

Allerdale Borough Council Planning Application 2/2018/0097

Proposed Development: Change of use of farm building to biomass CHP unit with associated chimneys (retrospective)

Location: Langrigg Hall
Langrigg
Wigton

Applicant: Mr E Gate

Recommendation: **Refuse and pursue enforcement action**

Summary/Key Issues

Issue	Conclusion
Principle of development	Policy S19 Of the Local Plan (Part 1) seeks to promote and encourage the development of renewable and low carbon energy resources given the significant wider environmental, community and economic benefits.
Design/Visual Impact	The chimneys are viewed in the context of large farm buildings and against the backdrop of the line of pylons. They assimilate into the environment of existing buildings, and do not exert a harmful impact on the character and appearance of the locality, in accordance with policies S4 and S33.
Amenity	<p>Whilst the applicant has been able to demonstrate the proposal is acceptable in terms of air quality, they have failed to demonstrate this with regards to noise.</p> <p>The supported noise reports demonstrates an unacceptable level of noise is produced by the units. Allerdale require mitigation to ensure that the daytime rated level is no more than 5 dB above background noise level and at night time that the rated noise level does not increase above background noise level. The proposal is contrary to Policies S2, S4 and S32.</p>
Heritage Impact	The chimneys are viewed in line with the context of the farm buildings with the existing planting and proposed additional planting offering some screening of the chimneys from the Listed Building. It is considered that the very small impact upon the setting of the listed building would be outweighed by the public benefits of the low carbon benefits of the CHP plant. In terms of impact on the heritage asset, officers consider the proposal to be acceptable and in line with Policy S27.
Highway Issues	Taking into account the existing use and the information provided, it is considered the proposal will be unlikely to have a material effect on existing highway conditions.

Proposal

The applicant seeks retrospective permission for the change of use of an existing farm building to a biomass CHP. The development seeks the retention of 1 Biomass CHP unit and 2 RHI units within the building, with the external alteration to the building including the construction of 3 external chimneys.

Site

The application is an existing operational farmstead lying in the village of Langrigg. The farmhouse is a Grade II Listed Building set back from the highway, within extensive grounds and enclosed by a sandstone wall. Existing modern farm buildings lie to the northeast and extend forward to the southeast of the farmhouse.

The site operates intensive livestock units (ILUs) from modern farm buildings to the northern part of the farm complex. There are a range of modern agricultural buildings southeast of the farmhouse with the buildings in question lying to the south (front) of the site with the Listed Building to the northwest and dwellings in the village to the southeast, south and west.

Relevant History

2/2018/0098 Retrospective permission for a replacement general purpose shed – pending.

Representations

Bromfield Parish Council

Objection. Bromfield Parish Council strongly object to this application due to the odour, noise and smoke, environmental impact and health issues this business will cause. Transport/highways – the roads are insufficient for the increased level of heavy traffic this industry will bring about. Great concern that the farm is being turned into an industrial site as opposed to agricultural (03/04/18).

The Parish Council have fully discussed the Noise Impact Assessment and Air Quality Report Odour Survey and our objection in relation to this application still stands.

The Council question the validity of the surveys since they are not independent nor impartial as they are funded by the applicant and consider the tests not credible, having been monitored from bizarre locations around the village & the impact of the chipping operation being estimated.

Great concerns remain in respect to what is being burnt and will be in the future, whilst the smell and smoke are not as bad as they were, there are no warrants in place to stop such an occurrence again.

Additionally, the fact that the traffic monitoring surveys were not carried out covertly and partially on the wrong road does not help with the traffic surveys credibility and accuracy.

The application still fails to demonstrate the environmental impacts on residents and the reality that a large proportion of houses in the locality are now on the market to be sold.

The survey reports provide no additional information to mitigate our identified issues and therefore Bromfield Parish Council is still of the opinion that this application should be refused (06.08.18).

Bromfield Parish Council have considered the additional information and would like to make the following comments:

- The modified chimney has done nothing to alleviate the low lying smoke.
- The air quality has been measured using a desk top approach and is not based on their own onsite operational testing.
- The noise readings show the current noise levels to be 9 dB and therefore causes an adverse impact.
- The actual amount of log deliveries to the site exceeds the amount stated in the application (23.11.18).

ABC Environmental Health

Environmental Health have reviewed the further submitted information. Please see the following comments and recommendations:

- Noise - Elevated BS 4142:2014 rated levels were given by the Apex Acoustic Report. Noise complaints have also been made by local residents of varying proximity to the plant. Given the elevated levels Noise mitigation measures are expected by Environmental Health. Allerdale require mitigation to ensure that the daytime rated level is no more than 5 dB above background noise level and at night time that the rated noise level does not increase above background noise level. Despite discussion and time extension no further mitigation has been offered by the applicant. Environmental Health therefore object and recommend refusal of this application in relation to non-mitigated noise disturbance to local residents.
- Air Quality - The Syntegra air quality report ref 18-4275 dated July 2018 considers the emissions of NOx and PM10 and PM2.5 from the biomass plant as well as considering emissions of ammonia from the poultry houses. The report states these are all within acceptable standards. The report takes a desk top approach and states that operational parameters for the units were supplied by FEC Energy Limited and not based on their own onsite operational testing. Complaints have been received regarding smoke emissions grounding on a frequent basis. Smoke from the units have been witnessed to drop to ground level. Justification for this has been stated by the applicant to be due to trialling a different fuel being olive pellets. The only fuel stated to be used on site is now wood chip

To prevent further detriment to the community in relation to Air Quality and smoke Environmental Health recommend the following conditions are attached to any approval.

All operations on site should be undertaken in compliance with the submitted document *On Site Processes Ref:18.013*

Compliance with the below conditions should be within two months

Fuel conditions

- The biomass boiler shall only be operated using clean virgin wood chip with a moisture content of 25% or less. The fuel must be compliant with a recognised fuel quality standard. The relevant fuel standard must be agreed by Allerdale.
- Details of the monthly fuel sampling and fuel sampling process should be provided to Allerdale Borough Council for approval.
- A statement shall be submitted annually to the local authority specifying the quantity of wood chip used in the biomass boiler, and the fuel specifications in accordance with the agreed recognised standard. (The statement shall be obtained from the fuel sampling process.)

Reason; Emissions from a biomass boiler depend greatly on the type and quality of the fuel used. Reasonable guarantees are therefore needed that the fuel is compatible with the boiler, is of a high quality and that quality will be assured for a reasonable period of time)

Maintenance conditions

- The biomass boiler shall be associated with a written schedule of maintenance, which shall include removal of ash, inspection and maintenance of particulate arrestment equipment, boiler servicing and stack cleaning. Plans for identifying and rectifying system failures should also be requested. The detailed maintenance schedule shall be submitted to Allerdale for approval and available for inspection on request.

Reason: System efficiency and emissions performance greatly depends upon regular maintenance) (19/11/18)

Cumbria Highways

There are anecdotal reports of significant increases in the HGV traffic movements to the site over those identified in the applicants Design and Access Statement of one per week; this point should be clarified by the applicant before the application is determined (06/08/18).

Taking into account the existing use of the property and the information submitted, it is considered that the proposal will be unlikely to have a material effect on existing highway conditions. I can therefore confirm that the Highway Authority has no objection to the proposal (27/09/18).

The application has been advertised on site and in the local paper. Adjoining owners have been notified. 15 letters of objection have been received from 12 objectors

The concerns relate too:

- I cannot understand how a retrospective planning application may be allowed in this case. Such disregard for the correct legal procedure effectively denies the community the opportunity for consultation with the owner and authorities prior to a decision.
- The proximity of the plant to the village itself and the implications to the health of residents due to heavy smoke emissions at certain times during the burning process.
- Due to low lying of the village at times of slow wind speed the smoke can get trapped within the houses causing a dense smog of smoke and can filter into our homes.
- In respect of air pollution it seems that the visible smoke/fumes has reduced in the past months. However, because this change was only in response to reaction from the community, it is unclear whether this reduction is permanent or a temporary change.
- In addition to the smoke there is a constant drone which has disturbed the once peaceful village, this noise continues into the late evening and on occasion present all night.
- The fact that the plant operates continuously 24 hours a day has a direct impact on the quality of life of residents in the village.
- There has been a large increase to traffic coming into the village, this usually being large timber lorries and other articulated vehicles delivering to the site. The road are not suitable for such large vehicles. They are damaging the grass verges.
- The farm is turning into an industrial process.
- The noise report does not take account of the prevailing winds.
- The air quality report does not state where the biomass boilers were running at full capacity when the findings were recorded.
- There has been less large vehicles passing through the village in the past few weeks transporting fuel, which may also make the vehicle recording biased.
- The traffic survey has no bearing on this application as the vehicle was not positioned or on the roads connecting to the applicant.

Development Plan Policies

Allerdale Local Plan 1999

Saved settlement limits

Allerdale Local Plan (Part 1), Adopted July 2014

Policy S1 - Presumption in favour of sustainable development

Policy S2 - Sustainable development principles

Policy S3 - Spatial Strategy and Growth

Policy S4 - Design principles

Policy S19 – Renewable Energy and Low Carbon Technologies
Policy S22 - Transport principles
Policy S27 - Heritage Assets
Policy S32 - Safeguarding amenity
Policy S33 – Landscape
Policy S36 – Air, Water and Soil Quality
Policy DM6 - Equestrian and agricultural buildings
Policy DM15 – Extensions and Alterations to Existing Building and Properties

Other Material Considerations

Draft Allerdale Borough Local Plan (Part 2)

National Planning Policy Framework (NPPF) 2018

Policy weighting

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that, if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise. This means that the Allerdale Local Plan (Part 1) 2014 policies have primacy.

There are material considerations, including the NPPF and the Little Broughton appeal decision (PINs ref APP/G0908/W/17/3183948) which affect the weight afforded to the 1999 Local Plan settlement limits and policies S3 and S5 of the 2014 Part 1 Local Plan to the extent where they refer to those settlement limits and the housing numbers for each settlement. However, these are of no relevance here and the Part 1 Local Plan policies that are relevant are considered to have consistency with the NPPF and afforded full weight.

Assessment

Introduction

The units generate electricity which is used to both off set the existing farm energy use and also export additional to the National Grid. In addition to energy the applicant has confirmed that the boilers are used to provide drying areas for paper for bedding for the adjacent chicken sheds operated from the farm and drying of grass and straw and also drying of maize, wheat and barley for feed. With the exception of the paper they are all crops from the farm

The Biomass Units and RHI units can generally be installed within existing building without the need for planning permission. Therefore, when the first unit was installed within an existing building at the time planning permission was not required.

Part 14 Class N of the Town and Country Planning (General Permitted Development)

(England) Order 2015 relates to “the installation, alteration or replacement of a flue, forming part of a microgeneration biomass heating system on building others than dwellinghouse or flats or their curtilage.” Since the installation of the biomass system recent alterations have been made for the erection of 3 external chimneys approx. 3m in height. These works result in permission being required for the units including the external alterations.

Principle

Policy S19 of the Local Plan (Part 1) seek to promote and encourage the development of renewable and low carbon energy resources given the significant wider environmental, community and economic benefits.

It is consistent with the NPPF, paragraph 154 reads “When determining planning applications for renewable and low carbon development, local planning authorities should:

- a) Not require applicants to demonstrate the overall need for renewable of low carbon energy, and recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and
- b) Approve the application if its impacts are (or can be made) acceptable. Once suitable areas for renewable and low carbon energy have been identified in plans, local planning authorities should expect subsequent applications for commercial scale projects outside these areas to demonstrate that the proposed location meets the criteria used in identifying suitable areas.”

It is clear that there are benefits arising from this development and its contribution to the local carbon economy and specifically the “significant wider environmental. Community and economic benefits” cited by policy S19. Indeed the policy advises that, where proposals can be made acceptable, they will be permitted.

Noise

Policy S19 advises that the Council will take a positive view if proposals do not have an unacceptably adverse impact on the amenity of local residents and noise is one of the issues cited in this criterion.

The criterion has consistency with the NPPF. Paragraph 180 of the latter requires “planning policies and decision should also ensure that new development is appropriate for its location taking into account the likely affects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:

- a) 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;
- b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason”

Policy S32 of the Local Plan similarly contains, albeit more generic, considerations in relation to noise impact on amenity.

Nearby residents have reported being affected by noise said to be from activities associated with the CHP and Bio Mass operations. No noise assessment was originally submitted with the application and the appellant was requested to provide a full Noise Assessment in accordance with BS4142:2014 relevant to the Bio Mass and CHP Operations.

Whilst the Apex Acoustics assessment is satisfactory, the results of the assessment are not satisfactory. The night-time background sound level is 30 dB with the calculated rating level of the CHP is 39 dB. A level of 9 dB above background sound level indicates a significant adverse impact. With results of this level above background noise we would be expecting mitigation measures to be put in place in order to ensure that daytime rated level is no more than 5 dB above background noise level and at night time that the rated noise level does not increase above background noise level.

Whilst the applicant has been requested to provide mitigation measures, no information has been forthcoming and, therefore, the application is being determined in term of impact from noise on the amenity of existing properties nearby based on the findings in the submitted noise report.

Given the siting of the proposal in a quiet rural location officers consider that, in the absence of attenuation, the development results in a poor standard of amenity for existing occupiers of the village by virtue of noise from the CHP and biomass units contrary to Policy S19 and S32 and paragraph 180 of the National Planning Policy Framework.

Air Quality/Emissions

Again both policies S19 and S32 of the adopted Local Plan Part 1 are relevant.

The units are the Lin-ka HE1500 995kw which have an efficiency rating of 90%. In relation to emissions, the units are fitted with a cyclone filter to remove particulates to ensure they are not released into the flue system and therefore there is no ash from the development. This is kept within the boiler chamber and emptied on a regular basis from an ash bin.

The applicant has submitted a document called "On Site Processes" which outlines the processes which are undertaken at Langrigg Farm in relation to the CHP unit and Biomass Units. This reports details the first step of the process to the end as detailed below:

- The logs are delivered to site and stored for approximately 1 month before processing occurs.
- Logs are chipped on a monthly cycle. Machinery is hired in for this process and consists of 1 day a month between the hours of 8am – 6pm. The wood is moved into a barn adjacent to the CHP and biomass units and stored until required.
- Prior to use, the woodchips are tested on site using a moisture metre to ensure they are sufficiently dry.

- All feeding of the machines is automated in order to ensure maximum efficiency of the units.
- Once the collection point for the ash created by the fuel burning process is full (approx. 1 month) it is emptied and taken to Harrisons at Silloth where it is disposed of.
- The machines are serviced and monitored daily by an employee.

At the time the application was lodged both Planning and Environmental Health officers had received recent complaints from nearby residents regarding the operation of the units. A visit to nearby complainants and Langrigg Hall was conducted on the 4/4/18 by an ABC Environmental Health Officer who witnessed smoke to be dropping to ground level and collecting around the surrounding locality. It was evident that smoke emissions from the Biomass Plant were not gaining adequate dispersal and therefore officers had concerns as to the operation of the Biomass Plant in their present state.

The operation of the units should not result in smoke emissions at ground level and therefore the applicant was advised that this needed to be investigated. At this time Environmental Health officers advised that improvements appeared to be required to the Biomass Plant and, therefore, based on the limited submitted information with the application they objected to the proposal.

Through discussions with the applicant and additional information submitted with the application it appears the initial complaints regarding low level smoke was due to trialling different fuel, specifically olive pellets.

The Syntegra air quality report ref 18-4275 dated July 2018 considers the emissions of NOx and PM10 and PM2.5 from the biomass plant as well as considering emissions of ammonia from the poultry houses. The report states these are all within acceptable standards. The report takes a desk top approach and states that operational parameters for the units were supplied by FEC Energy Limited and not based on their own onsite operational testing.

The only fuel stated to be used on site is now wood chip which can be controlled via condition. Environmental Health Officers are satisfied that the applicant has fully investigated the potential impact from emissions from the site. To prevent further detriment to the community in relation to Air Quality and smoke, ABC Environmental Health recommend a series of conditions are attached to any approval.

Design/Visual Impact

Policy S4 of the Local Plan Part 1 focuses on the need for high standards of design and provides a series of criteria against which developments should be assessed. These include a positive response to the character of the area, its distinctiveness, history and need for integration with existing development. Such considerations are also repeated in the landscape policy, S33.

The biomass and heat units have been installed within the confines of an existing modern agricultural building to the southern part of the farm. However, due to issues with smoke, the applicant has stated a requirement to increase the height of the flues to ameliorate the effects of such. The application seeks permission for the erection of three external

chimneys on different parts of the building as currently built on site. These chimneys are approx. 3m in height and are fitted with filters to ensure emissions are clean.

The chimneys are viewed in the context of large farm buildings and against the backdrop of the line of pylons. The farm itself is set in a slight depression and, as a consequence, the chimneys are not prominent in the landscape. They are consistent with the scale of the buildings, and do not exert a harmful impact on the character and appearance of the locality, in accordance with policies S4 and S33.

Heritage Issues

The two storey farmhouse that lies to the northwest of the application site is a Grade II Listed Building.

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states “In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”

The Council therefore has a duty to have a special regard on developments which may affect the character or setting of the listed building. The Listed Building lies to the northwest of the agricultural building at a distance of approx. 90m. The Grade II Langrigg Hall dates from 1700s but has significant high quality Georgian detailing. It is considered that most of its significance is derived from this architectural quality and history but, nevertheless, the setting is integral to this history and contributes to the overall significance.

In addition to the farmyard and surrounding farm buildings, it is considered the important part of its setting is the farmland to the front of the house as this provides significant views of the house, which was clearly orientated to be seen and as a show of relative wealth. The Listed Building has a separate vehicle access from that which serves the existing farmstead. There are some existing trees along the west boundary of the fence that provide some screening to the building.

The CHP plant is located within an existing building and as such does not have any additional impact upon the setting of the Hall. However, the proposal includes the addition of 3 chimneys which will be seen within some views of the Hall.

The nearest chimney to the Hall is approx. 80m away and will be seen in the context of the modern farm buildings and partly screened by trees from main views of the listed building. The applicant is proposing some further planting with the details proposed acceptable to officers with the planting secured via condition.

The chimneys in their current form being aluminium finish have the potential for the reflection of sunlight (or any other lights) which could result in harm to the listed building. This has been discussed with the applicant and they have not proposed the finish to be altered. However, having viewed the proposal at various times of the year officers do not consider the chimneys in the correct state result in an unacceptable harm to the setting of

the listed building give the separation distance. Taking into consideration the issues discussed above officers are satisfied that the proposal will lead to less than substantial harm to the setting of the Grade II Listed Building.

It is considered that, the very small impact upon the setting of the listed building would be outweighed by the public benefits of the energy efficiency, and therefore low carbon, benefits of the CHP plant. In weighing up the benefits of the proposal officers consider these outweigh the slight harm to the setting of the listed building and does not warrant a refusal on this ground.

In terms of impact on the heritage asset, officers consider the proposal to be acceptable and in line with Policy S27 and paragraph 196 on the National Planning Policy Framework.

Highways Issues

The initial information submitted with the application inferred that there was very little traffic movements associated with the units and the Highways Authority therefore raised no objections to the proposal. Residents raised concerns that the information provided within the planning statement was not a true reflection of the traffic movements associated with the site.

The Council served a Planning Contravention Notice to gain more understanding of the operations on the farm and the associated traffic movements. The drying of the bed and the wood chip is predominately used on site. However, the applicant has confirmed from April to June the paper removed on a farm to farm basis accounts for approximately 25% of the paper product produced on the farm and a minimum of 95% of the wood chippings produced are used on the farm with some minimal off site use on a farm to farm basis.

The applicant has updated the Planning Statement submitted with the application to include the highway movements and the Highways Authority have been re-consulted. The Highways Authority have replied "Taking into account the existing use of the property and the information submitted, it is considered that the proposal will be unlikely to have a material effect on existing highway conditions. I can therefore confirm that the Highway Authority has no objection to the proposal".

The proposal is therefore considered acceptable from a highway perspective.

Local Financial Considerations

Having regard to S70 (2) of the Town and Country Planning Act the proposal will not result in any local financial consideration.

Conclusion

The principle of the development is supported by Policy S19 of the Local Plan (Part 1) which seeks to promote and encourage the development of renewable and low carbon energy resources given the significant wider environmental, community and economic benefits. However the constraints of the site and other material considerations need to be

fully assessed.

The external alterations proposed relate solely to the addition of 3 chimneys stacks. The design of these and the impact on the setting of the Listed Building are considered acceptable.

In considering the impact on amenity from the proposed operations, the applicant has been able to demonstrate that the proposal will not have an unacceptable impact with regards to air quality. However, the findings of the noise assessment demonstrate that the proposal, as it is currently operating, is likely to have a significant adverse impact on surrounding residential properties. In the absence of any proposed mitigation measures the applicant has failed to demonstrate the units will not significantly impact on the existing amenity previously enjoyed by residents of this rural village. The proposal is therefore considered to be contrary to Policy S2, S4 and S32 of the Local Plan.

The harm caused by the increased noise levels in officer's opinion does not outweigh the benefits of using renewable technology. Should members be minded to refuse the application it is considered appropriate that enforcement action should be taken.

Annex 1

Conditions/Reasons

1. The Local Planning Authority consider that, without mitigation measures to ensure that the daytime rated level is no more than 5 dB above background noise level and at night time that the rated noise level does not increase above background noise levels, the proposed operating CHP Unit and Biomass Units has an unacceptable impact on the amenity of existing residential properties within this rural village. The proposal is considered contrary to Policies S2, S4 and S32 of the Allerdale Local Plan (part 1), Adopted July 2014 and paragraphs 154 and 180 of the National Planning Policy Framework.

Proactive Statement

1) Application Refused With Discussion – No way forward proposed within timescales

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against, primarily, the development plan policies, any duties applicable and also all material considerations, including emerging Local Plan policy, the National Planning Policy Framework and any stakeholder representations that may have been received. In this context, having identified matters of concern with the proposal and discussed those with the applicant, unfortunately, it has not been possible to resolve all those matters within the timescale allocated for the determination of this planning application. However, the Local Planning Authority has clearly set out within its report the outstanding matters needing to be remedied to address the harm identified within the reasons for refusal. This may potentially lead to the submission of a more acceptable proposal in the future. The Local Planning Authority is willing to provide, without prejudice, pre-application advice in respect of any future application for a revised development.



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