Permitting decisions

Variation

We have decided to grant the variation for Marl Farm operated by Mr Richard Towse and Mrs Helen Towse.

The variation number is EPR/ZP3432JX/V002.

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 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 phosphorus excretion.

For some types of rearing practices stricter standards will apply to farms and housing permitted after the new BAT Conclusions are published.

This variation determination includes a review of BAT compliance for new housing introduced with this variation.

New BAT conclusions review

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

The Applicant has confirmed their compliance with all BAT conditions for the new housing, in their document entitled 'Marl Farm' submitted with application EPR/ZP3432JX/V002 on 21/04/2023 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 they will demonstrate they can achieve 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. 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 - Phosphorus excretion	The Applicant has confirmed they will demonstrate they can achieve levels of phosphorus excretion below the required BAT-AEL of 0.25 kg P_2O_5 animal place/year by an estimation using manure analysis for total phosphorus content. Table S3.3 of the Permit concerning process monitoring requires the Operator to undertake relevant monitoring that complies with these BAT Conclusions.
BAT 24 Monitoring of emissions and process parameters - Total nitrogen and phosphorus excretion	Table S3.3 Process monitoring requires the Operator to undertake relevant monitoring that complies with these BAT Conclusions. This will be verified by means of manure analysis and reported annually.
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. The applicant has confirmed it will report the ammonia emissions to the Environment Agency annually by multiplying the ammonia emissions factor for broilers by the number of birds on site.

BAT measure	Applicant compliance measure
BAT 26 Monitoring of emissions and process parameters - Odour emissions	The approved odour management plan (OMP) includes the following details for on Farm Monitoring and Continual Improvement: • Twice daily olfactory checks coinciding with stock inspections. Any abnormalities will be recorded and investigated. • Humidity recorded daily and maintained in the range of 55-65%. • In the event of odour complaints being received the Operator will notify the Environment Agency immediately and make a record of the complaint. The Operator will undertake necessary odour contingency as required.
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 estimation by using emission factors.
BAT 32 Ammonia emissions from poultry houses - Broilers	The BAT-AEL to be complied with is 0.01 – 0.08 kg NH3/animal place/year. The Applicant will meet this as the emission factor for broilers is 0.034 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 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 and existing housing on farms will need to meet the BAT-AEL. The Applicant has confirmed they can comply with this 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 Marl Farm (received 11/08/2023) 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:

- Odour from broiler production
- Odour from the manufacture and selection of feed
- Odour from feed delivery or storage
- Odours arising from problems with housing ventilation and heating systems
- Litter management and used litter
- Carcass disposal
- House clean out
- Washing operations including vehicles
- Fugitive emissions
- Dirty water management
- Abnormal operations
- Waste production/materials/storage

Odour Management Plan Review

The Installation is located within 400m of one sensitive receptor, as listed below (please note, the distance stated is only an approximation from the Installation boundary to the assumed boundary of the property):

1. Residential property – approximately 316m northeast of the Installation boundary.

The operator has provided an OMP (submitted 28/06/2023) and this has been assessed against the requirements of 'How to Comply with your Environmental Permit for Intensive Farming' EPR 6.09 (version 2), Appendix 4 guidance 'Odour Management at Intensive Livestock Installations' and our Top Tips Guidance and Poultry Industry Good Practice Checklist (August 2013) as well as the site specific circumstances at the Installation. We consider that the OMP is acceptable because it complies with the above guidance, with details of odour control measures, contingency measures and complaint procedures described below.

The Operator is required to manage activities at the Installation in accordance with condition 3.3.1 of the Permit and its OMP. The OMP includes odour control measures, in particular, procedural controls such as manufacture and selection of feed, feed delivery and storage, ventilation and dust, litter management, carcass disposal, house clean out, used litter, washing operations, fugitive emissions, dirty water management, abnormal operations, waste production storage and materials storage. The operator has identified the potential sources of odour (see risks bullet pointed above), as well as the potential risks and problems, and detailed actions taken to minimise odour including contingencies for abnormal operations, including water leak/pipe failure and bird health/sickness. We are not aware of any odour complaints at this existing site.

The OMP also provides a suitable procedure in the event that complaints are made to the Operator. The OMP is required to be reviewed at least every year (as committed to in the OMP) and/or after a complaint is received, whichever is the sooner.

The Environment Agency has reviewed the OMP and considers 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.

Conclusion

We have assessed the OMP and the H1 risk assessment for odour and conclude that the Applicant has followed the guidance set out in H4 Odour management guidance note. Although there is the potential for odour pollution from the Installation, the Operator's compliance with the Permit and its OMP will minimise the risk of odour pollution beyond the Installation boundary. The risk of odour pollution at any sensitive receptors beyond the Installation boundary is therefore not considered significant.

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 is one sensitive receptor within 400 metres of the Installation boundary as stated in the odour section above. The Operator 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 as follows:

- Noise from the production of broilers
- Ventilation fans
- Feed deliveries and feeding systems
- Vehicles to and from site
- Alarm system

- Bird catching
- Clean out operations
- Maintenance and repairs
- Setup and placement
- Standby generator

Noise Management Plan Review

The one sensitive receptor has been listed under the 'Odour' section above.

The sensitive receptor that has been considered under odour and noise does not include the operator's property and other people associated with the farm operations as odour and noise are amenity issues.

A noise management plan (NMP) has been provided by the operator on 28/06/2023 as part of the application supporting documentation (submitted with the application).

The NMP also provides a suitable procedure in the event of complaints in relation to noise. The NMP is required to be reviewed at least every year (as committed to in the NMP).

Operations with the most potential to cause noise nuisance have been assessed and control measures put in place for all vehicles accessing the site and manoeuvring around, and vehicles and machinery carrying out operations on site. This includes the delivering of feed and birds, and to remove used litter and dirty water. Other operations with the potential to cause noise nuisance for which control measures have been put in place include; ventilation fans, feeding equipment, alarm system and standby generator, building works and repairs, and animal noise.

We have included our standard noise and vibration condition 3.4.1 in the Permit, which requires that 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 (which is captured through condition 2.3 and Table S1.2 of the Permit), to prevent or where that is not practicable to minimise the noise and vibration.

We are satisfied that the manner in which operations are carried out on the Installation will minimise the risk of noise pollution.

Conclusion

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.

Dust and Bioaerosols

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 one sensitive receptor within 100m of the Installation boundary, the nearest sensitive receptor (the nearest point of their assumed property boundary) is approximately 10 metres to the west of the installation boundary, which is the farm house itself (owned by the Operator).

Guidance on our website concludes that applicants need to produce and submit a dust and bioaerosol risk assessment with their applications only if there are relevant receptors within 100 metres of their farm, e.g. the farmhouse or farm worker's houses. Details can be found via the link below:

www.gov.uk/guidance/intensive-farming-risk-assessment-for-your-environmental-permit#air-emissions-dust-and-bioaerosols.

As there is a receptor within 100m of the Installation, the Applicant was required to submit a dust and bioaerosol management plan in this format.

In the guidance mentioned above it states that particulate concentrations fall off rapidly with distance from the emitting source. This fact, together with the proposed good management of the Installation such as keeping areas clean from build-up of dust, and other measures in place to reduce dust and risk of spillages (e.g. litter and feed management/delivery procedures) all reduce the potential for emissions impacting the nearest receptors. The Applicant has confirmed the following measures in their operating techniques to reduce dust:

• Vents from silos are covered to prevent release to atmosphere, sealed pipe delivery into poultry houses and any feed spills are cleared up immediately. No feed milling undertaken on-site.

• The bedding type used in the poultry houses is dust extracted shavings. The bedding depth is a sufficient layer to absorb moisture produced during the crop cycle. The base layer is spread inside the houses with minimum ventilation running and the top up bedding is in sealed plastic bales.

• Use of roof extraction fans on poultry houses and the exhaust vents are washed under low pressure during the cleaning process to minimise release of dust to atmosphere

• Relative humidity controlled between 55% and 65% keeping balance between dust and odour production.

• There is no double handling of litter. Litter is tipped carefully into trailers, which are parked close to the poultry house doors. The trailers are sheeted prior to leaving the site.

Conclusion

We are satisfied that the measures outlined in the dust and bioaerosol risk assessment for application EPR/ZP3432JX/V002 received on 28/06/2023 will minimise the potential for dust and bioaerosol emissions from the installation.

Standby Generator

There is one standby generator with a net thermal rated input of < 1MWth and it's operated for a maximum of 1 hour/week for testing purposes. The generator will not be operated more than 500hrs per annum averaged over 3 years and is used only as backup for mains interruption.

Ammonia

There is one Site of Special Scientific Interest (SSSI) located within 5 km of the Installation. There are no other habitat sites within the relevant screening distances from the Installation.

Ammonia assessment – SSSI

The following trigger thresholds have been applied for assessment of SSSI's:

- 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 4.6 (dated 07/07/2023) has indicated that emissions from Marl Farm will only have a potential impact on the SSSI site with a precautionary critical level of 1µg/m^3 if it's within 1082 metres of the emission source.

Beyond 1082m 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)
South Cliffe Common SSSI	2195

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/Engagement	
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. No responses were received. We consulted the following organisations: Health and Safety Executive East Riding of Yorkshire Environmental Health Director of Public Health UK Health Security Agency The comments and our responses are summarised in the consultation section.
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. One of the plans 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.
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. 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: • All five poultry houses are ventilated via high velocity roof fans. The poultry houses also have gable end fans which are computer controlled in turn with the roof fans to maintain the temperature. • Roof water from all the poultry houses and yard water (excluding all times yards are contaminated e.g. catching, mucking out or washing) drains to French drains acting as soakaways adjacent to the poultry houses. The French drains overflow via two outlets to surface water to the east of the site. • At the end of the growing period the houses are depopulated, the litter is removed, the houses and equipment washed and disinfected before being restocked. • Litter is exported in covered trailers and wash water is conveyed to one of the dirty water tanks for temporary storage before being exported off-site • There will be one standby generator with an integrated diesel storage tank and storage tanks for liquid petroleum gas (LPG) for heating. • Mortalities are removed daily and stored in secure containers for removal under the National Fallen Stock Scheme. 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.
Permit conditions	
Updating permit conditions during consolidation	We have updated permit conditions to those in the current generic permit template as part of permit consolidation. The conditions will provide the same level of protection as those in the previous permit.
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 21/02/2017. These limits are included in table S3.3 of the permit.
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 ensure compliance with Intensive Farming BAT conclusions document dated 21/02/2017.
Reporting	We have specified reporting in the permit. We made these decisions in order to ensure compliance with the Intensive Farming sector BAT conclusions document dated 21/02/2017.
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.
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 grant 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.

Responses from organisations listed in the consultation section

Response received from
Health and Safety Executive (Response received 02/08/2023)
Brief summary of issues raised
The main emissions of potential public health significance are emissions to air of bioaerosols, and dust including particulate matter and ammonia. However we are reassured that the Operator has submitted an odour management plan and mitigation measures to control and minimise the impact of odours and ammonia from operations on site. It is assumed by UKHSA that the Installation will comply with all respects with the requirements of the permit, including the application of Best Available Techniques (BAT). This should ensure that emissions present a low risk to human health.
Summary of actions taken or show how this has been covered
The Applicant has supplied a satisfactory odour management plan and bioaerosol management plan. The Applicant has confirmed they will comply with BAT and there is no reason to suspect they will not comply with their permit.

Response received from
East Riding of Yorkshire Environmental Health
Brief summary of issues raised
No response received
Summary of actions taken or show how this has been covered
No further action required

Response received from
UK Health Security Agency
Brief summary of issues raised
No response received
Summary of actions taken or show how this has been covered
No further action required

Response received from
Director of Public Health
Brief summary of issues raised
No response received
Summary of actions taken or show how this has been covered
No further action required