 1.1, 1.2, 1.3, 1.4, 2.1, 2.3, 3.2 and 4.2
- Schedules 3 and 4.

## **2) 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. As a result of the requirements of the IED, all permits are now required to contain a condition relating to protection of soil, groundwater and groundwater monitoring. However, the Environment Agency's Guidance states that it is only necessary for the Applicant 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.

The Guidance further states that it is not essential for the Applicant 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 Moss House Farm (dated 03 October 2017) 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.

### 3) 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 Applicant 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 broiler production, house clean out, movement of feed/feed delivery, house ventilation, litter management and used litter, carcass disposal, dirty water management, abnormal operations and waste and raw material storage.

We have assessed the OMP and the H1 risk assessment for odour and conclude that the Applicant has followed the guidance set out in EPR 6.09 and Environment Agency guidance on preparing OMPs for Intensive Farm installations. We are satisfied that all sources and receptors have been identified, and that the proposed mitigation measures will minimise the risk of odour pollution/nuisance.

### 4) 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 Applicant 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 400m of the Installation boundary. The Applicant has provided a noise management plan (NMP) as part of the Application supporting documentation, and further details are provided below. The risk assessment for the Installation provided with the Application lists key potential risks of noise pollution beyond the Installation boundary. These activities are site set-ups, vehicle movements, bird catching, clean out operations, ventilation fans, feed delivery and transfer, fuel delivery, alarm systems, maintenance and the standby generator (between 08:00 and 12:00 Mondays only). Litter removal is during the working hours 07:00 and 19:00.

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.

### 5) Grade A Wood Burning

The Applicant has applied to use Grade A recycled waste wood as fuel for one site biomass boiler with a net rated thermal input of 833kW. The biomass boiler is to be fed by grade A wood only. "Grade A waste wood" means visibly 'clean' recycled waste wood mainly originating from packaging waste, pallets, packing cases and process off-cuts from the manufacture of untreated wood products as defined in BSI PAS 111: 2012. The total capacity of the installation biomass boiler using Grade A wood is 250kg/hour.

As the activity does not meet the criteria of a U4 waste exemption and has a capacity of >50kg/hr it will fall under section 5.1B(a)(v) of the Environmental Permitting Regulations 'The incineration in a small waste incineration plant with an aggregated capacity of 50kg or more per hour of the following waste – wood waste with the exception of waste which may contain halogenated organic compounds or heavy metals as a result of treatment with wood preservatives or coatings'.

A site specific description of waste source and acceptance/rejection procedures have been reviewed and accepted as satisfactory to ensure that only grade A waste wood will be accepted. The Applicant will only be permitted to accept this waste type. Table S2.2 of the permit includes relevant waste wood and descriptions. We are satisfied that the waste wood is from a manufacturing source and that it will not be contaminated.

## **6) Ammonia**

There is one Special Area for Conservation (SAC) within 1.9km, three Special Protection Areas (SPA) within 9.1km, one Ramsar Site within 1.9km, three Sites of Special Scientific Interest (SSSI) within 2.8km and three Local Wildlife Sites (LWS) - one covering the entire facility area - and the other two within 1.9km of the facility.

### Assessment of SAC, SPA and Ramsar Sites

If the Process Contribution (PC) is below 4% of the relevant critical level (CLe) or critical load (CLo) then the farm can be permitted with no further assessment. Initial screening using the Ammonia Screening Tool assessment spreadsheet v4.5 (AST) has indicated that Bowland Fells SPA screens out at CLe 1 and Morecambe Bay SPA, Morecambe Bay Ramsar and Morecambe Bay and Duddon Estuary SPA all screen out at CLe 3 due to their distance from the site. Therefore, it is possible to conclude that there is not a potential risk of damage at the sites from this installation and no further action is required.

For Morecambe Bay SAC initial screening using the AST spreadsheet has indicated that the PC as a % of the CLe (CLe 1) for ammonia is between 4% and 20%. This normally requires an in-combination assessment but as there are no other installations acting in-combination with this facility no further action is required.

### Assessment of SSSI

If the PC is below 20% of the relevant CLe or CLo then the farm can be permitted with no further assessment. Initial screening using the AST spreadsheet v4.5 has indicated that the Winmarleigh Moss, Lune Estuary and Cockerham Marsh SSSIs all screen out at CLe 1 due to their distance from the site. Therefore, it is possible to conclude that there is not a potential risk of damage at the sites from this installation and no further action is required.

### Assessment of LWS

The following trigger thresholds have been applied for the assessment of non-statutory LWS:

- If PC is <100% of relevant CLe or CLo then the farm can be permitted (H1 or ammonia screening tool)
- If PEC <CLe or CLo then the farm can be permitted
- If further modelling shows PC <100%, then the farm can be permitted.

Initial screening using the AST spreadsheet v4.5 has indicated that Pilling Moss-Eagland Hill and Winmarleigh Moss Woods LWSs (which adjoins the Winmarleigh Moss SSSI) screen out at CLe 1 due to distance. Therefore, it is possible to conclude no damage and that no further assessment is necessary. However, Cockerham and Winmarleigh Moss Edge LWS actually covers and surrounds the facility therefore requires detailed modelling. This site is an area recognised for supporting large numbers of wintering Geese and Swans and therefore supports the interest features of Morecambe Bay SPA.

### Detailed Ammonia Modelling Assessment

The Environment Agency AST indicated the potential for ammonia contributions to impact on Cockerham and Winmarleigh Moss Edge LWS which is linked to Morecambe Bay SPA and could potentially affect the qualifying features of the SPA. The land will physically remain but has the potential to be affected by a change in the farming use and management. After discussions with Natural England (NE) the Environment Agency requested that the applicant undertake detailed modelling. The detailed modelling assessment report 'A Report on the Modelling of the Dispersion and Deposition of Ammonia from the Proposed Broiler Chicken Rearing

Houses at Moss House Farm, Gulf Lane, Lancaster dated February 2018 was submitted as part of the application.

The modelling predicts that, at all receptors considered, the PC to maximum annual ammonia concentrations and nitrogen deposition rates would be below the Environment Agency's lower threshold percentage of CLe or CLo for the designation of the sites (4% for a SAC, Ramsar or SPA, 20% for a SSSI, 100% for a non-statutory site). NE reviewed the detailed ammonia modelling report as it provided really useful information to help them make an assessment of impacts on the protected site (Morecambe Bay SPA).

One of NE concerns was around air quality. The Environment Agency consider that the potential nutrient enrichment from aerial ammonia deposition onto the grassland of Cockerham and Winmarleigh Moss Edge LWS from the poultry site will be beneficial as it will encourage the grass to grow and provide a more substantial food source for grazing Geese and other grazing species linked to Morecambe Bay SPA. There is no evidence held by the Environment Agency to confirm this but in initial pre-determination discussions with NE, they are of the same opinion.

Following a formal consultation request, NE did not send any further advice or correspondence to the Environment Agency on this matter. Therefore, the Environment Agency have assumed that the applicant's proposals are satisfactory to NE.

## Decision checklist

Aspect considered	Decision
<b>Receipt of application</b>	
Confidential information	A claim for commercial or industrial confidentiality has not been made. The decision was taken in accordance with our guidance on confidentiality.
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</b>	
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: <ul style="list-style-type: none"> <li>➤ Local Authority – Planning and Environmental Health</li> <li>➤ Health and Safety Executive</li> <li>➤ Natural England.</li> </ul> No responses were received.
<b>Operator</b>	
Control of the facility	We are satisfied that the applicant (now the operator) is the person who will have control over the operation of the facility after the grant of the permit. The decision was taken in accordance with our guidance on legal operator for environmental permits.
<b>The facility</b>	
The regulated facility	We considered the extent and nature of the facility at the site in accordance with RGN2 'Understanding the meaning of regulated facility'. The extent of the facility is defined in the site plan and in the permit. The activities are defined in table S1.1 of

Aspect considered	Decision
	the permit.
<b>The site</b>	
Extent of the site of the facility	The operator has provided plans which we consider are satisfactory, showing the extent of the site of the facility. The plans are included in the permit.
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> <p>The site condition report (SCR) for Moss House Farm (dated 03 October 2017) demonstrates that there are no significant hazards or likely pathways to land or groundwater and no historic contamination sources on site that may present a significant risk. Therefore, on the basis of the assessment presented in the SCR the Environment Agency accepts that no baseline reference data needs to be provided for the site soil and groundwater conditions as part of application EPR/WP3530DR/A001.</p>
Biodiversity, heritage, landscape and nature conservation	<p>The application is within the relevant distance criteria of nature conservation and protected species or habitats. We have assessed the application and its potential to affect all known sites of nature conservation and protected species or habitats identified in the nature conservation screening report as part of the permitting process. The proposed site area is wholly within Cockerham and Winmarleigh Moss Edge LWS. Whilst the site takes up only a small part of a much larger LWS area, the land is considered to be functionally-linked to the adjacent Morecambe Bay SPA. We consider that the application will not affect the sites of nature conservation identified.</p> <p>In accordance with our guidance, as there are statutory sites within 10km of the installation, we are required to consult Natural England. We have completed an Appendix 11 Habitats Directive Assessment for auditing purposes only and an Appendix 4 CRoW Act Assessment for the Sites of Special Scientific Interest for consultation purposes. This was done on 20 April 2018 and are recorded on the public register. No additional comments were received from Natural England (discussed further in the key issues section).</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>
<b>Environmental risk assessment</b>	
EIA	<p>National planning policy guidance (NPPG) makes it clear that Environmental Impact Assessments should only apply to those projects which are likely to have significant effects on the environment. In this case, the proposal exceeds the indicative thresholds however, it should not be presumed that developments above the indicative thresholds should always be subject to assessment.</p> <p>The location of the proposed project is situated within Cockerham and Winmarleigh Moss Edge LWS. It is also less than 2km from Morecambe Bay SPA with the qualifying features of the SPA including a number of bird species which are likely to utilise the agricultural hinterland around the SPA boundary.</p> <p>The surrounding farmland is generally considered to be 'functionally-linked' to the SPA therefore projects within such land must consider whether the project would lead</p>

Aspect considered	Decision
	<p>to likely significant effects on the European Site and its qualifying features.</p> <p>For the purposes of screening the project under the EIA Regulations, the local planning authority is required to assess the project if it affects the features for which the sensitive area was designated. It is a matter of judgement whether the likely effects of the environment of the project will be significant and to determine whether an assessment is required. In this respect the local planning authority have had regard to Schedule 3 of the Regulations and the Environment Agency have taken the conclusions of any assessment into regard during this determination.</p>
Environmental risk	We have reviewed the operator's assessment of the environmental risk from the facility. The operator's risk assessment is satisfactory.
<b>Operating techniques</b>	
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 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.
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.
<b>Permit conditions</b>	
Raw materials	We have specified limits and controls on the use of raw materials and fuels. We have specified that only biomass chips or pellets comprising grade A waste wood are acceptable.
Waste types	<p>We have specified the permitted waste types, descriptions and quantities, which can be accepted at the regulated facility. We are satisfied that the operator can accept these wastes for the following reasons:</p> <ul style="list-style-type: none"> <li>• they are suitable for the proposed activities</li> <li>• the proposed infrastructure is appropriate</li> <li>• the environmental risk assessment is acceptable.</li> </ul> <p>We made these decisions with respect to waste types in accordance with and as defined in BSI PAS 111: 2012. A site specific description of waste source and procedure have been reviewed and accepted as satisfactory to ensure that only grade A waste wood will be accepted. The Applicant will only be permitted to accept this waste type. Table S2.2 of the permit includes relevant waste wood and descriptions. We are satisfied that the waste wood is from a manufacturing source and that it will not be contaminated.</p>
Emission limits	BAT-AELs based on the recently published BAT Conclusions have been set in the permit for the following substances:

Aspect considered	Decision
	<ul style="list-style-type: none"> <li>➤ ammonia</li> <li>➤ nitrogen</li> <li>➤ phosphorous.</li> </ul>
Monitoring	<p>With the publication of the IRPP BAT Conclusion Document, we have included monitoring for the parameters listed in the permit, using the methods detailed and to the frequencies specified. These monitoring requirements have been added in order to comply with the IRPP BAT Conclusion Document and are not related to any perceived issues with the operation of the installation.</p>
Reporting	<p>With the publication of the IRPP BAT Conclusion Document, we have specified reporting in the permit. These reporting requirements have been added in order to comply with the IRPP BAT Conclusion Document and are not related to any perceived issues with the operation of the installation</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 and National Enforcement Database have 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.</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 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</p>



Aspect considered	Decision
	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.

The Local Authority Planning Department and Environmental Health Department as well as the Health and Safety Executive and Natural England were consulted on this application. However, consultation responses from them were not received.

The application was advertised externally on the GOV.UK website between 02 and 30 May 2018 to invite any responses and comments from the general public. No responses were received.