Permitting decisions

Bespoke permit

We have decided to grant the permit for Willow Tree Farm operated by Cattle (Holderness) Limited.

The permit number is EPR/AP3400SG.

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. The decision checklist summarises the decision making process 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; and
- 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 sets 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 (BAT-AELs) for ammonia emissions, which will apply to the majority of permits, as well as BAT-AELs 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 were published.

New BAT Conclusions review

There are 34 BAT conclusion measures in total within the BAT conclusion document dated 21st February 2017.

We sent out a not duly made 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 installations or new housing in their document reference 'Appendix 2: Non Technical Summary' and dated 02/12/2020 which has been referenced in Table S1.2 Operating Techniques of the permit.

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 that the installation achieves levels of Nitrogen excretion below the required BAT-AEL of 13kg N/animal place/year by an estimation using manure analysis for total Nitrogen content or a mass balance of nitrogen based on the feed intake, dietary content of crude protein and animal performance. 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 that the installation achieves levels of Phosphorous excretion below the required BAT-AEL of 5.4kg P_2O_5 animal place/year by an estimation using manure analysis for total Nitrogen content or a mass balance of nitrogen based on the feed intake, dietary content of crude protein and animal performance. 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 concerning 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 27 Monitoring of emissions and process parameters - Dust emissions	Table S3.3 concerning 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 production pigs by the number of pigs on site.
BAT 28 Monitoring of emissions and process parameters linked to - Ammonia, Odour and Dust emissions	Table S3.3 concerning processing monitoring requires the Operator either to pursue Ammonia, Odour and Dust emission monitoring in line with BAT 25 and 27 criteria as detailed above.
BAT 30 Ammonia emissions from pig houses	The Applicant has confirmed it will demonstrate that the installation achieves levels of ammonia below the required BAT-AEL for the following pig types: Pigs > 30kg: 2.6 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 30

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

'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 2017, including those where there is a mixture of old and new housing, will now need to meet the BAT-AEL.

Industrial Emissions Directive (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 Willow Tree Farm (dated 2020 and submitted 02/12/2020) 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

There are no receptors within 400m of the Installation boundary and therefore an Odour Management Plan (OMP) was not required or submitted.

Noise

There are no receptors within 400m of the Installation boundary and therefore an Noise Management Plan (NMP) was not required or submitted.

Dust and Bio aerosols

There are no sensitive receptos within 100m of the Installation boundary and therefore a Dust and Bioaerosol Management Plan was not required or submitted.

Ammonia

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

There is one Special Areas of Conservation (SAC), two Special Protection Areas (SPA) and one Ramsar within 5km of the installation. In addition there are two Sites of Special Scientific Interest (SSSI) within 5km of the installation, and one other nature conservation sites within 2km comprising of one Local Wildlife Sites (LWS).

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 (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 SAC/SPA/Ramsar.

Screening using Detailed modelling [reference 'A Report on the Modelling of the Disperson and Deposition of Ammonia from the Proposed Piggery at Land East of Weeton North Lane, near Weeton in the East Riding of Yorkshire' dated November 2020] has determined that the PC on the SAC/SPA/Ramsar for ammonia emissions/nitrogen deposition/acid deposition from the application site are under the 4% significance threshold and can be screened out as having no likely significant effect. See results below.

Table 1 – Ammonia emissions

Site	Critical level ammonia µg/m^3	Predicted PC µg/m^3	PC % of Critical level
Humber Estuary SAC	3*	0.027	0.9%
Humber Estuary SPA	3**	0.027	0.9%
Humber Estuary Ramsar	3***	0.027	0.9%

*Critical level of 3 for ammonia applied as there is no evidence of lichens or bryophytes present, as confirmed from APIS website (www.apis.ac.uk) – 26/04/2021.
** Critical level value taken from APIS website (www.apis.ac.uk) – 26/04/2021.
*** No critical levels readily available for Ramsar sites so value was assigned for underlying SPA.

Table 2 – Nitrogen deposition

Site	Critical load kg N/ha/yr. [1]	Predicted PC kg N/ha/yr.	PC % of critical load
Humber Estuary SAC	8*	0.14	1.76%
Humber Estuary SPA	8*	0.14	1.76%
Humber Estuary Ramsar	8**	0.14	1.76%

* Critical load values taken from APIS website (www.apis.ac.uk) – 26/04/2021
** No critical loads readily available for Ramsar sites so value was assigned for underlying SPA.

The applicant did not calculate acid deposition but from the information presented in their modelling report it was possible to calculate acid deposition – the worst case scenario is presented below.

Table 3 – Acid deposition

Site	Critical load keq/ha/yr. [1]	Predicted PC keq/ha/yr.	PC % of critical load
Humber Estuary SAC	0.643*	0.01	1.56%
Humber Estuary SPA	0.643**	0.01	1.56%
Humber Estuary Ramsar	0.643	0.01	1.56%

*Critical load values taken from APIS website (www.apis.ac.uk) – 26/04/2021
** No critical loads readily available for Ramsar sites so value was assigned for underlying SPA.

The Greater Wash SPA has been excluded from assessment after consultation with Natural England to determine whether critical levels/loads should be applied for this site. A response was received from Louise Burton of NE (dated 26/02/2021 and correspondence between the Environment Agency and NE attached for information only) that stated the following:

Please accept this email as Natural England formal view in relation to critical loads for the Greater Wash SPA only.

The Greater Wash SPA is classed as a marine SPA which protects the following features in their subtidal foraging and rafting locations

- *Non Breeding, Little Gull and Red Throated Diver*
- *Breeding Little Tern, Sandwich Tern and Common Tern*

Whilst the GW SPA site boundary does extend to MHW and therefore includes intertidal habitats; the importance of those habitats in this instance are only of importance for breeding locations for Little Tern. And the impacts from the proposals on those supporting habitats will be taken into account through the Humber Estuary SAC/SPA/RAMSAR and The lagoons SSSI. Therefore, we do not believe that there is an impact pathway to the interest features of the GW SPA and therefore no LSE on the purposes of the SPA.

In addition there are currently no fully marine/subtidal SPA attributes that relate to Air Quality and given the existing nutrients the water column is not sensitive. Therefore we advise against attributing any critical loads to the Greater Wash SPA and conclude that the GW SPA can be excluded from the HRA for this pressure.

No further assessment is necessary.

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 Willow Tree Farm will only have a potential impact on SSSIs with a precautionary CLe of 1µg/m^3 if they are within 1432 metres of the emission source.

Beyond 1432m the PC is less than 0.2µg/m^3 (i.e. less than 20% of the precautionary 1µg/m^3 CLe) 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 1µg/m^3 is used and the PC is assessed to be less than 20%, the site automatically screens out as insignificant and no further assessment of CLo 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 4 – SSSI Assessment

Name of SSSI	Distance from site (m)
Humber Estuary	2737
Dimlington Cliff	2398

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 Willow Tree Farm will only have a potential impact on the LWS site with a precautionary CLe of 1µg/m^3 if they are within 525 metres of the emission source.

Beyond 525m 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 screen out of any further assessment.

Table 5 – LWS Assessment

Name of LWS	Distance from site (m)
Out Newton - Skeffling	1276

No further assessment is required.

Decision checklist

Aspect considered	Decision
Receipt of application	
Confidential information	A claim for commercial or industrial confidentiality has not been made.
Identifying confidential information	We have not identified information provided as part of the application that we consider to be confidential.
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: Health and Safety Executive Environmental Health – East Riding of Yorkshire Council No responses were received.
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'. 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 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	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 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. We consider that the application will not affect any sites of nature conservation, landscape and heritage, and/or protected species or habitats identified.

Aspect considered	Decision
	We have not consulted Natural England on the application. The decision was taken in accordance with our guidance. However, a Stage 1 Habitats Regulations Assessment form was completed and sent to Natural England for information only.
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: • pig houses are ventilated by roof fans with an emission point higher than 5.5 metres above ground level and an efflux speed greater than 11 metres per second; • Roof water from the pig houses and yard water (excluding all times yards contaminated e.g. mucking out or washing) is directed towards an attenuation pond to the west of the pig houses; • All dirty water, including wash water from the loading area and spent footbath water containing disinfectant, is directed to the slurry pit; and • Both slurry and separate is spread on land belonging to the operator. 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.
Permit conditions	
Use of conditions other than those from the template	Based on the information in the application, we consider that we do not need to impose conditions other than those in our permit template.
Emission limits	We have decided that emission limits are required in the permit. BAT AELs have been added in line with the Intensive Farming sector BAT conclusions document dated 21/02/17. These limits are included in permit table S3.3.
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.
Reporting	We have specified reporting in the permit. We made these decisions in order to ensure compliance with Intensive Farming BAT conclusions document dated 21/02/17.

Aspect considered	Decision
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 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 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.

The Health and Safety Executive (HSE), and the Environmental Health team of East Riding of Yorkshire Council were consulted but no comments were received. No public comments were received.