



Appeal Decision

Inquiry held on 6 February, 25 to 28 June, 9 to 11 July and 22 July 2024

Site visit made on 17 June 2024

by Diane Lewis BA(Hons) MCD MA LL.M MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 November 2024

Appeal Ref: APP/L2630/W/23/3324060

Land at Deal Farm, Kenninghall Road, Bressingham, Norfolk IP22 2HG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended (the 1990 Act) against a refusal to grant planning permission.
- The appeal is made by Deal Farm Biogas Limited against the decision of South Norfolk District Council dated 14 December 2022.
- The planning application reference is 2022/1108.
- The development proposed is the construction of an Anaerobic Digestion facility (part retrospective), comprising: 1 no. digester tank and 1 no. secondary digester/digestate storage tank, silage clamps; liquid and dry feed system; digestate separation, handling and pasteurization; biogas upgrading and mains gas-grid connection; carbon capture; CHP; agricultural building; office buildings; weighbridge; 2 no. covered digestate storage lagoons; and associated plant, vehicular accesses, roads and landscaping (including earth bunds).
- A screening direction dated 10 August 2023 by the Secretary of State directed that the proposal is not Environmental Impact Assessment development, based on a maximum feedstock processed of 23,950 tonnes per annum.

Summary of Decision: The appeal is dismissed.

Preliminary Matters

1. A significant amount of new evidence was submitted by the appellant and the Council at the proof of evidence stage in the appeal process. I decided to accept the evidence because it is directly relevant and necessary for my decision.
2. On the opening day of the inquiry a timetable was agreed for consultation and consideration of the evidence. The inquiry then adjourned until the accompanied site visit on 17 June and the resumption on 25 June to examine the evidence. The final sitting day was 22 July, held virtually.
3. Bressingham and Fersfield Parish Council was a Rule 6 Party. Parish Councils in the wider area made written objections to the proposal.
4. The signed and dated section 106 agreement was submitted on 28 August 2024. The executed deed incorporates amendments to the draft documents submitted at the inquiry.
5. The main parties had the opportunity to comment on the proposed reforms to the National Planning Policy Framework published on 30 July 2024 (the draft NPPF) and the Written Ministerial Statement 'Building the homes we need' made by the Secretary of State also on 30 July (the WMS), in so far as relevant to the proposal. As the appellant submitted, there is a distinction in the weight to be attached to the WMS and the consultation documents. The WMS is an

expression of Government policy and is an important consideration. The proposed reforms and draft NPPF may be subject to change as a result of the consultation and as such they have limited weight.

6. The inquiry was closed in writing on 14 October 2024.
7. A bundle of appeal decisions, planning permissions and traffic management plans are included within the core documents (CD9). The appellant and the Council highlighted relevant conclusions and planning conditions to support their respective cases. I comment on the documents more specifically later in this decision. At this point I note that the weight to be attached to any material consideration is a matter for the decision maker and that none of the developments has the same facts as in this appeal.

Proposed Development

8. The appeal sites are located in the rural parish of Bressingham and Fersfield, about 1.5 kilometres (km) north of the village of Bressingham and 4km to the north west of Diss.
9. The anaerobic digestion (AD) plant is on an area of around 4.2 hectares (ha) located to the west of Common Road and to the north of the farmhouse and group of farm buildings at Deal Farm, off Kenninghall Road. The site was a former muck/straw storage area and arable land. The sites of the proposed two lagoons are on farmland to the east of Common Road and to the south of Kenninghall Road, south of The Oaks farm. The development commenced in 2021 and many elements of the plant on the main site have been built. Therefore planning permission is being sought retrospectively, as provided for under section 73A of the 1990 Act.
10. On the main site the two digester tanks are set into the ground, each with an external diameter of 35.6 metres (m), a maximum wall height of 6.6m above relative ground level and a maximum dome height of around 15m above relative ground level when inflated fully¹. There are four lightning conductors around each tank. The domes and conductors are the most visible elements from the surrounding rural area. The three silage clamps, manure store and fire water holding lagoon are sited at a higher level on the western part of the site. In addition are numerous pieces of associated plant and equipment (constructed or to be constructed²), such as feeding units, carbon dioxide recovery and storage equipment and a weighbridge. The development also includes the formation of earth bunds primarily near the eastern and southern boundaries of the site. The short internal access road connecting the site to Common Road has been constructed. The landscape strategy for the development includes planting on land off-site.
11. The two satellite sites (approximately 0.7ha each) for the lagoons (yet to be constructed) would be connected to the main AD plant by underground pipes and a pumping arrangement. The lagoons, each with a capacity of 5,000 m³, would store the liquid digestate produced by the AD process and be covered to comply with the Environmental Permitting Regulations. Separate planning application(s) would be required for the digestate pipeline and the pipeline to take the gas produced at the AD plant to the main gas network.

¹ CD1.38 paragraph 4.4

² CD6.8 includes a construction status table. CD2.21 is a plan of the site layout.

12. Basically, the AD plant would facilitate a process whereby a feedstock of waste and non-waste plant and animal materials (biomass) would be broken down by microorganisms in the absence of oxygen and under controlled conditions in an enclosed system. The end products would be biogas and digestate in solid and liquid form. The initial biogas product would be cleaned and upgraded to produce methane for injection into the gas grid and use as a source of energy. Carbon dioxide would be captured from this process and liquified for transport and subsequent use in the food and drink and other industries. The digestate would undergo pasteurisation and separation. The resulting liquid fraction would be used as a bio-fertiliser on agricultural land, replacing chemical fertilisers. The solid fraction would be spread on farmland to provide fibre and enhance soils.
13. The proposal is to limit the feedstock to a maximum of 23,950 tonnes per calendar year, which was the basis for the Secretary of State's screening direction. The feedstock would comprise a mixture of locally sourced chicken, duck and/ or pig manure, maize, grass and straw.
14. The outline of the process shows that anaerobic digestion is a renewable energy technology that assists in reducing carbon emissions. Waste (and non-waste) materials would be recovered, reprocessed and recycled, with the digestate providing a more sustainable agricultural fertiliser.
15. In light of the extensive expert technical evidence and matters raised in representations on the proposal, the following aspects related to the development are considered at the outset, in so far as relevant to land use planning and the main planning issues identified.
16. Policy overview. Over the last 15 years or so since the Climate Change Act 2008 a raft of Government policy statements, strategies and action plans have been directed at the challenges of climate change, decarbonisation, harnessing renewable energy, increasing energy security, and efficiency in use of resources. The AD technology is regarded as having an important role in contributing to progress in achieving sustainability objectives. There is recognition of the scope for the increased use of accepted AD technology in the agricultural sector to secure benefits for the industry and reduce the environmental impacts of farming. The merits of Government policy are not for debate in this appeal.
17. National planning guidance confirms Planning has an important role in the delivery of new renewable and low carbon energy infrastructure in locations where the local environmental impact is acceptable. The main issue raised in this appeal is whether the development is in an appropriate location.
18. Quality. The expert witnesses at the inquiry agreed that Thoni, the supplier of the anaerobic digestion plant at Deal Farm, is a market leader in the sector with a reputation for supplying well engineered and constructed plants. The site is laid out well from a technical perspective and based on visual inspection the works are of high quality.
19. Operation. Broad parameters relevant to land use planning may be identified and set and controlled through planning conditions and/or planning obligations. There are separate areas of regulation by bodies such as the Environment Agency and the Health and Safety Executive which should not be duplicated through the planning regime. To seek to control through a planning permission

the detailed day to day operation and management of the AD plant and technology would not be reasonable. The technical statement of common ground recognises the potential variations in farming practice, whether related to weather, market conditions or other variables. It is agreed the proposed development has technical features or management approaches that can accommodate and/ or respond to such variances.

20. The appellant has stated the intention to apply for the Green Gas Support Scheme (GGSS) and has provided a compliance assessment of the project against the eligibility criteria, including the full sustainability criteria. The Council agreed with the assessment and that the proposed development and feedstock blend meets the eligibility criteria³. The GGSS is regulated and administered outside the planning system and therefore I make no conclusions on the assessment.
21. Capacity. The AD plant has the physical capacity to process more than double the amount of feedstock proposed. In the Council's view "the digesters are twice as large as they need to be", which would create inefficiencies in operation and increase the odour that would require treatment.
22. There may well be savings in capital and running costs from a smaller plant but the appellant demonstrated a number of factors and variables inform the sizing of tanks. There is not necessarily a linear relationship between size of tanks and throughput. The technical experts agreed that the installation of appropriate equipment would deal with odour resulting from the longer retention times and the production of malodorous sulphate reducing bacteria. The development will be assessed on the size of the proposed digesters and annual feedstock limit of 23,950 tonnes per year.
23. Mass balance: The dispute is whether the plant would operate continuously at 15% dry matter content. The appellant maintained the system at the Deal Farm facility is designed to operate at 15% dry matter and disagreed with the Council's premise that the higher the dry matter content the higher the ammonia content. Thoni explained and confirmed in writing that the project at Deal Farm is specifically designed to allow a higher dry matter content within the digester in comparison to other digestion systems and this is included in the mass balance calculation for the facility. 15% dry matter content is a simplified measure and is not the only parameter driving operation of the facility. There are many more parameters such as recirculation rates from de-watering and quality of the input material.
24. If, as the Council maintain, the plant would not be able to operate above 12% dry matter content the level of environmental benefit would be less through reductions in the amount of biogas and digestate produced and carbon dioxide captured. This issue also has potential implications for water supply, amount of liquid digestate produced and ultimately the amount of traffic generated by the plant. No estimates were made of the potential increase in number and type of vehicle movements and measures are proposed to control annual feedstock and traffic movements to and from the site. Having considered the technical debate, my assessment will focus on the quantified traffic outcomes and the proposed planning conditions/obligations controlling the operation of the development.

³ CD12.1 Point 13 in Table

Planning history⁴

25. Planning permission was granted for the construction of a farm agricultural anaerobic digestion facility on 22 October 2015 (ref. 2015/0595). At the same time two earlier planning permissions for digesters at The Oaks were revoked through a planning obligation. An application for a certificate of lawfulness was refused in June 2023 and no formal confirmation exists to show the development authorised in 2015 was commenced within the three year time limit. The 2015 permission is no longer extant. The appellant accepts the 2015 permission cannot be built out and is not a fallback in this appeal.
26. After the appeal proposal was refused permission, a revised planning application for an anaerobic digestion facility was made in January 2023 (ref. 2023/0087). The proposal amends the digester roof design by reducing the dome heights. A single larger lagoon is proposed. The application has not been determined by the Council.
27. On 12 July 2023 the Council issued an enforcement notice. The alleged breach of planning control is described as the material change of use of land from agricultural to a partially built anaerobic digestion facility and the partial construction of an anaerobic digestion facility. An appeal made against the notice was withdrawn on 23 November 2023. The enforcement notice has taken effect and requires the use of the land as a partially built anaerobic digestion facility to cease and the removal of the unauthorised operational development. The compliance period is 15 months.
28. The planning history shows no fallback scheme exists and an enforcement notice is in place to secure removal of the partly constructed anaerobic digestion facility and restoration of the land to its previous condition.

Planning policy

29. The development plan for the area includes the Greater Norwich Local Plan (GNLP) adopted by the Council in March 2024 and the South Norfolk Local Plan Development Management Policies Document adopted in October 2015 (the SNLP). The reasons for refusal of the planning application cited three policies from the SNLP: Policy DM 3.11 Road safety and the free flow of traffic, Policy DM 4.1 Renewable energy and Policy DM 4.5 Landscape character and river valleys.
30. The Norfolk Core Strategy and Minerals and Waste Development Management Policies Development Plan Document (2011) (the NMW) is also relevant because the proposal is a type of waste management facility. Core Strategy Policy CS7 states the development of new anaerobic digestion facilities will be considered favourably so long as they would not cause unacceptable environmental, amenity and/or highways impacts.
31. The National Planning Policy Framework (the Framework) states the purpose of the planning system is to contribute to the achievement of sustainable development. Addressing climate change is one of the core land use planning principles which the Framework expects to underpin both plan-making and decision-taking. Applications for renewable and low carbon development should be approved if their impacts are (or can be made) acceptable (paragraph 163(b)).

⁴ CD5.7 Planning statement of common ground paragraphs 6 to 23 has additional details.

32. The Framework also states (paragraph 194) the focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively.
33. The detailed requirements of relevant development plan policies, national policy and national and local planning guidance will be identified in the reasoning on the main issues and other considerations.

Main Issues

34. The main issues are:

- The effects of the proposal on:
 - a. the function and safety of the surrounding highway network, having regard to the character and standard of the highways providing access to and from the site.
 - b. the landscape character of the area and the appearance of the countryside, considering the scale and design of the proposed plant and buildings, the location and formation of associated infrastructure and proposed mitigation measures.
 - c. the amenity of the local community and the occupiers of neighbouring homes.
- The contribution of the proposal to sustainable energy generation in the context of national policy on renewable energy and net zero targets.

35. The use of planning conditions and planning obligations in mitigating any adverse effects will be a consideration in assessing the main issues. The Framework states planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. Planning obligations must be (a) necessary to make the development acceptable in planning terms; (b) directly related to the development; and (c) fairly and reasonably related in scale and kind to the development.

36. A range of other considerations will be assessed before concluding on the section 38(6) duty that requires the determination of the appeal to be made in accordance with the development plan unless material considerations indicate otherwise⁵.

Highway safety

Context

37. The local highway network serving the appeal site and the surrounding area is characterised by narrow unlit rural lanes without footways, which are very much part of the agricultural landscape. The Rule 6 Party described them as originally cart tracks that were tarmacked over during the Second World War.

⁵ Section 38(6) of the Planning and Compulsory Purchase Act 2004

They connect the farmsteads, scattered residential properties and small settlements to local centres and the wider highway network. There are 7.5t weight restrictions in place (except for loading) in several locations⁶. The A1066, 3km to the south of the site⁷ and the B1077 to the east are part of Norfolk's major road network.

38. The available traffic survey data demonstrates all roads in the vicinity of the site are lightly trafficked with higher flows recorded in the villages⁸. The number of heavy goods vehicles, as a proportion of average daily flow, are very low. By way of illustration, Department for Transport data for a count point on Common Road recorded an annual average daily flow of 325 vehicles and an average of 6% heavy goods vehicle flow. The appellant's ATC survey data (25 November to 1 December 2023) gave AADTs of 71, 73, 201, 81 and 325 vehicles⁹ across the five survey sites. The % HGVs ranged from 0.5% to 3.4%. Traffic speeds are consistently low on the lanes south of the site (below 30mph at 3 count points), although higher (49.2mph northbound and 52.1 southbound) on Common Road east of the site.
39. The rural lanes also function as leisure routes for walkers, cyclists and horse riders, together with the network of public rights of way across the farmland. A number of the highways are Quiet Lanes¹⁰. Their designation indicates they are considered appropriate for shared use, where the aim is to maintain their rural character by containing traffic growth and low speeds. The recently designated Beacon cycle route indicates an increasing importance of leisure and recreation activity.
40. There is little empirical information on the level of use of the lanes by walkers and cyclists. The appellant described pedestrian activity as 'incredibly low' but this conclusion was based on personal observations of their transport witness and is not consistent with local knowledge¹¹.
41. The data on road accidents¹² over the period 2017 to 2023 shows a pattern of concentration along the A1066 and B1077, where cause was attributed mainly to driver behaviour or the slippery road surface. The small number of recorded personal injury accidents on the rural lanes in the study area indicates no causal pattern. The one accident of particular note was when a cyclist sustained a serious injury taking action to avoid a HGV. The Rule 6 Party explained the local community are proud that accidents are few and far between, probably because they are used to driving on the lanes and are aware of likely hazards. Experience of near misses is reported in the representations¹³.
42. The data indicates the local highway network operates reasonably safely. The caveat is the empirical collision data is restricted to personal injury accidents that have been recorded by the police. There is no data in relation to damage only collisions and so the absence of accident data does not necessarily mean that accidents have not occurred. Changes such as a significant increase in vehicular traffic levels or types of vehicles, greater use by pedestrians, cyclists

⁶ CD12.2 Figure 2.2

⁷ CD11.10 paragraph 3.7: distances are 'as the crow flies'.

⁸ CD11.6 Appendix B Transport Technical Note paragraph 2.3.1 to 2.3.3 and related Appendices.

⁹ ATC AADT data based on 7 day average of two way traffic flows for the survey period. (CD11.6 Figure 2.3)

¹⁰ CD12.2 Figure 2.1

¹¹ See Inquiry Document WR, summary bullet point and paragraphs 14.3, 14.4

¹² CD11.6 Appendix B Transport Technical Note Figure 2.4 and Table 2.1

¹³ See Inquiry Document WR at paragraphs 12.2, 14.2 for example.

or horse riders or physical alterations to the network could affect highway safety in the future.

Existing farming operation

43. Deal Farm, together with The Oaks, have been family farmed for over 70 years. The agricultural operation consists of arable farming over some 450ha and livestock farming, including a pig fattening unit near the Deal Farm site and a large chicken unit at The Oaks.
44. Vehicles, movement and traffic associated with the existing farming operation are described by the appellant as largely outward facing. Crops such as wheat, maize and sugar beet are exported in large volumes in heavy vehicles to single large scale food manufacturers or distributors. Grass and secondary crops are ensiled on the land and used either as feed for livestock or exported to local farmers as part of a straw contracting business. Movements internal to the farm would mainly involve tractors and trailers.

Operation of AD plant and traffic

45. The appellant's expectation is that the feedstocks comprising maize, grass, straw, chicken and pig manures would all be derived from the holding. The energy crops would be brought a short distance from field to silage clamp and the manures brought during the clean down phase at each barn to the AD facility. Cattle and duck manures would be sourced from farms within the surrounding area, either by agricultural trailer over short distances or in larger payroll vehicles. Once processed, all liquid digestate would be umbilical fed within the landholdings, solid digestate would be used on the Aves' farmland or on nearby holdings. The carbon dioxide would be exported from the site by road tanker.
46. The appellant estimated a net daily increase in traffic associated with the AD plant of some 13 vehicles, of which 2 would be heavy commercial vehicles (HCVs)¹⁴. This figure was derived from an estimated annual total of 3,413 two way trips, comprised of 3,018 trips by staff and visitors predominantly in cars and vans and 395 HCV trips associated with imports (propane) and exports (carbon dioxide, fertiliser). All other vehicle movements were considered agricultural in nature (as opposed to commercial) and as such they were said to already exist on the local network.
47. The Council considered the distinction between agricultural and commercial trips as artificial and submitted all traffic generated by the AD plant must be considered new. The Council's examination of the figures resulted in the conclusion that the traffic generation figure would be close to 10,000 new trips per annum. The Council also submitted that additional movements (unquantified) would result from the transport of liquid digestate or water, the movement of solid digestate to store and the proposed increase in the number of pigs reared.
48. Establishing the probable net change in traffic on the local highway network as a result of the operation of the new AD development is important to inform the highway safety issue. Of particular significance, and as reflected in the evidence, is the traffic on the approach roads off the major road network which serve the main site at Deal Farm.

¹⁴ CD11.6 Appendix B Transport Technical Note Table 5.1 and paragraphs 5.2 to 5.4

49. The number and composition of traffic movements to and from the AD site would depend on a number of variables, including the source, type and amount of feedstocks, the amount, type and use of products, size of vehicle (payload), staffing arrangements and visitor numbers. Over time these may be subject to changes in farming operations and farm units, cropping patterns and so on. A trip total using a basic agricultural / commercial vehicle categorisation, as used by the appellant, is unlikely to be sufficiently robust, although there may be justification to allow for AD related trips replacing existing trips generated by current farming practices. There is not the evidence to demonstrate that the pattern of movements and use of specific routes forecast for the AD plant would be the same or similar to that associated with the existing farming operation.
50. The existing farming operations and cropping data for the period 2017 to 2022 indicate the maize and grass elements of the feedstock probably would be sourced from the landholding or adjacent lands. On the available evidence the movement patterns would change in transporting the crops to the AD site. The total number of two way vehicle movements per year would be around 648 trips for maize and 926 for grass¹⁵. Straw also would be part of the feedstock mix, generating an estimated 1,024 trips. These trips should be included because there is no indication the current straw contracting business would cease.
51. Of the feedstock manures, cattle/duck manures would have to be imported from nearby farms, probably by tractor trailers, resulting in 556 trips. Transport to the AD plant would represent trips on the local approach road network that otherwise would not be present. The trips should be taken into account as they would deliver an essential product for the operation of the AD plant, even though an agricultural type of vehicle probably would be used and the manure would be from an agricultural activity. Significantly the appellant's highway witness acknowledged that if HCVs with higher payloads replaced agricultural vehicles, the resulting 556 HCV movements should be counted.
52. The transport of the solid digestate product from the AD plant to lands on the farm holding would result in an estimated total of 4,015 two way trips per year. The existing practice is to use a horizontal beater muck spreader with a tractor and trailer taking pig and chicken manures to the required field location. The same spreaders would be used for the digestate. There may well be continuation of existing agricultural activity, albeit using a different type of manure and on that basis inclusion of all of the 4,000 or so trips would be excessive. There is no dispute the 363 HCV trips associated with propane import and carbon dioxide export would be new.
53. Consequently, the development would increase the amount of traffic on the rural lanes near to the site. The minimum increase probably would be in the order of around 6,570 trips per year. Around half of these trips would involve cars and light vans, the remainder being heavy commercial vehicles, tractor trailers and other agricultural vehicles. The movement of solid digestate from the site to the surrounding farmlands would add to the traffic. The picture has significantly changed from the forecast reduction in traffic presented in earlier assessments submitted to support the proposal.

¹⁵ CD11.6 Appendix B Transport Technical Note Appendix F Estimated AD plant traffic

54. An important factor is seasonal variation in vehicle movements. The use of average daily movements or total annual trips hides the very significant seasonal variation in this case. The appellant's sensitivity testing highlighted that the straw import (1,024 total two-way movements) would be concentrated in the two week harvest period in September, resulting in 73 heavy vehicles per day plus the 31 average daily trips¹⁶. Vehicle movements may not be spread evenly throughout the day. A seasonal pattern also applies to manures, which are spread onto the land at the end of the harvest period each year in late September and October. Muck spreading can continue through to February if wet weather persists through the autumn and winter. Therefore a concentration of heavy vehicle movements would occur to and from the site associated with the harvest period.

Highway safety

55. The local highway authority has no issue with the operational capacity of the local roads, in terms of congestion, delays and free flow operation. The design of the proposed junction on Common Road to serve the site is agreed. The assessments of trip generation are to inform the effect of the development on highway safety in terms of the wider access strategy associated with travel to and from the appeal site. The appellant's case was that even if 100% of all vehicle trips associated with the AD plant were considered new, a daily average of 36 new trips per day would not materially change the road safety risk. The highway authority argued that even the 'low' estimate of 3,413 new trips would result in an unacceptable highway safety impact, a position adopted by the Council. Similarly, the Rule 6 Party resisted any increase of traffic on the local highway network.

Policy

56. National planning policy expects that transport issues should be considered from the earliest stage of a development proposal, to ensure that any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree. Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety. In a broader context, applications for development should create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards. The Government's proposed reforms to the National Planning Policy Framework¹⁷ would not change this policy position. The proposal is to introduce a vision led approach that focuses on the outcomes desired and planning to achieve them. The aim is to drive better outcomes for residents and the environment.
57. In the development plan, Policy DM 3.11 of the SNLP does not permit development that endangers highway safety or the satisfactory functioning of the highway network. The reasoned justification advocates an approach that assesses the impact of traffic generated on the character and levels of traffic intensity found in rural South Norfolk rather than against typical urban levels, with awareness of rural travel constraints and safety issues. Policy CS7 of the NMW supports the favourable consideration of AD proposals so long as they

¹⁶ CD11.6 Appendix B Transport Technical Note paragraphs 5.4.2 to 5.4.4

¹⁷ National Planning Policy Framework: draft text for consultation, paragraph 113

would not cause unacceptable highways impacts. As with the policy test in the Framework, judgement is involved in deciding whether or not the impact would be unacceptable.

58. The Local Transport Plan¹⁸ (the LTP) assists in identifying matters for consideration when assessing highway safety within a County where the transport network is largely rural. The LTP aims to improve the safety of the transport network to reduce casualties and make people feel safe when using any mode of transport. An aim is to create a network which encourages the safe usage of the roads and protects the most vulnerable transport users. A safe systems approach is adopted which recognises that road users will make mistakes, there are many variables that can cause a collision and the system itself should reduce the likelihood of serious harm occurring when these mistakes happen.

Safety considerations

59. Safety on the highway network is affected by a range of factors, including the physical characteristics of the highways. In this case potential interventions are constrained by existing conditions affecting the ability to carry out off-site improvements related to the development. The rural roads serving the appeal site have evolved over many years and were not constructed to accepted design standards in terms of width, visibility and alignment. A key descriptive word used by all parties is 'narrow' and all the surrounding roads to the site are agreed to be between 2.8m and 4m in width. As comparators, a carriageway of 4.1m can accommodate two cars passing, while 4.6m is the ideal minimum width for an HGV to overtake a cyclist (passing at 20mph)¹⁹.
60. Passing places exist, where use and ease of reversing manoeuvres are affected by forward visibility and presence of roadside infrastructure, drainage ditches and vegetation. There are numerous places where verge over-running occurs, an indicator the carriageway width is insufficient for vehicles to pass without taking evasive action. Encroachment onto the verge is one option to avoid vehicle conflict. The fact that verge over-running is agreed to be 'commonplace' suggests a vehicle meeting an on-coming vehicle happens frequently, even with the existing low volume of traffic.
61. An increase in the numbers of vehicles on the lanes would increase the number of passing movements and the risk of conflict. Involvement of an HCV would be expected to increase the difficulty and hazards in passing. Cyclists and pedestrians are vulnerable users and larger vehicles can be intimidating and increase the sense of a physical threat. The appellant in June 2023 provided examples of the principal types of commercial vehicle associated with the proposed operation, including tankers for carbon dioxide export and propane export, rigid or articulated tippers for manures and articulated lorries for fertilisers²⁰. The traffic generation figures now cite lower payloads but even so large vehicles would be involved in transporting materials on the narrow lanes.
62. The appellant challenged the concern of many objectors and referred to research that shows there is no clear connection established between increased numbers of HGVs and a deterioration of road safety risk. Applied to the appeal

¹⁸ Local Transport Plan 4 Strategy 2021-2036, Norfolk County Council

¹⁹ Manual for Streets figure 7.1, Manual for Streets 2 paragraph 8.6.8

²⁰ CD5.9 page 21

site, the appellant considered a combination of factors is likely to be in play. For instance, heavy vehicle presence may reduce average speed, and the narrow road widths restrict drivers' ability to make injudicious manoeuvres which are associated with higher levels of risk²¹.

63. The matter also is considered in general terms in Safe Sustainable Development²² which recognises in rural areas many roads are unsuitable to safely cater for HGVs due to poor alignment or restricted width. HGVs have a lower accident rate than most other types of road vehicle, but where they are involved in an accident, the severity of the accident tends to be greater. The guidance indicates development likely to serve or attract significant numbers of commercial vehicles should have good access to the routes specifically designated to carry this kind of traffic. The use of legal agreements may be appropriate for the routing of vehicles and/or imposing mandatory restrictions to prevent the vehicles from using unacceptable routes. Referring to Aims in Development Management, renewable energy developments are required to be served by approach roads with capacity to cater for the likely type and level of traffic generated without prejudice to highway and pedestrian safety²³. A similar requirement is stated for rural diversification developments, focusing particularly on the most vulnerable road users²⁴.

Haul route and off-site improvements

64. The appellant assessed 8 options for a haul route against a range of factors: route length, route to the south, number of frontages, sensitive receptors, parallel to public rights of way, physical characteristics. The preferred route is approximately 4.5km in length and would link the site to the A1066 to the south. The route met the aim of minimising overall journey lengths, anticipating the carbon dioxide export and propane delivery would be to and from the south. The route also would avoid village centres and sensitive receptors such as a primary school. The wide highway verges, land ownership and the few locations constrained by vegetation and highway geometry were identified as additional advantages.
65. A revised scheme of highway works that included the provision of 25 passing places along the 4.5km route was subject to a Stage 1 Road Safety Audit (RSA)²⁵. The objective of the road safety audit process is to provide an effective, independent review of the road safety implications of engineering interventions for all road users and to suggest modifications that could improve road safety. The RSA identified problems at a number of locations, including issues to do with visibility and proximity of passing places to street furniture, trees and ditches. The RSA did not identify any walking, cycling or horse riding related safety problems. The appellant's highway witness was confident the problems could be successfully resolved at detailed design stage.
66. The appellant used the iRAP Star Ratings Demonstrator tool to quantify the degree of change in roadside hazard risk associated with the proposal at each of the ATC sites surveyed along the haul route. The identified changes from the development included the quantum of traffic on the network in the vicinity of the site, the bringing into use of the site access and the proposed works to the

²¹ CD11.6 Transport proof paragraphs 4.3.5 to 4.3.8

²² CD7.7 Safe Sustainable Development Norfolk County Council paragraphs 6.1, 6.2

²³ CD7.7 paragraphs 5.1 and 5.2

²⁴ CD7.7 paragraph 4.2

²⁵ CD5.9. An earlier scheme of works proposing 37 passing places was subject to a RSA in October 2022.

- potential haul route. The scale of all changes output from the Tool was found to be so small as to present negligible changes in risk.
67. The route has the advantages of avoiding the linear residential development on Common Road and Fersfield Road and sensitive receptors such as schools. There are however serious drawbacks. The route is for most part very narrow and winding, particularly so near the northern end to the west of The Oaks. These characteristics were confirmed on the appeal site visit and are illustrated in photographic evidence²⁶. The use of designated Quiet Lanes would be involved, contrary to the aim of their designation.
 68. In terms of the physical characteristics, the Council's highways witness described the route as single track (2.4m to 3.7m), winding and flanked by narrow/banked verges and ditches. In representations, Parish Councils and residents objected strongly to the haul route, stating the route involves some of the narrowest roads in Bressingham, which have blind three way junctions and 90 degree bends and are used by walkers and cyclists from a wide area and by visitors to the Waveney Valley. In an early traffic management report the eastern stretch of Kenninghall Road was to be avoided by construction vehicles due to lack of room and the access to two residential properties²⁷.
 69. The fact 25 new passing places are proposed indicates the existing unsuitability. There is no detailed scheme of improvements²⁸ and the work to date indicates the problems to be overcome, not least the physical constraints inherent in the route, notably the ditches and the alignment. It also emerged through oral evidence that the majority of proposed passing places would not be wide enough for two HCVs or agricultural vehicles to pass. They would serve as 'places of relative safety' for pedestrians and cyclists, which would be a rather different function. A potential effect of passing places of inadequate width would be an HCV reversing into a junction, as illustrated by the Council. The likelihood of two HCVs/ agricultural vehicles meeting would significantly increase during harvest periods.
 70. The objective methodology in the iRAP assessment supports the appellant's conclusions on highway safety. However, the methodology was developed with a focus on reducing deaths and serious injuries²⁹. There was dispute as to whether the model takes account of situations where roads are single track, as opposed to a single lane, or the proportion of heavy vehicles. The assessment is one consideration to take into account and the results are not determinative. When it comes to on-the-ground, evidence such as the RSAs are helpful and transparent in identifying specific problem areas, risks and potential harms in a very local context, providing an independent check that the design characteristics do not contribute to collisions and/or incidents on highway schemes.
 71. Earlier in the project the designation of a haul route was to cater primarily for HCV movements involved in transporting propane and carbon dioxide (some 363 vehicle movements per annum, an average of 1.5 per day by HCVs with 10t and 20t payloads)³⁰. The function and probable vehicular use of the haul

²⁶ CD11.6 Appendix B ATC Data includes a series of photographs taken at the ATC survey points on the haul route.

²⁷ CD1.32 Appendix A para 2.1

²⁸ CD11.6 Appendix B Transport Technical Note paragraph 6.3.3 refers to updated design proposals in a further Transport Statement associated with planning application 2023/0087.

²⁹ CD8.25 under heading Expected injury severity

³⁰ CD11.6 Highways proof paragraphs 4.2.7 - 4.2.9

route has broadened in scope. The planning obligation provides that the haul route would be used by any vehicles transporting propane or carbon dioxide and by (i) heavy vehicles with a gross vehicle weight over 7.5 tonnes other than agricultural vehicles (as defined), and (ii) any vehicles transporting local feedstock, where local feedstock means cattle and duck manure (local feedstock manures) and straw.

72. The proposal is to obtain the local feedstock manures from a defined local area. The existing cattle and duck farm locations identified are mainly to the north and east of the appeal site. The haul route no longer performs well in terms of minimising route length and providing the shortest total route between site and destination. The haul route is inconvenient and unduly circuitous to cater for feedstocks from these farms.

Mitigation and control on traffic

73. A package of measures has been developed related to highway use and traffic movements that would be secured either through planning obligations or the use of planning conditions. The section 106 agreement has obligations on feedstock limits and sourcing, movement and distribution of feedstocks and products and highways and traffic including the designation of a haul route. They are directed at ensuring the volume of traffic movements does not exceed the figures used in the assessments.

Feedstock obligations

74. The design and access statement accompanying the planning application made clear the proposal was based on limiting feedstock throughput to a maximum of 23,950 tonnes per annum. The limit was derived from the development granted planning permission in 2015 permission³¹.
75. The physical capacity of the development allows for a greater throughput than 23,950 tonnes per annum. The throughput limit and the quantities of different feedstocks (farm waste and non-farm waste) making up that total have informed several technical assessments, including highways, odour, air quality and ecology. Whilst attention latterly focused on the link between feedstock and traffic, the feedstock limit was integral to the conclusions there would be no likely significant effects on designated wildlife sites and the proposal is not Environmental Impact Assessment development. A specific control on feedstock is necessary. The obligation places the onus on the operator to cease the import of feedstock onto the site once the feedstock limit has been reached in any calendar year.
76. The planning obligation controls not only the amount but also the source of various feedstocks, requiring feedstocks to be sourced from the farm holding and the surrounding area (as defined in the agreement). The main purpose of doing so is to avoid unduly long trips and to improve the overall sustainability credentials of the proposal, rather than mitigate impacts on highway safety. The process and traffic implications of the use of pelletised straw as a feedstock were not analysed as part of the application/appeal assessments, which provides justification for the prohibition on the use of this type of feedstock.
77. The obligation includes monitoring arrangements, which rely on the use of the on-site weighbridge and submission of records kept by the operator to the

³¹ CD1.38 paragraph 2.5

Council. These requirements would be reasonable for all parties. There is no specific sanction incorporated into the obligation should the limit be exceeded. A number of appeal decisions and a decision by Norfolk County Council have been provided where a planning condition has imposed a maximum limit on the amount of feedstock or waste material delivered to a site. They indicate a general acceptability of this approach, although none of the decisions comment on or relate the quantity of feedstock to the capacity of the plant.

Energy generation and use

78. Every year records would be provided to the Council of the quantity of biogas generated, the quantity of propane used, the quantities of carbon dioxide produced and removed and the quantities of electricity produced and exported by the development.
79. The aim is to have an additional means of monitoring the operation of the AD plant, especially the compliance with the feedstock limit. I am not satisfied that as worded the obligation complies with the requirements in section 106(1) of the 1990 Act in that it does not restrict the development or use of land in a specified way, require specific operations or activities to be carried out in, on, over or under the land, require the land to be used in a specified way or requires sums to be paid to the authority. In addition, there is no agreed methodology and the Council acknowledged they would have to carry out complicated calculations to see if there is compliance with the feedstock limit. There would be duplication of the obligation specific to feedstock. This provision has no weight.

Movement and distribution

80. In summary, Part 3 of the deed (Movement and Distribution) includes controls on the distribution of liquid and solid digestate and the number of vehicle movements to and from the site.
81. All liquid digestate would have to be distributed via digestate pipelines and/or umbilical feeds to the 'main farm land'. This requirement is consistent with the appellant's case that no liquid digestate would have to be removed by tanker from the site³².
82. Solid digestate production is forecast to be 20,075 tonnes per annum, commonly exported as a continuous operation throughout the year. The crop demand calculations indicate approximate 8,226 tonnes per annum can be spread on the land with the balance being supplied to other farms³³. This estimate is reflected in the obligation, leaving some 11,850 tonnes per annum to be distributed by 'agricultural vehicles', (estimated at 4,015 two way trips in 10t payloads)³⁴.
83. To comply with the obligation permitted vehicle movements to and from the site should not exceed 8 HCV movements per day Monday to Saturday or a maximum of 60 HCV movements in any four week period. HCV movements should not take place on Sundays and Bank Holidays. In a two week (14 days) harvest period HCV movements are subject to a specific provision, which allows

³² CD11.2 paragraph 4.3.8 An estimated 15,058 tonnes per annum of digestate liquor can be applied to land using an umbilical system, whereas the mass balance forecasts some 14,253 tonnes per annum of liquid digestate.

³³ CD11.2 paragraph 4.3.9

³⁴ CD11.6 Appendix B Transport Technical Note Table 5.1

the permitted vehicle movements, plus 8 HCVs per hour (4 movements to and 4 movements from the site). When this obligation is read alongside the appellant's planning condition on delivery hours (0700 to 2200 hours Monday to Sunday), there could be 128 HCV movements per day. Even on the delivery hours proposed by the Council (0800 to 2100 hours Monday to Sunday) 112 HCV movements per day could occur. This provision allows for significantly more than the 73 HCVs estimated by the appellant's transport witness and is a further indication of the high number of HCV movements that could occur during the harvest period.

84. From a highway safety point of view HCV movements are not materially different to those by agricultural vehicles. On that basis the requirements to use agricultural vehicles only to distribute solid digestate and move the farm feedstock are not necessary. Even so, monitoring movement and distribution relies on the appellant keeping accurate daily logs year on year. No sanction is incorporated into the deed.

Highways and traffic

85. In summary, the obligation prevents operation of the development until details of the identified designated route has been approved, any necessary works and route signage carried out and a CCTV monitoring scheme has been approved. The onus is placed on the appellant and land owner to inform all businesses and companies accessing and/or egressing the site with HCVs and any visiting HCV drivers of the designated route, to investigate any arrivals from a north direction, to record any breaches and sanctions imposed and to provide a detailed review to the Council every 12 months of the incident log. The Council and the appellant agree that a planning condition would be necessary to secure details of the Designated Route, including the provision of the proposed passing places.
86. The use of designated routes is established practice, more usually to control routing of construction traffic over a temporary period. The County Council's Safe Sustainable Development document identifies the use of legal agreements as a possible appropriate mechanism for the routing of vehicles. The examples of designated routes cited in the appeal documents typically have been related to a traffic management plan required by planning condition or by Development Consent Order. The submitted traffic management plans, whilst allowing for the fact they are associated with major infrastructure projects, indicate the high level of detail considered, comprehensive management requirements and the scope and type of monitoring and enforcement measures. No such proportionate detail accompanies the current scheme. For smaller scale developments the appellant referred to the use of in-cab technology, insertion of clauses within contracts with hauliers and use of geo-fencing technology to ensure adherence to the haul route. No such measures are reflected in the obligation. Potential difficulties highlighted in other appeal decisions include enforcement where vehicles are outside the direct control of the appellant, and distinguishing agricultural vehicles from HGV movements specific to the development.
87. The detail of the components of the obligation has evolved during the appeal process and the terms set out in Part 5 of the executed Deed are not fully consistent with the commentary in the CIL Statement³⁵. The obligation does

³⁵ CD13.4 page 10

not specifically require all HCVs accessing and egressing the main site to use the designated haul route for as long as the AD plant is operational. The purpose and content of the proposed CCTV scheme, currently in very outline form, gives rise to uncertainty. The sanction for failure to comply with the CCTV monitoring scheme appears not to take sufficient account of the AD process and as such is not fair and reasonable. All in all, I am not persuaded the obligation would be effective.

Summary

88. A high level of control is sought through the obligations, covering the amount and source of feedstocks, distribution of digestate, type of vehicle to be used, the number of HCV movements to the site per day, per month and during the harvest period, and use of a designated route. In turn a high level of continuous monitoring would be required once the AD plant is operational to provide the necessary information to achieve effective enforcement. I have concern that obligations do not meet the policy tests.

Conclusions

89. The development would increase the amount of traffic on the country lanes around the site, probably by at least 6,570 trips per year. Around half of these trips would involve cars and light vans, the remainder being heavy commercial vehicles, tractor trailers and other agricultural vehicles. A concentration of heavy vehicle movements to and from the site would occur during the harvest period (at least 73 HCV trips per day).
90. The rural lanes traditionally have been lightly trafficked, with a very low number of heavy goods vehicles. The designated Quiet Lanes endorse the low level of traffic use and encourage shared use. On this local network of approach roads to the site, where from experience one would not expect to encounter many large vehicles, the likely traffic increase would be very significant and potentially intimidating for other road users, including vulnerable pedestrians and cyclists. The occurrence of one recorded serious accident indicates the highways have operated reasonably safely but, because of the narrow width of the single-track carriageways, vehicles do have to manoeuvre past one another or reverse to avoid conflict. Additional traffic and concentrated use by HCVs raise serious highway safety concerns, not least for the local community who would be likely to feel less safe, and would deter use by the most vulnerable. Improving safety and encouraging walking and cycling, as a recreational activity or as part of a daily exercise routine, contributes to wider social and health policy objectives.
91. The proposals include the designation of a haul route. The chosen preferred route would not perform well in minimising route length, not least because of the identified sources of local feedstock. The inconvenience and inefficiencies in use of an unduly circuitous route would not encourage compliance by operators and users. The restriction would not be reasonable and enforceable. The route also presents serious safety challenges, primarily because of its physical characteristics and in its existing condition the route is not fit for the intended purpose. The ability to design and carry out necessary improvements has not been demonstrated satisfactorily.
92. The haul route has become an integral element of the proposal. To consider and conclude on the proposal without the haul route would cause injustice to

everyone in the appeal process because that option was not explored in evidence.

93. The proposed limitation on feedstock would be an essential and most effective way of controlling vehicle movements to and from the site.
94. Highway issues have been considered at length through the planning application and appeal process, largely because of the location of the site away from the primary route network. The narrative and information have developed and changed on potential traffic generation, origin/destination of trips and mitigation. The very rural context and existing character of the local road network are important when assessing the acceptability of the effects on highway safety. The development would increase, not minimise, the scope for conflicts between pedestrians, cyclists and vehicles and the highway infrastructure is not of a standard to accommodate the expected increase in traffic safely. The proposed haul route is not an appropriate solution. The planning obligations would not sufficiently mitigate the very significant safety impacts on the local highway network and do not make the development acceptable.
95. All matters considered, the development would endanger and have an unacceptable impact on highway safety. Policy DM 3.11 of the SNLP directs the development that endangers highway safety should not be permitted. The favourable support of Policy CS7 of the NMW is not achieved. This unacceptable impact justifies refusal in accordance with paragraph 115 of the Framework, a consideration that has substantial weight.

Landscape character and the appearance of the countryside

Background

96. A strong theme of the relevant development plan policies is that the proposal should respect, conserve and where possible enhance the local landscape character and make a positive contribution to local distinctiveness. New planted features should form an appropriate landscape setting for the scheme.
97. The Framework requires decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services.
98. No national or local landscape designations apply to the site or its surroundings. With reference to the South Norfolk District Landscape Character Assessment (the LCA), the site is located on the transition between the Landscape Character Areas identified as the Great Moulton Plateau Farmland and the Waveney Tributary Farmland.
99. The reason for refusal, in identifying the significant adverse impacts on the distinctive landscape characteristics, focuses on the digestion plant domes and the lagoon south of The Oaks (referred to as the West Lagoon). The reason states the scale and shape of the domes are atypical of the architectural built form qualities that emphasise the largely rural character of the landscape. Even when the mitigation planting has matured the domes would be a detracting feature in longer distance views. The lagoon would appear as an engineered landscape feature, accentuated by the proposed mitigation measures.

100. The appellant submitted a landscape and visual impact assessment (LVIA) with an enhanced landscape strategy to support the appeal. The objective of the landscape strategy is to reintroduce elements of the framework of mature trees and hedgerows that used to extend across the plateau area. The layers of planting aim to mitigate landscape and visual impacts from the AD plant and the lagoons in short and longer views from public rights of way and nearby roads. The proposal is to plant an inner screen of native woodland around the AD plant and the lagoons, with reference to lost smaller-scale plateau field patterns. A second layer of mitigation would re-establish hedgerows and trees along adjacent lanes and public rights of way crossing the plateau.
101. By the time of the inquiry the Council's fundamental objection was that the AD plant is built in the wrong place at twice the size it needs to be. The AD plant was considered alien and incongruous, which would completely alter the baseline condition of the site towards an atypical industrial character and change the compact nature of the farmstead and create sprawl into the open countryside. The effect of the proposed mitigation planting would be to seriously damage the distinctive characteristics of openness and expansive skies. This case was informed by a LVIA carried out by the Council's landscape witness.

Landscape character

102. Historic mapping shows that the area surrounding the sites was agricultural land with a patchwork of small fields³⁶. Deal Farmhouse was one of several small farmsteads. During the latter part of the twentieth century the agricultural landscape was largely cleared of hedgerows and trees and developed a very open and intensively farmed landscape. By way of illustration, around the main site 10 to 12 small fields became one large arable field.
103. In the present day the distinctive landscape characteristics of the area are the large arable fields and a sense of openness and exposure. There is a lack of woodland and hedgerows are sparse and degraded. Water does not figure to any significant degree in the landscape, although roadside drainage ditches are locally important. Long, panoramic views are gained over the district, with expansive skies a defining feature. Settlement is sparse, largely comprising scattered farmhouses, clusters of farm buildings and linear development. Where large scale farm buildings occur, they are exposed in the open landscape. The network of quiet lanes contributes to the very rural nature of the area and lack of urban influences. Where the largely flat topography of the plateau falls away towards the shallow river valley the field pattern is more varied. This transitional landscape area has a strong farmland and more enclosed character.
104. The development is of an industrial character in terms of land use and operational elements, taking into account the design, size and materials of the digesters, the large concrete areas for storage and circulation, the buildings, plant and equipment facilitating the process. The developed area for the AD plant extends over a relatively large site of around 4.2ha and has significantly changed the size and character of the Deal Farm cluster, introducing a degree of urbanisation.

³⁶ CD1.25 pages 12 and 13, CD1.26 pages 11 to 14; CD11.4 Annex G; CD5.14 Fig 2.1

105. Nevertheless, modern agricultural buildings and associated infrastructure typically no longer reflect traditional forms of farming architecture. The AD plant is a functional architectural form, using appropriate materials, well laid out and constructed. The development would be on the edge of an existing building group and yards used intensively as part of a working farming business, where additional buildings, external storage of straw and related agricultural products and materials have spread out from the farmhouse core. The development site is partly enclosed by bunds and scope exists for further containment by boundary and adjacent block planting. These factors limit the harm to the open character of the surrounding farming landscape.
106. The functional links through the supply and storage of agricultural feedstocks and export of digestate fit with an intensive agricultural operation. There is no evidence of removal of landscape assets such as hedgerows, woodland, streams or ponds to enable the development to be carried out on the main site. As a nearby comparator and consistent with an intensive farming area The Oaks has developed into a farm complex where on the site visit there appeared to be a mix of business tenants occupying the various barns, alongside the poultry unit and related agricultural practices.
107. The two lagoons would be engineered of regular dimensions and shape, enclosed by earth banks and protective fencing. The required covering is not specified but would be fabricated from a plastic membrane or similar. No similar man-made features exist nearby in the intensively farmed arable surroundings and water bodies more typically are small farm ponds. The lagoons would be discordant with their surroundings. However, the southern lagoon would be sited on lower ground near development at The Oaks and the northern lagoon would have a relatively low profile. Any intrusion would be small and very localised.
108. The landscape character assessment refers to a peaceful and rural landscape. The network of quiet rural lanes that cross the plateau is identified as sensitive and vulnerable. Tranquillity and the network of quiet lanes are landscape receptors considered in the LVIA's. The additional traffic, including an increased number of HCVs, would erode this tranquillity, particularly associated with the peak delivery period of feedstock during the harvest season.
109. These findings are informed by the systematic and objective assessments of the expert landscape witnesses presented in their LVIA's. The Council concluded there would be adverse and major effects on the local rural landscape due to considerable changes in its composition. The significance of effects on the rural landscape is judged to be high in year 1 to 5. However, my conclusions are closer to the evidence of the appellant, who assessed the magnitude and nature of change on the overall landscape context of the site as major-moderate adverse. The significance of effects was judged as medium-low in year 1-5.
110. There was an even greater divergence in the expert assessment for year 15, assuming the proposed planting would have reached sufficient maturity to become a noticeable feature. The appellant explained the proposed landscape interventions are directed at changing the character around the AD plant and lagoons to becoming more enclosed and intimate, and one which is more connected visually and ecologically. The significance of effects is assessed as low in year 15. By contrast, the Council's case is that the significance of effects

on the rural landscape remains high. The proposed vegetation cover is considered to compromise distinctive rural qualities of the local landscape associated with the sense of openness and distinctive vistas.

111. The proposed landscape strategy is consistent with the guidelines in the Landscape Character Assessment, which refer to reinstatement of hedgerows alongside roads and as field boundaries. This approach is not necessarily incompatible with maintaining the essentially open, unsettled character. The use of a native woodland mix and a native hedgerow mix would bring variation through the seasons. The planted areas would not be comparable to boundary treatments such as close boarded fencing, which would harm openness. The presence of roadside grass verges, important landscape assets, would help to reduce any sense of enclosure along highways. The extent and density of hedgerow planting would be for consideration through a detailed landscape scheme, providing an opportunity for review to avoid the creation of enclosed corridors.
112. These considerations are not compatible with the Council's conclusion of high significance in year 15. The appellant's assessment is preferred, having regard to the criteria for judging sensitivity and magnitude.

Visual effect

113. The people likely to be affected by changes in views and visual amenity are walkers and cyclists on the local networks of public rights of way and the rural lanes. Their susceptibility is likely to be high because they will be in the area for recreation and leisure, where enjoyment of the countryside will be important to their visit. Motorists travelling through the area who are residents are likely to have a higher susceptibility than those who are 'passing through'. The viewpoints selected by the appellant and the Council to inform the LVIAs were representative of views of the development sites by these receptor groups. The LVIAs did not include viewpoints from residential properties.
114. The Council's evidence included visualisations of pre-development conditions as a baseline. The rural scenes are of a flat farming landscape, cultivated large fields and a few farmsteads, notably Deal Farm and The Oaks. Otherwise, development is very sparse. Vegetation is seen more particularly along the skyline but in some locations hedgerows and woodland blocks are present.
115. The main elements of the AD plant have been constructed, apart from the two lagoons. There are places close to the site where the development is not apparent but from Common Road (Viewpoint B) the extent of the site is exposed, with views of the two domes, lightning conductors and associated plant. The height of the domes is emphasised when seen alongside the adjacent farm buildings. From other viewpoints the two domes and lightning conductors are the prominent structures. These structures disturb the rural scene to varying degrees, dependent on such factors as distance, angle of view and presence of vegetation. In some instances, as when seen from the south (Viewpoint A), the domes, with their gentle rounded shape seen against a backdrop of vegetation, are less distracting than the large barn at The Oaks, which is the main negative feature.
116. In longer distance views visibility of the development is limited to the two domes on the top of the digesters and as indicated on the site visit the weather

conditions affect how the colour of domes is perceived, whether white or grey, and how they sit within the landscape.

117. The two lagoons would be enclosed by low embankments. These types of landform would be a minor negative feature seen within the fields, provided careful attention is given to landscaping details and materials.
118. The expert witnesses came to similar conclusions on the significance of visual effects for year 1 to 5, when the planting scheme would be in early stages of growth. In the Council's evidence the significance of effects is medium - high at four of the six selected viewpoints including those on Common Road, the footpath off Stone Lane and from a footpath east of Common Road. The two digester domes are described as the main source of visual impact, causing a considerable change in a uniform agricultural landscape by introducing a discordant, industrial built form. In the appellant's evidence a medium-high significance is also attributed to the comparable viewpoints off Stone Lane and east of Common Road. High significance was assessed for the nearest viewpoint to the site on Common Road by reason of the clear view of the AD plant structures and the breaking of the skyline by the tallest new structures.
119. These two assessments based on the LVIA methodology and systematic analysis are fair and confirm that on completion visual effects of the development would be harmful. The main difference in judgement is when considering the visual effects at year 15, on the expectation that the proposed landscaping around the AD plant and lagoons would have matured, along with the hedgerow and tree planting along the lanes and public rights of way.
120. The Council's principal concern is the loss of a sense of openness through the loss of extensive vistas, similar to the case expressed regarding landscape character. In addition, the proposed planting would not have the effect of fully screening the domes for various of the long distance views. The significance of effects is high for four of the six selected viewpoints and includes viewpoints where significance is low or medium in year 1 to 5.
121. By contrast, the appellant considers the proposed planting would be successful by largely screening the development and substantially reducing the significance of visual effects at all selected viewpoints. Localised glimpsed views of the upper portions of the digestion tanks and lightning conductors would remain in winter and some cumulative effect when the AD plant and northern lagoon would be seen together. The visualisations indicate the domes breaking the skyline would still be visible in long distance views. However, the effects are not considered significant.
122. The Rule 6 party submitted that the domes and structure of the AD plant can be seen for miles around and described the development as 'an ugly structure and intrusive on the skyline'. Planting of hedgerows along the roads was considered to add to a loss of amenity because people would not be able to see the landscape and the wildlife in the fields.
123. A landscape scheme is a necessary component of the development. Reinstatement of lost hedgerows, promotion of hedgerow trees and creation of new woodlands are encouraged by the LCA, balanced against the conservation of large scale open views and expansive skies. The proposed landscape strategy is appropriate, within which the details could be given further

consideration. The visualisations showing solid green walls are misleading. Using 'on the ground' comparisons, careful planting of hedgerows and hedgerow trees would allow for continued appreciation of the open landscape, expansive skies and wildlife.

124. In conclusion, there is the potential to reduce the visual harm experienced in year 1-5, so that with a successful landscape scheme by year 15 the significance of visual effects would be low, or medium-low at viewpoint 4, as assessed in the appellant's LVIA.

Off-site works: Haul route and highway network

125. Grass verges along roadsides are a locally distinctive characteristic and the LCA encourages their conservation and management/maintenance. Along the haul route 25 or so new passing places are proposed, together with localised junction improvements. They would be subject to a detailed design process, where highway safety would be the priority. Given the high number of locations, the works to the verges along the haul route would not be consistent with landscape character objectives.

Planning obligation

126. Part 4 of the deed is to achieve on and off-site landscaping and a biodiversity net gain of at least 34%, based on the strategy submitted with the landscape evidence. The probability is that an acceptable landscape scheme would be designed that is compatible with farming practices. First operation of the AD plant would be dependent on approval of a detailed scheme by the Council. Provisions are incorporated to secure future management, maintenance and monitoring. The obligation is necessary to ensure the development is of high quality design and the harm to landscape character and appearance is mitigated.

Conclusions

127. Development plan and national policies do not direct development of AD plants to specific types of locations. Countryside locations may be anticipated because of the use of agriculturally based feedstocks and digestates produced.
128. The development would cause moderate harm to landscape character and the visual environment in years 1-5. To this extent there is conflict with SNLP Policy DM 4.5 that requires development to respect conserve and where possible enhance the landscape character of its immediate and wider environment. Similarly, Policy 3 of the GNLP requires development proposals to enhance the natural environment by respecting landscape character. However, SNLP Policy DM 1.4 allows for adequate mitigation for the adverse effects. The appellant has demonstrated an appropriate landscape setting for the development may be achieved in compliance with SNLP Policy DM 4.9. Provisions are incorporated in the section 106 agreement to ensure an approved landscape scheme would be delivered and managed for the duration of the operation of the development.

Amenity and quality of life

129. An objective of the GNLP is to give people a high quality of life and Policy 2 expects development proposals to avoid risks of unacceptable levels of noise pollution. SNLP Policy DM 3.13, in summary, requires development to ensure a

reasonable standard of amenity reflecting the character of the local area. Policy DM 4.1 supports proposals for renewable energy, with consideration of the amenities and living conditions of nearby residents and carrying out any necessary balance of harm against benefits. To comply with Policy CS7 of the NMW the proposal must not cause unacceptable amenity impacts. The Framework expects decisions to ensure developments will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development (paragraph 135).

130. The AD plant would be subject to regulation and control through a range of environmental quality and health and safety regulations and standards. In accordance with policy guidance, I must assume non-planning regimes will operate effectively. In this appeal the focus of the technical evidence is on noise and odour.
131. The AD plant would be very close and bring a big change to the nearest residential properties, introducing a type of industrial facility where previously farmland existed. Representations indicate the deep distress caused, with strong objections related to noise and odour. However, the development has not been operational and the excessive noise reported by residents probably applied to the period of construction when excavation, earth moving, engineering and building works would have taken place.
132. Representations show the local community's main concern is the effect additional traffic would have on the quality of life within the surrounding area. This matter has been covered in the main issues on highway safety and landscape character. The remaining outstanding consideration is noise from vehicles and the proposed restrictions on delivery times at the main site by planning condition.

Noise

133. The nearest noise sensitive dwellings are Deal Farm House, Sunnyside to the south and Villa Farm to the south east. The minimum separation distance is around 60m. A small number of additional dwellings are in the vicinity. The main contributors to the background noise at these receptors are distant road traffic noise and livestock and associated farming activity associated with the piggery at Deal Farm. Measured weekend background sound levels ranged from 25.8 – 46.5 dB (mode average 40) during the daytime and 25.0 – 33.2 dB (mode average 27) at night³⁷. With reference to paragraph 191 of the Framework, the objective is to mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life.
134. Sources of noise associated with the development would include equipment and activities operating on the site and vehicles delivering feedstocks and exporting the by-products.
135. The noise impact assessment confirms noise from activity and from the operation of on-site plant would generate noise well above background sound levels at source. The grid maps illustrate how noise levels decrease towards residential receptors sited a distance away from the yard. The original and updated noise impact assessments found the predicted level of noise from the

³⁷ CD1.30 Table 2 paragraph 3.1.3

site to be sufficiently low at the closest dwellings to accord with the 'no observed adverse effect level' stated in Planning Practice Guidance.

136. Subsequently the Technical statement of common ground flagged up that straw supplied as solid bales would probably need a pre-processing stage. The appellant proposed that mobile plant powered by a tractor (a Triolet) would pre-process the straw, as part of the operation to move straw from the storage clamps to the solid feeders. The noise rating was expected to be no greater than a tractor with a fully loaded wagon. Nevertheless, the omission of the equipment from the noise assessment caused the Council and the Rule 6 party serious concern.
137. The noise assessment is a worst case scenario assuming all fixed plant is operational in any given daytime and night-time period. The calculation for mobile plant included 'tractor pulling fully loaded wagon', again based on a worst case scenario in the harvest period. There is sufficient flexibility in the assumptions to allow for the operation of additional mobile plant. The calculated noise levels at the receptors indicate an increase in on-site noise levels could be accommodated without exceeding the boundary noise levels stated in the proposed planning condition.
138. Proposed planning conditions would require a noise monitoring scheme, prohibit the use of reversing alarms on site and control delivery times. There is no dispute over requiring all deliveries of feedstock and propane and all removal of solid digestate and carbon dioxide to take place between 0800 to 1700 hours Monday to Friday and between 0800 to 1300 hours on Saturday. The disagreement is on the extent of restriction during a 14 day harvest period. The Council consider the period should be between 0800 to 2100 hours Monday to Sunday (including bank or public holidays), whereas the appellant is seeking a period of 0700 to 2200 hours Monday to Sunday (including bank or public holidays).
139. The stated reason for imposing such a condition is to safeguard the amenities of local residents, not for highway or operational purposes. The view of the Council's environmental quality team has greater weight than hours derived from a transport assessment that considered the additional two hours would provide greater flexibility for operators and drivers. Furthermore, extending the delivery period to 2200 hours would increase the number of movements taking place in periods of dusk and darkness, which would not be consistent with minimising the risk to highway safety.
140. Conclusion. Subject to compliance with the proposed planning conditions the amenity of nearby residents would be adequately protected from noise generated by the development.

Odour and Dust

141. The AD process itself would be sealed but even so there would be potential for odour emissions from sources in the overall process including plant and storage areas on the main site and the lagoons. The operation also would include removal or control of other odour sources in the vicinity of the site such as the Deal Farm manure muck pads and silage piles. The replacement of open field storage and spreading of manure would lead to a reduction in diffuse pollution.

142. The odour assessment was robust, taking into account relevant legislation, air quality management guidance and factors affecting odour perception. Predicted odour concentrations were below the relevant benchmark level at all sensitive receptors in the vicinity of the site. The significance of odour impacts was found to be slight at two sensitive locations and negligible at all other sensitive receptor locations. The study concluded the overall potential for odour impacts generated by the AD facility is not significant.
143. Both the technical experts agreed in the statement of common ground (point 20) that odour control should be subject to a planning condition to ensure operation of the plant in line with an approved odour management plan that is specific to the installation of the pasteurisers. Control also would be exercised through an environmental permit, where the ultimate sanction for causing pollution would be revocation of the permit and the cessation of all activities on site. An unacceptable risk to health or amenity is not anticipated in the expert evidence.
144. In conclusion, concerns of the community over odour are understandable but the technical assessment demonstrates that odour impact is not a consideration weighing against the development.
145. Dust would be subject to control by measures secured through a planning condition.

Conclusions

146. The main site is close to residential properties and the living environment of the nearest neighbours would not be enhanced by the development. However, objective assessments on noise and odour have been carried out using accepted methodologies. The development, with mitigation achieved through planning condition, complies with Policies DM 3.13 and DM 4.1 of the SNLP and Policy CS7 of the NMW in respect of safeguarding the amenity of nearby residents and the local area.

Sustainable energy generation and carbon reduction

Policy summary

147. The Climate Change Act 2008 established a framework for the UK to achieve its long-term goals of reducing greenhouse gas emissions and to ensure steps are taken towards adapting to the impact of climate change. An Amendment Order in 2019 strengthened the commitment of the UK to bring all greenhouse gas emissions to net zero by 2050. As part of the broad national policy context the Net Zero Strategy published in October 2021 set out the vision for transitioning to a net zero economy and the policies and proposals for decarbonising all sectors of the economy to meet the net zero target by 2050. The Strategy was updated in 2022 and 2023. The Overarching National Policy Statement for Energy 2023 states that a step change in the decarbonisation of our energy system is required to meet objectives³⁸.
148. The Framework is clear that the planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. When determining proposals for renewable and low carbon development, applicants are not required to demonstrate the

³⁸ Overarching National Policy Statement for Energy 2023 paragraph 2.3.3

overall need for renewable or low carbon energy, and it must be recognised that even small-scale projects provide a valuable contribution to significant cutting of greenhouse gas emissions.

149. The appellant's review of national energy policy and guidance demonstrates the strong Government support for renewable energy and the role of biomass and biomethane in optimising the path to net zero, mitigating climate change and increasing energy security.
150. Most recently the WMS, in respect of green energy, states that boosting the delivery of renewables will be critical to meeting the Government's commitment to zero carbon electricity generation by 2030. Accordingly, the Government proposes to boost the weight that planning policy gives to the benefits associated with renewables, as seen in the revised strengthened wording in the draft NPPF. The aim is to increase the likelihood of a grant of planning permission for renewable energy schemes by directing decision makers to give significant weight to a proposal's contribution to renewable energy generation and a net zero future.
151. In the development plan, mitigating the effect of climate change within the Greater Norwich area is a cornerstone of the GNLP. The plan's vision aims to support growth of a diverse low carbon economy where growth will be clean and resource efficient, with significantly reduced emissions to ensure that Greater Norwich plays a full part in meeting national commitments on tackling climate change and is moving towards a post-carbon economy. A range of measures are set out to promote low carbon development and address climate change in the Climate Change Statement. Clean energy is one of the identified three high growth sectors and the plan supports development of decentralised, renewable and/or low carbon energy networks (except for wind energy schemes) subject to the acceptability of wider impacts, as set out in Policy 2.

Proposal's contribution

152. The principal goal of the appeal scheme, as described by the appellant, is to enable the provision of an anaerobic digestion facility to produce renewable energy and contribute towards meeting net zero in accordance with planning and energy policy.
153. When making the planning application the appellant stated the plant would produce up to 35-39,000 MWh of renewable energy, sufficient to serve around 3,250 homes³⁹. The appellant estimated in January 2024 the biomethane contribution would be equivalent to supporting 2,000 homes and the reduction in greenhouse gas emissions amounted to a saving of at least 5,000 tonnes of carbon dioxide a year (13.8 million car miles per year)⁴⁰. These estimates were challenged by the Council, in part because of matters related to the parasitic load.
154. The appellant's revised evidence is the development would produce in the range of 11,170 MWh to 15,133 MWh (net) of renewable energy a year, enough to heat 931-1261 homes. Whilst significantly less than the original estimate, this would be a positive contribution to reducing reliance on fossil fuels, increasing domestic energy security and delivering on national strategies for decarbonisation of the gas grid.

³⁹ CD 1.38 paragraph 4.11

⁴⁰ CD 11.8 paragraphs 7.9.1, 7.9.2

155. The expectation is the development would save 2,000 to 2,400 tonnes of carbon dioxide a year, the equivalent of approximately 9 to 10.8 million car miles per year. This result would be consistent with national objectives to reduce greenhouse gas emissions and achieve the UK's carbon budget.
156. The AD plant would contribute towards achieving the vision for Greater Norwich, improve the green infrastructure network in the region and support Norwich as a clean growth region. There is support from Policy 2, subject to the acceptability of wider impacts.

Economic growth and diversification

157. The aim of the development plan, as expressed in the Vision set out in the GNLP, is to deliver inclusive economic growth, generating the right levels of growth in the right places, stimulating economic investment, new infrastructure, new technologies and environmental improvements.
158. At the inquiry attention focused on the weight to be given to the additional employment associated with the AD facility. The Framework under the heading 'Building a strong, competitive economy' states in paragraph 85 that planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking account of both local business needs and wider opportunities for development. As a means of supporting a prosperous rural economy the Framework at paragraph 88 states planning policies and decisions should enable the development and diversification of agricultural and other land-based rural businesses.
159. The economic benefits claimed by the appellant included the creation of three full time jobs which they said should be afforded significant weight by reason of paragraph 85. Other economic benefits cited were the creation of additional indirect jobs and the contribution towards reducing energy cost inflation driven by the high cost of wholesale imported gas.
160. The Framework focuses on promoting business and economic development and growth, including diversification in rural areas. Reading chapter 6 as a whole, paragraph 85 contains a series of high-level objectives for both planning policies and decisions, which relate back to the economic objective of sustainable development. Paragraph 85 does not suggest, whether expressly or by implication, that significant weight should be given to any economic benefit flowing from any development proposal.
161. The evidence on the employment that may be created directly and indirectly as a result of the proposal is thin and is not related to employment needs or opportunities in the area and policies in the GNLP to grow the local economy in a sustainable way. The generalised nature of the benefit does not assist in the assessment of the actual contribution that would be made.
162. Policy 6 of the GNLP expresses support for rural enterprises through the conversion of rural buildings, the development and diversification of agricultural and other land based rural businesses and well-designed new build. The appellant and the Council were asked to consider whether the development is a form of farm diversification and the level of policy support⁴¹. Very limited reasoned evidence came forward. The Council's claims about the control the AD

⁴¹ Inspector's Inquiry Note 5

facility would have on farming operations at Deal Farm are not supported by evidence. Positive employment opportunities and guaranteed farm income were claimed by the appellant but were not substantiated. There is no evidence to show the proposal would diversify directly the existing agricultural business, that the proposed AD facility is a business initiative promoted as part of the traditional family farming operation or that non-agricultural income would be provided for the farming business. The Rule 6 party and other interested parties drew attention to a significant proportion of the farmland being rented out to other growers over the last year, with the RG Aves business ceasing to farm altogether.

163. Nevertheless, potential benefits to those farming the Deal Farm landholding and farm business(es) in the area probably would include a supply of low cost manure to replace higher cost chemical fertilisers and a stable outlet for the duck/cattle manure and maize/straw. Energy crops from the landholding would be transported small distances instead of supplying AD plants further away, reducing costs of haulage. Such benefits have been expressed in general terms and not quantified or placed in a broader context.
164. An additional benefit, unquantified, would be the recovery of carbon dioxide to supply the food, beverage, medical and construction sectors.
165. I attach a small amount of weight to job creation and to aspects of agricultural diversification and moderate weight to economic benefits overall.

Other Considerations

Biodiversity

166. The primary purpose of the landscaping scheme is to provide mitigation for the harm caused to landscape character and visual amenity. The scheme presents an opportunity to significantly improve biodiversity which would not otherwise have occurred. Under the terms of the section 106 agreement a biodiversity net gain of at least 34% would have to be achieved, considerably more than the legislative requirement of a 10% net gain that applies to new applications for major development made from 12 February 2024. The proposal's delivery of net biodiversity gain, and thus enhancement of the natural environment, complies with Policy 3 of the GNLP.

Intentional unauthorised development (IUD)

167. A written ministerial statement in 2015 introduced a policy that makes IUD a material consideration in determining planning applications and appeals. The Government was particularly concerned about harm caused by IUD in the Green Belt.
168. With reference to the planning history, planning permission existed for an AD plant at Deal Farm and pre-commencement conditions were discharged. The appellant explained the changes to the approved layout and plant configuration seen in the existing development were in response to ground investigation work and changes in legislation and technology. However, the changes were significant. The probability is the developer was aware that the amended scheme required permission from the local planning authority yet none was sought initially. The Council incurred time and expense in taking enforcement action, an undesirable outcome referenced in the IUD policy.

169. The AD plant was not completed and brought into operation. The appellant attempted to gain the necessary approvals through planning applications made before the application now subject to the current appeal. Mitigation is proposed as part of the current submission.
170. Taking all these various factors into account, I attach little weight to this consideration.

Heritage assets

171. Deal Farmhouse is a grade II listed timber-framed house dating from the 17th century, sited on the western edge of the Deal Farm farmstead. The setting to this heritage asset includes the existing farm yards, circulation areas and storage areas, together with the group of farm buildings that have been erected over the years. Some are large, modern barns. The proposal is on land beyond the farm cluster and inter-visibility would be weak. Access to the facility would be from Common Road directing traffic away from passing the frontage. No change is proposed to the land immediately to the west. All these factors lead to a conclusion that the significance of the heritage asset would be preserved. There is compliance with Policy 3 of the GNLP and Policy DM 4.10 of the SNLP in respect of the policy requirements for the historic environment and listed buildings.

Previous planning permissions

172. In July 2013 planning permission was granted by Norfolk County Council for a Thermophilic digestion plant comprising underground anaerobic digestion tanks and feed mixer tank and associated development on land adjacent to The Oaks farmstead. For various reasons the scheme was not feasible in engineering and operational terms. A more conventional AD plant with two domed storage tanks was granted planning permission by South Norfolk Council in February 2014 in the same location at The Oaks.
173. The following year in October 2015 permission was granted for construction of a farm agricultural anaerobic digestion facility at Deal Farm (see Planning History above).
174. These permissions indicate the suitability of a countryside location for such a development. No significant changes to the highway network or the character of the surrounding countryside have taken place since. National policy support for anaerobic digesters has strengthened. Nonetheless there were important differences in the proposals and supporting information when compared to the current scheme.
175. The 2013 scheme was granted on condition that only waste and crop produced from Deal Farm and The Oaks would be used as feedstock. The digester tanks were below ground level. Visual and traffic effects could be expected to be very different to the current scheme. The Council's decision and the permission for a scheme that was not feasible provide no weight in favour of the current proposal.
176. Turning to the 2014 scheme, the Committee report stated the principle of development was supported by policy permitting farm diversification schemes and renewable energy projects. With a landscape condition to mitigate the visual appearance of the development, the proposal was found not to result in sufficient harm to justify refusal. The feedstock was to consist of animal waste

and energy crop grown on the farm. On that basis much of the traffic movement was considered not to vary much from existing conditions once the plant was built. The main issue was construction traffic on the very narrow lanes and a condition was imposed to secure a construction traffic management plan and access route.

177. The approved plan shows the proposed AD facility was on a small compact site of 0.97ha, no lagoons were proposed. The visual and traffic implications described in the report were significantly different to the current scheme. This decision and permission provide very little weight in favour of the current proposal.
178. The site area for the 2015 scheme was 2.6ha, so smaller than the main site of the current proposal (4.2ha). No lagoons were proposed. The proposal was presented as an agricultural operation using feedstocks from the Aves farm holding and neighbouring farms within a 5km radius. The Committee report explained the in-principle policy support for a renewable energy facility that also qualified as a farm diversification project. There were concerns on visual impact but on balance, with a suitable landscape scheme as mitigation, no significant visual harm to the rural landscape was anticipated. The highway authority did not object, having regard to the revocation of the two earlier permissions, the use of pipelines to pump liquid digestate from the site as a means of substantially reducing the number of vehicle movements and a condition requiring use of an approved route during the construction period. The view was taken that much of the traffic movement associated with animal waste and feed crops would occur regardless of the digestate process and so the vehicles were already on the local highway network. No haul route was proposed and the approved route for the construction period was from the north.
179. The 2015 proposal had similar aspects when compared to the current scheme but also many significant differences. The Council Committee exercised their judgment in 2015 to come to a decision based on the planning merits and assessments presented. The information and analysis available then probably were not as comprehensive as with the current proposal, where much additional information has come forward through the appeal process. In the appeal case the Council has recognised the support for AD plants in local and national policy but concluded there would be unacceptable highway safety and landscape impacts. The Council was not bound by the 2015 permission and has subsequently substantiated each reason for refusal through the appeal. As already stated, the permission is no longer extant and the development proposed is not a fallback project that could be carried out. I attach little weight to the 2015 decision and planning permission.

Permitted development

180. The Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) grants planning permission for building works and any excavation or engineering operations reasonably necessary for the purposes of agriculture on an agricultural unit of 5 hectares or more (article 3 and Schedule 2 Part 6 Class A). However, paragraphs A.1 and A.2 detail where development is not permitted and the conditions that must be met. For certain

developments, including the erection of buildings, a prior notification procedure applies to control siting, design and external appearance of the building.

181. The exercise of agricultural permitted development rights involves careful application and consideration. No relevant or useful comparator may be drawn with the appeal scheme and the Part 6 Class A permitted development right provides no support for the proposal.

Air Quality and designated sites of importance for habitats and biodiversity

182. The site is located near to Shelfanger Meadows Site of Special Scientific Interest (SSSI), Redgrave and Lopham Fen SSSI and Ramsar site, and Waveney and Little Ouse Valley Special Area of Conservation (SAC). There is potential for the proposed development to affect the designated sites during operation via emissions to air and water.
183. An updated air quality assessment dated October 2022 concluded 'given the robust assessment and proposed good design measures, all impacts on human and ecological receptors from the proposed development are considered to be not significant.' When read with a Technical Addendum Natural England was satisfied that effects on statutorily designated sites had been addressed.
184. The assessment was based on the modelling of a maximum feedstock processed of 23,950 tonnes per annum, made up of specified quantities of manures and crops. When the assessment was carried out the assumption was that the proposed development would lead to a net decrease in traffic associated with the site. As such no additional road traffic emissions associated with the proposals were anticipated and no further assessment was required. Subsequently the appellant's own traffic generation information was revised and examination through the inquiry has shown a probable increase in traffic generation. The air quality assessment and related conclusions on designated wildlife sites can no longer be relied on.
185. The consequences relating to the requirements under the Habitats Regulations would have to be addressed prior to the appeal being allowed and planning permission granted.

Consequences of refusal

186. The appellant emphasised the importance of the development in terms of planning for the provision of AD plants, supporting the cause of renewable energy and the need to demonstrate a positive approach to delivering this type of project.
187. To assist in placing the project in a wider context I have reviewed the appeal decisions for AD plants in the core documents. There is little quantified information on the amount of renewable energy or reduction in greenhouse emissions anticipated from the developments. In terms of capacity, feedstock limits are usually governed by planning condition. Of seven cases there is one example where the feedstock is less than 23,950tpa. In two cases the limit of around 26,550tpa is similar to Deal Farm. The largest approved capacity was capped at 75,000tpa at a site in Brigg (CD9.4). The one case where the appeals were unsuccessful (Crouchland Farm decision dated 21 November

2017 CD9.1), permission was sought for a throughput of 34,755tpa, although the actual capacity was believed to be closer to 75,000tpa. The Inspector noted small scale facilities are generally defined as having a capacity of no more than 50,000tpa with much smaller facilities likely to be acceptable in rural areas. The enforcement notices were upheld.

188. In conclusion, dismissal of the appeal would have very significant consequences for the appellant but the likelihood of profound implications for AD applications has not been demonstrated.

Planning conditions

189. The final list of planning conditions contains matters of disagreement between the Council and the appellant, including the use of a planning condition rather than an obligation to control the limit on feedstock. In this case the use of a planning obligation is appropriate because of the detail in the stated definitions and provisions, and the link to obligations on movement and distribution and highways and traffic.
190. Development requirements would be secured through conditions in respect of water supply, drainage and flooding, archaeology, digestate and gas pipelines, noise, delivery times, odour, access and parking, feedstock storage, external lighting and contamination.
191. The appellant and the Council were opposed to the possibility of a trial period through a grant of temporary permission for procedural, planning and commercial reasons. Considerations were raised in submissions that demonstrated such an outcome would not be appropriate.

Planning balance

192. Planning Practice Guidance succinctly explains that increasing the amount of energy from renewable and low carbon technologies will help to make sure the UK has a secure energy supply, reduce greenhouse gas emissions to slow down climate change and stimulate investment in new jobs and businesses. Planning has an important role in the delivery of new renewable and low carbon energy infrastructure in locations where the local environmental impact is acceptable. This Guidance reflects policy in the Framework that states all communities have a responsibility to help increase the use and supply of green energy but this does not mean the need for renewable or low carbon energy overrides environmental protections and the planning concerns of local communities.
193. The development plan is consistent with national policy. Mitigating the effect of climate change within the Greater Norwich area is a cornerstone of the GNLP. There is strong support for renewable and low carbon sources of energy in appropriate locations.
194. The development would produce a significant net amount of energy each year, enough to heat 931-1261 homes, as well as saving about 2,000 to 2,400 tonnes of carbon dioxide a year. The appeal site has the advantages of being well located to grid connection infrastructure and sources of agricultural feedstock are available within the surrounding area. The proposed landscape strategy offers the opportunity to reintroduce hedgerows and trees, enhance biodiversity and in time to mitigate visual harm. However, the development

should not unacceptably impact on the area local to Deal Farm being a safe place to live, work and travel.

195. The proposal, where the haul route is an integral element, would be detrimental to the function and safety of the surrounding highway network. The quality of life of the local community would suffer. The impact on highway safety cannot be made acceptable through obligations within the section 106 agreement or proposed planning conditions. Policy DM 3.11 of the SNLP directs the development should not be permitted. Support from Policy CS7, specific to anaerobic digestion facilities, is subject to no unacceptable highway impacts. Clearly this requirement is not met. Turning to Policy DM 4.1 of the SNLP, applicable to renewable energy schemes, the adverse effect on highway safety is not outweighed by the identified benefits. Accordingly, the test for granting permission is not met. In sum, the level of policy conflict is high within the development plan.
196. Moderate harm to landscape character and the visual environment would occur in the short term, resulting in a degree of conflict with SNLP Policy DM 4.5. However, the development, incorporating the proposed landscape strategy, complies with Policy DM 1.4 and there is no significant conflict with Policy DM 4.9 of the SNLP in respect of the effects on landscape character and appearance of the countryside. No unacceptable impacts on amenity have been identified, where planning conditions would secure the necessary safeguards in relation to noise, odour and dust. On such matters the development complies with Policies DM 3.13 and DM 4.1 of the SNLP and a consideration in Policy CS7 of the NMW.
197. The proposal's delivery of net biodiversity gain and the avoidance of harm to the setting of a designated heritage asset complies with the relevant elements of Policy 3 of the GNLP and, in respect of heritage, SNLP Policy DM 4.10. Compliance with development plan policies on such matters as drainage and flooding, archaeology, site circulation and external lighting may be achieved through planning conditions.
198. In conclusion, highway safety is an issue of substantial weight, remembering that a fundamental responsibility is to protect the safety of the community. The AD scheme is not in compliance with the development plan when read as a whole.
199. Other considerations. In terms of the Framework, there is strong support in principle for this form of renewable energy. The proposal would make a small scale but significant contribution to the supply of renewable energy and related objectives to achieve Net Zero. Economic benefits also would be gained, related to agricultural diversification in a broad sense, job creation and supplies of carbon dioxide to industrial sectors. The protection of the intrinsic character of the countryside may be achieved by year 15 and the associated net biodiversity gain would be significant. The likely effects on living conditions from noise, odour and dust may be managed by planning conditions. However, suitable access to and from the site has not been resolved. The community would be less safe travelling around the area, an unacceptable outcome. Therefore, the development would have an unacceptable impact on highway safety, sufficient to refuse on highway grounds and so the location has not been shown to be appropriate for the AD facility. Considering the economic,

social and environmental objectives, the proposal is not a sustainable development.

200. There is no lawful fallback scheme. Intentional unauthorised development, the 2015 decision and planning permission and permitted development rights are of little significance in the planning balance.

201. The overall balance is against the proposal.

Conclusion

202. The proposed anaerobic digestion facility, with associated plant, vehicular access and landscaping, is contrary to the statutory development plan. A decision in accordance with the development plan is not to grant planning permission. Material considerations, including importantly the Framework, do not indicate otherwise. The appeal will be dismissed.

DECISION

203. The appeal is dismissed.

Diane Lewis

Inspector

APPEARANCES

FOR THE APPELLANT:

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Instructed by Howes Percival LLP

They called

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FOR THE RULE 6 PARTY:

Councillor James Easter

INTERESTED PARTIES:

Tom Williamson

Geoff Lazell

Christine Merton

Dr Amanda McMurray

DOCUMENTS submitted at the inquiry

WR Copy of a written representation dated 4 July 2022

1 Summary Table of amended appeal plans

2 List of Core Documents

3 The opening speech of the appellant

4 Opening statement of behalf of the local planning authority

- 5 Bundle of plans of the proposed development
- 6 Draft section 106 agreement
- 7 Photos taken at Barley Brigg site
- 8 iRAP Coding Manual
- 9 Rule 6 Party's Questions on technical evidence
- 10 Section 106 amended with amended plans
- 11 Appendix 1.1 Viewpoint locations
- 12 Photography 3D Model images 1 of 2
- 13 Photography 3D Model images 2 of 2
- 14 Final report Landscape Character Assessment (01.06.01 CD 7.3)
- 15 Revised list of planning conditions
- 16 Revised section 106 agreement
- 17 Further revised section 106 agreement
- 18 Closing statement of behalf of the local planning authority
- 19 The closing speech of the appellant