

**Allerdale Borough Council**  
**Planning Application FUL/2019/0251**

**Development Panel Report**

**Reference Number:** FUL/2019/0251  
**Valid Date:** 14/11/2019  
**Location:** Langrigg Hall Wigton  
**Applicant:** E Gate  
**Proposal:** Retrospective application for change of use of farm buildings to house 1x CHP and 1x RHI unit and erection of associated chimneys (increase in height of 2no chimneys) Heat 2x properties not in association with the farm and heat used to dry paper for animal bedding (approx 10% removed)

**RECOMMENDATION**

**Grant permission subject to conditions**

**1. Summary**

<b><u>Issue</u></b>	<b><u>Conclusion</u></b>
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. The proposal accords with these objectives.
Design/Visual Impact	The flues (described as chimneys in the application) will be viewed in the context of large farm buildings and against the backdrop of the lines of pylons. They will assimilate into the environment of existing buildings, and will not exert a harmful impact on the character and appearance of the locality, in accordance with policies S4 and S33.
Amenity	The applicant has proposed several mitigation measures that will address the ongoing noise issues experienced from the boilers. These include wood chipping being undertaken off-site and the CHP plant only operating between day-time

	<p>hours.</p> <p>With regards to air quality the applicant has been able to demonstrate that the proposal is acceptable in accordance with policies S2, S4 and S32 of the Allerdale Local Plan Part 1 2014.</p> <p>The proposal is acceptable but only with conditions in place to mitigate the impacts of the development to an acceptable level.</p>
Heritage Impact	<p>The flues will be viewed in the context of the farm buildings with the existing planting and that approved under an earlier application on the site offering a degree of screening from the Listed Building. It is considered that the significantly less than substantial harm to the setting of the listed building would be outweighed by the public benefits of the low carbon heat and power produced. In terms of impact on the heritage asset, officers consider the proposal to be acceptable and in accordance with Policy S27 of the Allerdale Local Plan Part 1 2014.</p>
Highway Issues	<p>It is considered the proposal will be unlikely to have a material effect on highway conditions.</p>

## 2. **Introduction**

- 2.1. Members will note that the application form describes the proposal as “retrospective.” This is partly the case but it must be noted that the application before them is not to regularise the development currently on site. It is to retain the flues and increase their height as well as use the boilers for the purposes described in section 3 of this report. Therefore, this application is not purely retrospective and must be considered on the basis of the details provided.
- 2.2. The Council have and will continue to investigate any breaches of Planning as well as complaints of a statutory nuisance (Environmental Health).
- 2.3. A previous scheme on this site, ref 2/2018/0097, came before members in December 2018. The application was refused in accordance with the officer’s recommendations on the following grounds:

“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.”

- 2.4. Action was pursued by the Council as the local planning authority following the continued use of biomass units on site. An Enforcement Notice was served. Before the Council prosecuted for non-compliance of the Notice, it was withdrawn. This was because there had been progress made with negotiations with the applicant and their agents. Amendments were made on site including the reduction in flue heights and the cessation of the use of one of the three boilers. In this context it was not reasonable to pursue the prosecution at that time. With the processing of the current application, cooperation of the applicant’s agent and changes to the development, it has been the officer’s opinion not to pursue formal enforcement action since the withdrawal of the Notice.
- 2.5. The current application then came before members in August 2020 where officers recommended the application be deferred to allow additional noise reading to be carried. An updated noise report has now been received.

### **3. Proposal**

- 3.1. The current application seeks partial retrospective planning permission for the change of use of farm buildings to house 1 x Biomass CHP (Combined Heat and Power) and 1 x RHI (Renewable Heat Incentive)<sup>1</sup> unit with the proposed external alterations to the building involving the increase in height of 2 existing flues. In addition to exporting power to the grid, it is proposed that the units are also used to continue to heat 2 dwellings not in association with the farm (in addition to 2 dwellings on the farm) and for the heat to continue to be used to dry paper for animal bedding (approx. 10% removed from farm) and drying the woodchip fuel.

- 3.2. The Plans for consideration are:-

D.02 Site Plan

D.03 Location plan

D.01c Floor Plans & Elevations received 22.11.2019

Planning & Historic Statement received 07.04.2021

Noise Impact Assessment revision L received 02.06.2021

Addendum to Noise Impact Assessment received 02.06.2021

Letter received 26.02.2020

On Site Processes received 10.03.2020

---

<sup>1</sup> The Renewable Heat Incentive (RHI) is a UK Government scheme aiming to encourage uptake of renewable heat technologies amongst householders, communities and businesses through financial incentives.

Location Plan – storage 18.02.2020  
ref 18-4275 Air Quality Assessment  
Boiler Data Sheet received 09.03.2020  
Boiler Reference 18.02.2020  
Commissioning Certificates  
D1 Stack Height Assessment  
Biomass Boiler Information  
Emissions Certificates  
Email received 09.03.2020

The particulars are available to view via the following link:-

<https://planning.allerdale.gov.uk/portal/servlets/ApplicationSearchServlet?PKID=218490>

#### **4. Site**

- 4.1. The application site 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.
- 4.2. Intensive livestock units (ILUs) operate 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. In addition to the intensive livestock unit there is a mix of other livestock farmed.

#### **5. Relevant Planning History**

- 5.1. 2/2018/0097 Change of use of farm buildings to biomass CHP unit with associated chimneys (retrospective) – Refused.

<https://planning.allerdale.gov.uk/portal/servlets/ApplicationSearchServlet?PKID=179854>

- 5.2. ENF/2019/00001 – Enforcement Notice served for the unauthorised use of the building for the carrying out of operations associated with the commercial processing activities relating to the CHP Unit and Biomass Units, and the erection of the 3 external flues situated upon the building. – Notice Withdrawn.

#### **6. Representations**

**Councillor Mike Johnson**

- 6.1. Objects on the following grounds:-

- a) Pollution – Change in size of the Chimneys producing more smoke into the atmosphere and impacting on the wellbeing of the residents. This is backed up by letters received from residents/Parish Council confirming that smoke disperses poorly and has been an issue with residents for some time. A nearby resident has health issues that are impacted by the smoke pollution.
- b) Noise – It is considered by the residents that a red herring has been thrown i.e. that the noise is from a Grain Dryer. The noise they feel would be coming from the wood chipping machine and that the noise level would be higher than background noise which would cause a nuisance and impact again on the wellbeing of residents. This point is backed up by residents' letters and the Parish Council.
- c) Business Use – There are several reports that the Langrigg Hall yard is being used as a business, thus increasing the traffic in the area again impacting on the wellbeing of residents and increasing noise. It is highly unlikely that 90% of this paper will be used onsite, as stated in the Planning Application. Log wagons have started to appear again, with 3 being seen on one day. The application states that there will only be one a week.
- d) Operating Hours - Again this will impact on the residents of the area with increased traffic and noise.
- e) Nuisance Smell – Several instances have been reported regarding a very unpleasant smell. Residents feel that this is a statutory nuisance as it substantially interferes with their enjoyment of their home and surrounding areas. This should be investigated further.

## **Bromfield Parish Council**

14.06.2021

### Tonality and Methodology

- 6.2. We have reviewed the two documents that have recently been added to the web-page for this Application. These are:  
  
Amended Noise Impact Assessment 02.06.21 and Addendum to Noise Report Assessment 09.06.21.
- 6.3. The changes to the main report do not address either change in the methodology nor the tonality.
- 6.4. The second document states “We can confirm that we have reviewed the potential tonality from the noise sources considered in the application and have no evidence of any hum or tones which would require a character correction when assessed at the residential receptors”.

- 6.5. It is then clear that neither document address the specific issues that have been raised in relation to methodology and tonality.
- 6.6. We set out below, once again, our concerns in relation to these areas and ask that these be addressed in full.

#### Noise Source

- 6.7. In recent telephone conversations and emails with Parishioners, Allerdale's Environmental Health Manager has said she thinks that the source of the noise is the grain dryer and not the factory, even though she acknowledges that "residents and members of the Parish Council claimed that the grain dryer was a red herring and was not the source of the noise disturbance at the site".
- 6.8. It is clear (and always has been) that the grain dryer is not the source of the noise. For example The Apex Noise Report says in Section 7.19 that "Additional background noise measurements requested by the local authority without the grain dryer plant operating...". So, the grain dryer was not operating during the noise assessment in November 2020.
- 6.9. However, during that assessment, we could hear noise from the factory.
- 6.10. During the noise assessment, Cllr Davison met an ABC Environmental Health Officer at the gate to his property. The noise from the factory was clearly audible even though this is several hundred yards from the factory. They had a discussion about the noise i.e. the Council Officer heard it as well. In fact he said he was walking round the village to find out where it could be heard from.
- 6.11. As he walked round the village, hearing the noise in different locations, he will have been able to "triangulate" the source of the noise and should be able to say that the source was the factory. He should have had access to the site at the time and been able to go to the factory and say definitively that this was the source of the noise. (If not, why not?).
- 6.12. We assumed that he did a report on his findings and we requested a copy, but have heard nothing back. Could we please have sight of his report?
- 6.13. Also, we understand that the independent acoustic specialist appointed by Allerdale was also on-site during the noise assessment, so he should be able to confirm that there was noise from the factory and should also have been able to identify the source. (Again, if not, why not?).
- 6.14. So, we have the grain dryer switched off and yet there was still noise from the factory in the village. We have witnesses from ABC who heard the noise and should be able to identify the source.
- 6.15. The grain dryer is not the source of the noise.

15.06.2020

## Noise Levels

- 6.16. The original Noise Assessment was commissioned by the owner and was used at the Planning Development Meeting on 18<sup>th</sup> December 2018 where its contents were pivotal in the decision to refuse the planning application with Enforcement Action resolved. The Decision Notices stated:

“The Local Planning Authority consider that, without mitigation measures to ensure that the daytime rated level is no more than 5dB above back ground noise level and at night time that the rated 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.”

Despite the imposition of an Enforcement Notice, the factory has continued to operate producing noise that, as the Decision Notices says, “has an unacceptable impact on the amenity of existing residential properties within this rural village”.

- 6.17. In examining the most recent version of the original noise report ((Amended) Noise Impact Assessment 26.02.20) Bromfield Parish Council found a number of shortcomings and reported these to the Council. The main concerns being that the readings taken from the report did not appear to be representative. In particular, the daytime ambient and residual levels of 54dB used in the report seemed very high when levels in the range 35-40dB were actually being observed by members of the Parish Council.
- 6.18. In light of these observations, Allerdale Borough Council commissioned a second noise assessment. As the first report adhered to BS4142, the Parish Council expected this new report to adhere to this standard as well. However, this was not the case and the report only contains measurements of background sound levels rather than ambient and residual as well (as would be required for a BS4142 report). In any case, the new data shows that the 5dB limit is exceeded around half the time during the proposed working hours.
- 6.19. To summarise the report, it says that there was no noise from the factory during the first 24 hours or so and then it kicked in and was present for the remaining time of the assessment. Differencing the noise levels before and after that time then gives some measure of the impact of the factory.
- 6.20. The first table overleaf is the daytime sound levels from the most recent report. The report says that the factory was not operating at first but started up after 24 hours or so. It has been assumed that this was 14:00 on 14/04/2020.
- 6.21. For the second table, again overleaf, the first table has been rearranged to compare the 3 “days” of the assessment for the operating times that are being proposed by the Council.

6.22. The yellow highlighting (grey shaded in black and white print) shows that the 5dB 'limit' is met or exceeded 12 times on the 2 days when the factory was operating. That is to say the, the 5dB limit is met or exceeded half of the time. We consider this to be sufficient evidence to refuse the Planning Application.

	13/04/2020	14/04/2020	15/04/2020	16/04/2020	
07:00		37	41	40	
08:00		35	41	39	
09:00		35	38	38	
10:00		37	37	41	
11:00		38	36	42	
12:00		37	34	43	
13:00		38	40	46	
14:00	35	40	40		
15:00	31	41	41		
16:00	33	42	42		
17:00	32	41	41		
18:00	34	37	40		
19:00	36	37	40		
20:00	36	39	38		
21:00	36	38	37		
22:00	35	38	37		
					<b>DIFFERENCES</b>
Time	Day 1	Day 2	Day 3	Day 2	Day 3
07:00	37	41	40	4	3
08:00	35	41	39	6	4
09:00	35	38	38	3	3
10:00	37	37	41	0	4
11:00	38	36	42	-2	4
12:00	37	34	43	-3	6
13:00	38	40	46	2	8
14:00	35	40	40	5	5
15:00	31	41	41	10	10
16:00	33	42	42	9	9
17:00	32	41	41	9	9
18:00	34	37	40	3	6

#### Source of the Noise

6.23. The Parish Council and a number of Parishioners have repeatedly said that the grain dryer is a red herring and should be ignored for the purposes of assessing the noise from the biomass plant.

- a) There were no noise complaints until the installation of the biomass plant.
- b) The noise assessment commissioned by the owner has no mention of a grain dryer. In fact neither of the words 'grain' nor 'dryer' appear in that report. Had the grain dryer been in operation at that time, the noise assessor would have been aware of this report and included it in the report.

- c) The noise report is what was used to refuse planning permission in the first place so, if a grain dryer had been the source, it stands to reason that the owner would have said so at the time in order to avert the refusal.
- d) We believe that the grain dryer is a diversionary tactic. There is no mention of it in any of the documentation or correspondence until a site visit (nearly two years after the initial complaint) by an Officer from the Council. This may have been their first (perhaps only) site visit but they were still able to say definitively that the noise was caused by the grain dryer. This is despite the fact that owner of the property where the noise was being observed was also present and was adamant that the noise from the grain dryer was not the usual noise from the factory.
- e) A grain dryer (not surprisingly) dries grain. We understand that grain is only available to be dried at certain times of the year. The noise from the factory is present all year. We believe that the owner has said he uses it to dry other materials, but accepting that this accounts for all of the noise from the factory, all year round, is simply not believable.
- f) As the most recent report makes clear, the noise is produced all day and all night. Why it would be necessary to dry grain at night is not clear.

#### Smoke/Emissions

- 6.24. Both the Parish Council and Parishioners have been complaining about the smoke/emissions, as well as the noise, from the factory, from the outset. Other than the initial visit by the then Environmental Officer, when the village was smothered in smog, our complaints have either been dismissed or simply ignored. We set out a few examples below:
- a) When representatives of the Council visited the village in September 2019, they were shown a video that showed fog-like smoke in the village. They dismissed this completely and said that the person who showed them the video (a Member of the Parish Council) could not complain about that as their house was not affected by the smoke. At least two CDs or DVDs with video and photo evidence of the smoke produced by the factory were sent to the Council but we never heard anything back about these. We assume they were dismissed as, even though they came from a member of the Parish Council, their property was not directly affected. We do not understand why a Member of the Parish Council was not allowed to complain on behalf of their Parishioners.
  - b) The smoke from the factory was especially bad on Tuesday afternoon (26<sup>th</sup> November 2019). The smoke was observed by a school bus driver as he was driving children back from school. He said that the smoke was like smog and was covering the road to such an extent that he could not clearly see the verges and could not see oncoming traffic. He considered this situation to be very dangerous and was concerned for the well-being of the children in his care. He said this was not the first time that he had seen thick smoke from the

factory across the roads in Langrigg, but it was the first time that it was on his bus route to such an extent. This information and the driver's contact details were passed on to the Council, but he was never contacted.

- c) A week or two ago (from the 15<sup>th</sup> June 2020), a Parishioner complained to the Council about a noxious smell from the factory. This was reported to the Parish Council by others in the village who had also experienced this. One explained that they had spoken to a visiting workman who was so appalled by the smell that he couldn't understand how people live in the village. We do not think the original complaint even got a reply.
- d) At the most recent Parish Council meeting, we were informed that the factory produced another unpleasant smell on Wednesday night (10<sup>th</sup> June), with people describing it as like burning wool.

### Mental Health

- 6.25. A number of Parishioners have commented on the adverse impact that the noise and smoke from the factory has had and is having on their mental health. The noise, particularly at night, has meant that some Parishioners' ability to sleep has been affected or has woken them up.
- 6.26. Some of the comments that we have received are set out below. Some are taken from emails that have been sent to the Council:
  - a) Despite the enforcement decision, the Council has allowed the owner to continue to operate the plant, often throughout the night, without any considerations for my physical and mental health, and especially since the lockdown, as a vulnerable person.
  - b) It ran all day on Monday and towards 11pm I could smell the familiar smoke smell. As everyone is now at home, this noise will only serve to add to one's frustration and anxiety.
  - c) The peace and quiet in Langrigg is being completely ruined by the noise from Langrigg Hall. The factory has been roaring since before eight this morning and typically, a rare bright sunny day is being ruined by this impactive noise. I had intended to spend time in my garden doing jobs, but the noise is preventing this, as it overrides any opportunity of enjoyment. As you are aware the problem has persisted for some time, if you are able, please do come and hear it for yourself. It is awful.

13.03.2020

- 6.27. The factory still produces noise and smoke. We are in the same position we were before the Planning Meeting in December 2018. In fact, we are actually in a worse position as the chimneys (flues) are lower than they were at that time and the smoke disperses poorly. The increased height would help this slightly, but not enough. There were complaints prior to the Planning Meeting about the smoke being produced and the chimneys were higher at that point.

- 6.28. The assertion that the grain dryer is the source of the noise is a red herring. None of the noise reports on the factory (commissioned by the owner) mention the grain dryer. The reports state that the noise is produced by the CHP unit. The Decision Notice from the Planning Meeting states the noise from the factory has an unacceptable impact on the amenity of existing residential properties within this rural village. We have been putting up with this unacceptable impact for over 15 months from the date of that meeting.
- 6.29. A number of parishioners have made repeated complaints about both noise and the smoke from the factory and continue to do so. The Parish Council have received comments from these Parishioners that they feel that their complaints have not been taken seriously and they have, at times, felt like they have been fobbed off. The Parish Council would like to state unambiguously that we believe that there are serious issues with both noise and smoke emanating from the factory.
- 6.30. Log wagons have started to appear again, with 3 being seen on one day alone. The application states that there will only be one a week.
- 6.31. Whilst there are some photos on the Planning page on the Allerdale website that show the use of the bedding in the chicken shed, the Parish Council is of the opinion that there is much more paper in the yard that can be reasonably expected to be used in the sheds. We think it highly unlikely that 90% of this paper will be used on-site, as stated in the Application.

03.01.2020

- 6.32. Bromfield Parish Council strongly object to this application and would like to make the following observations; the council do not agree with the shutdown times of 23:00hrs to 05:00hrs. The explanation that only 10% of the bedding is transported to other farms as and when required – there is no evidence of any paper being used on the site. There was no evidence that the smoke, noise or traffic had improved.

### **ABC Environmental Health**

24.06.2021

- 6.33. No objection in principle to the application, however in order to minimise impact on the surrounding amenity conditions are recommended.

### **Background Noise Levels**

- 6.34. Previously concerns were raised regarding the readings taken from Apex's original report which did not appear to be representative. In particular, there were concerns raised about the daytime ambient and residual levels used within the original noise report. Members of the Parish Council observed lower ambient within the daytime of 54dB used in the report seemed very high when levels in

the range 32-40dB were actually being observed by members of the Parish Council.

- 6.35. We appointed an independent noise consultant to assess the background noise levels which proved to be much lower than Apex consultants had originally stated. When we considered our survey data, background levels ranged between 31-35 (1 hour LA90) between 7am and 6pm. Apex were then required to revisit site and carry out further monitoring. I am now satisfied with the updated report and the findings to meet the noise criteria when all plant is in operation.

#### Tonality

- 6.36. The Parish Council raised concerns regarding the tonal corrections that had been applied to specific sound level, Apex consultants have applied intermittency and an impulsive acoustic feature corrections within the report. The Parish Council raised concerns as they believe that an additional correction should be applied to take account of a "hum". However we had an independent consultant visit the site they were able to observe all plant operating which forms part of this application and they confirmed that there was no clearly audible "hum", therefore no additional acoustic feature correction is required to be applied. I am now satisfied with the tonal corrections that Apex consultants have applied to the specific sound source on site.

29.07.2020

- 6.37. The background sound levels the Council obtained during our survey were compared to the specific sound level contained within the original Apex noise assessment. The separation distance between the CHP building and the dwelling boundary where we monitored the background sound level is approximately 230 metres. If we assume the building approximates a 'point source' at this distance, which is a reasonable assumption, the level of sound attenuation due to distance is approximately 47 dB.
- 6.38. There is a direct line-of-sight between the dwelling and the farm, however there are two small buildings at the farm boundary. These two buildings are likely to provide negligible acoustic screening with regard to the low frequencies emitted by the plant (due to the size of the wavelength).
- 6.39. It is reasonable to assume that the plant will run continuously throughout a given 60-minute period between the hours of 7am and 6pm.
- 6.40. We have considered Apex's data; we consider position 11 as detailed in the report (in the middle of the building) is a good representation of the 'reverberant' sound level. The highest level was 82 dB LAeq,T and corresponds to boiler 2, boiler 3, the auger and CHP running simultaneously. This is considered to be the worst case scenario; the emissions from the two boilers now retained (Nos. 1 and 2) with the proposed higher flue heights would be no higher.
- 6.41. Using 82dB LAeq,T as the specific sound level generated as a result of this development operating between 7am and 6 pm, we have adopted a standard

acoustic calculation taking into account of the background sound level data we obtained. This has resulted in a specific sound level at 230m of 30 dB LAeq.T. We then applied a correction of 2+dB for tonality. This gives a rating level of 32 dB. When we consider our survey data, background sound levels range between 31 and 35 dB (LA90,1hour) between 7am and 6pm on day 1, between 35 and 42 dB on day 2 and between 34 and 42 dB on day 3. We have concluded from this assessment that the rating level is therefore similar to, or just below the background sound level at this particular receptor. Where the rating level does not exceed the background sound level, this is an indication of the specific sound source having a low impact. It's important to appreciate that this BS4142 assessment does not determine whether noise amounts to a statutory noise nuisance as it is subjective.

- 6.42. In view of the information above, we are not in a position to raise any objections to the current application. This would be subject to the previous recommendations for conditions including plant or machinery only operating between the hours of 7am and 6pm.

13.03.2020

Noise

- 6.43. We have reviewed the Apex Acoustics' noise assessment submitted with the application. We note that, since the noise assessment was submitted, there has been a change to the operations being undertaken off site. In addition the CHP plant will only be operated during daytime hours. Based on these changes to operation and mitigation measures then we would support this application subject to conditions.

Air Quality

- 6.44. We have reviewed the Syntegra Air Quality Assessment ref 18-4275 dated July 2018. The applicant has provided details of the boilers (make and model) used within the assessment. The assessment methodology is accepted.
- 6.45. The main issue with the operation of the biomass plants is the creation of smoke emissions if incorrect fuel is used within the plant and the fuel has the wrong moisture content. Therefore, on this matter, we do not object subject to conditions specifying the fuel types.

02.03.2020

Noise

- 6.46. We have reviewed the latest revision of the noise assessment. The rating level of the wood chipping machine is in excess of the background noise level. Therefore we will be requesting this to be moved to another location and the noise assessment revised to assess the noise in the new location.

- 6.47. In terms of the other plant, the operating hours of 0500 hours – 2300 hours are too early and too late. They have based the operating hours on the existing noise levels at the time the noise survey was taken and suggest that noise levels in the area are high from 0500 until 2300 hours. This may not be the case at all times and therefore we would recommend a limit on the hours of use of the plant/machinery to be in line with daytime hours e.g. 7am – 6pm.

18.02.2020

#### Noise

- 6.48. We have reviewed the Apex Acoustics noise assessment submitted with the application. We require some additional information regarding this assessment before full comments can be made. Further details are required on the following: Further justification is requested on the operation of the CHP plant from 0500 hours. We would have expected this to be daytime operation only. e.g. 0700-2300 hours. The report should clearly state the background levels at 0500 hours to demonstrate that this operation will not increase background noise levels from 0500 to 0700 hours.
- 6.49. The CHP plant BS 4142 assessment does not have any acoustic corrections added – can further details be provided on why tonal, intermittency and impulse corrections have not been applied? The wood chipping operation has only intermittency added as an acoustic correction. Can the consultants advise why an impulse acoustic correction has not been applied? Did the Cadna model fully consider the existing sound insulation from the building?

#### Air Quality

- 6.50. We have reviewed the Syntegra Air Quality Assessment ref 18-4275 dated July 2018. This assessment does not clearly identify the units being assessed. Within the planning application reference is made to CHP unit and RHI unit. There is also reference in other documents to biomass boilers; BB1, BB2 and BB3. The air quality assessment makes reference to the 'CHP unit'. Can the consultant clarify that the air quality assessment submitted; ref 18-4275 includes all of the units installed on the premises? As well as this assessment specific details and data sheets for each of the units are requested.

#### Dust

- 6.51. Further details are requested on the measures that will be taken to minimise dust emissions during the wood chipping operation.

#### Smoke

- 6.52. The applicant has advised that previous smoke emissions were due to a different fuel source being used. However, since the new fuel source has been used allegations of smoke emissions grounding have been made. Can the applicant provide a more detailed procedure for measures that will be taken to prevent further smoke emissions from the operations of the units?

### **Cumbria County Highways**

- 6.53. 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 highway conditions. We can therefore confirm that the Highway Authority has no objection to the proposal.

### **Natural England**

- 6.54. No comments to make on this application.

### **Cumbria County Minerals and Waste**

- 6.55. The development is within existing buildings in the farmyard. The Minerals Safeguarding Area, which adjoins the application site to the north, extends across a significant area of surrounding open land. The proposal will not prevent access to this mineral resource for extraction in the future. We consider that criterion 4 of Policy DC15 (Minerals Safeguarding) in the adopted Cumbria Minerals and Waste Local Plan is satisfied. CCC therefore does not object to this application.

### **County Fire Officer**

- 6.56. No objections.

### **Environment Agency**

- 6.57. No reply to date.

### **Other Representations**

- 6.58. The application has been advertised by press advert, site notice and neighbour letter. Eleven letters of objection have been received. The concerns relate to:-
- a) Nuisance smoke and odours coming from the site.
  - b) Noise interference.
  - c) Heavy volumes of HGV traffic daily.
  - d) The application changes what was an agricultural business into one that is clearly industrial in nature.
- 6.59. One letter of support has been received who disagrees with the complaints been received.

## **7. Environmental Impact Assessment**

- 7.1. With regards to The Town and Country Planning (Environmental Impact Assessment) Regulations 2017, the development does not within Schedule 1 nor 2 and, as such, is not EIA development.

## **8. Duties**

- 8.1. Given the existence of the listed farmhouse, section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 is relevant. It requires that the Local Planning Authority shall have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses.

## **9. Development Plan Policies**

### **Allerdale Local Plan (Part 1) 2014**

- 9.1. The following policies are considered relevant:-

Policy S1 Presumption in Favour of Development

Policy S2 Sustainable Development

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

<https://www.allerdale.gov.uk/en/planning-building-control/planning-policy/local-plan-part-1/>

### **Allerdale Local Plan (part 2) 2020**

- 9.2. Langrigg doesn't have settlement limits in this Plan having been assessed as an Infill and Rounding Off Village. There are no relevant Part 2 policies.

## **10. Other material considerations**

### **National Planning Policy Framework (NPPF) (2019)**

- 10.1. Paragraph 154 advises that;

“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 or 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..”

The NPPF is available to view at:-

<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

### **Allerdale Borough Council Strategy 2020-2030**

- 10.2. A Cleaner Greener Allerdale - We recognise the significant climate issues facing us all at present and as a council we have the power to change the way we operate to reduce our carbon emissions and improve biodiversity, as well as influencing local activities and behaviours through our policies.

## **11. Policy weighting**

- 11.1. 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 and the Allerdale Borough Local Plan (Part 2) 2020 policies have primacy.
- 11.2 In this instance the relevant development plan policies are considered to be consistent with the provisions of the NPPF despite Part 1 predating the national framework. Full weight is therefore afforded to the development plan policies and there are no material considerations, in this instance, which are considered to result in a decision not being made in accordance with the development plan.

## **12. Assessment:**

### **Introduction**

- 12.1. The Biomass and RHI units can generally be installed within an existing building for purposes ancillary to that building's use without the need for an application for planning permission<sup>2</sup>; they are “permitted development.” The rights are subject to restrictions including flue heights and the power rating of the boilers served by those flues. Here, the flues heights proposed are not permitted development, the boiler capacities exceed the right's parameters and their use is not totally in association with the farm within which they sit. As such there is a material change of use and operational development to be considered.

---

<sup>2</sup> Part 14 Class N and O of the Town and Country Planning (General Permitted Development) (England) Order 2015

## **Principle**

- 12.2. 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. It is consistent with the NPPF, paragraph 15.
- 12.3. 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. 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.

## **Residential amenity – policy background**

- 12.4. Policy S32 of the Local Plan is relevant in this regard and has consistency with Paragraph 180 of NPPF, the latter requiring that;-

“Planning policies and decisions 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”

## **Residential amenity – noise**

- 12.5. Nearby residents have reported being affected by noise said to be from activities associated with the Biomass CHP Plant and RHI operations. Whilst it is reiterated to members that the development for consideration is that detailed in the planning application, nevertheless such experienced operations do have significant relevance to the application’s consideration. The similarities of the proposal and the current/past operations mean that data can be used to inform the analysis undertaken and conclusions drawn. In this context a full Noise Assessment in relation to the Biomass and CHP Operations has been undertaken at the site by the applicant’s noise consultants and the most up-to-date noise report is dated 2 June 2021 Revision L.
- 12.6. Whilst the Apex Acoustics assessment is satisfactory, it did highlight in the previous report that the night-time background sound level is 30 dB whilst the calculated rating level of the CHP is 39 dB. A level of 9 dB above background

sound level indicates a significant adverse impact. The development applied for is therefore not acceptable without mitigation. Specifically controls would be necessary on when the boilers can be used. For the daytime operation of the CHP unit, the rating level of 5dB above background noise levels meets local authority requirements.

- 12.7. The Parish Council have raised concerns regarding the tonal corrections that have been applied to specific sound levels and the Apex consultants have applied intermittency and an impulsive acoustic feature correction within the report. However, concerns were still raised by the Parish Council that additional correction should be applied to take account of a “hum” that has been heard within the village. An independent Noise Consultant on behalf of the Council has visited the site and was able to observe all plant operating which forms part of this application. They have advised the Council that there was no clearly audible “hum” from the operations considered under this current application and have advised that there is no requirement for additional acoustic feature correction to be applied in line with the Apex report.
- 12.8. A condition is necessary to limit the times. The applicant’s submitted report suggests no operation between 20:00 hours and 06:00 hours every day. This proposal appears to be based on the assertion that background noise levels are high between 05:00 and 23:00. Officers question this assertion, evidencing that such background levels are not constant nor repeated every day. Indeed, the time period for operation should be limited to 07:00 to 18:00 to ensure that the boilers do not operate when they generate unacceptably high increases over background levels.
- 12.9. The Council’s Environmental Health officer advises the increase in flue height will have a negligible impact on the noise emissions.
- 12.10. Wood chipping has previously been carried out at the site. The mechanical chipper was noted to also result in unacceptably high noise levels at sensitive residential receptors in the locality. It is understood that the chipping process has been relocated off site but, nevertheless, given its intrinsic, ancillary operation to the boilers’ use, it is necessary, relevant and reasonable to prohibit this from happening within the holding. Therefore, with no chipping on the farm, it is assumed that the boiler ready chips will be brought to site from further afield to be dried and used.
- 12.11. With conditions in place limiting the hours of operation of the boilers, doors to remain closed on the buildings that house the plant and prohibiting wood chipping taking place, the proposal in terms of noise is considered acceptable and in line with Policy S19 and S32 of the Allerdale Local Plan (Part 1). It is also necessary to ensure that the permission relates to the boilers proposed as the assessment of noise is specific to their emissions.

#### **Residential amenity – Air Quality/Smoke**

- 12.12. Again both policies S19 and S32 of the adopted Local Plan Part 1 are relevant. In relation to emissions, both boilers proposed to be retained 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.

- 12.13. 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:-
- a) The logs are delivered to site and stored for approximately 1 month before processing occurs.
  - b) Logs are stored and then chipped off site on a monthly cycle. Once chipped the wood is moved into a barn adjacent to the CHP and biomass units and stored until required.
  - c) Prior to use, the woodchips are tested on site using a moisture metre to ensure they are sufficiently dry. In addition to on site testing the fuel is also collected on a monthly basis and sent away for sampling, for quality assurance compliance.
  - d) All feeding of the machines is automated in order to ensure maximum efficiency of the units.
  - e) Once the collection point for the ash created by the fuel burning process is full (approx. once per month) it is emptied and taken to Harrison's at Silloth where it is disposed of.
  - f) The machines are serviced and monitored daily by an employee.
- 12.14. 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 ILU (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 assessment methodology is accepted by the Council's Environmental Health officer and considered robust.
- 12.15. The main issues with the operation of the biomass plants is the creation of smoke emissions if incorrect fuel is used within the plant and the fuel has the wrong moisture content. There is clear evidence from residents, corroborated by Council officers, that the use of the wrong fuel has resulted in unacceptably adverse impacts on residential amenity in terms of smoke. It is also acknowledged that, whilst lower flue heights can bring the development within one of the permitted development criteria, such reduced heights can and have resulted in issues of plume dispersal.
- 12.16. As such, it is necessary to require that only dried woodchip is used (adhering to the processes detailed in point c) of paragraph 12.13 of this Report. This can be secured by condition.
- 12.17. It is also necessary to ensure that development operates with the proposed flue height increases.

## **Design/Visual Impact**

- 12.18. 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.
- 12.19. 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 mitigate the effects of such. The proposed height of the flues are approx. 5.67m in height for boiler 2 and approx. 4.63m in height for boiler 1.
- 12.20. The flues will be 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, they will not be 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**

- 12.21. The two storey farmhouse that lies to the northwest of the application site is a Grade II Listed Building.
- 12.22. 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."
- 12.23. 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 a lesser degree, to the overall significance.
- 12.24. 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 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.
- 12.25. 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 2 flues which will be seen within some views of the Hall. The nearest flue 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. Further planting was approved under the earlier approval on the site 2/2018/0098 for the agricultural building which would provide additional screening.

- 12.26. The aluminium finish has the potential for the reflection of sunlight (or any other lights). 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 reflection is of a magnitude that the prominence of the farmhouse in its setting is challenged. Taking into consideration the issues discussed above officers are satisfied that the proposal will lead to less than substantial harm to the significance of the Grade II Listed Building. This harm is outweighed by public benefits arising from the low carbon power supplied to the dwellings and the national grid.
- 12.27. Considered against the duty contained within section 66 of the Listed Buildings Act 1990, the setting of the listed building will be preserved and the proposal accordant with policy S27 of the Local Plan Part 1 and paragraph 196 of the National Planning Policy Framework.

### **Highway Issues**

- 12.28. This issue is relevant to policies S2 and S22 of the Local Plan Part 1. The applicant's Planning Statement includes highway movements. In terms of fuel it states it is delivered once a week in a lorry. Paper is delivered to site 4 times a week at which point it is tipped into the storage area. The dry paper is then taken off site to be baled and then returned to the farm until used.
- 12.29. The County Highways Authority have been 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. We can therefore confirm that the Highway Authority has no objection to the proposal".
- 12.30. Officers consider this to be a robust conclusion to be drawn; it is fully acknowledged that Langrigg is served only by narrow highways with limited possibilities for heavy goods vehicles to safely pass. However, this is a working farmyard that includes an intensive livestock unit. Tractor and trailer movements to and from the land and deliveries, including bulk feed, as well as collections are relatively common. The level and nature of the movements associated with the biomass boilers is such that they have no significant impact on the overall number and character of trip rates associated with the site.
- 12.31. A condition has been advised as being necessary to ensure that woodchip loads coming to the site are covered to prevent the load from dispersing and becoming a hazard to highway users.

12.32. The development is therefore considered acceptable from a highway safety perspective and accords with policies S2 and S22 of the Local Plan Part 1.

### **Local Financial Considerations**

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

## **13. Balance and Conclusions**

13.1. 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. These benefits are afforded significant weight in the overall balance.

13.2. The accordance with the development plan policies overall is dependent upon the imposition of conditions. These relate to;-

- a) The use only of dried woodchip as boiler fuel.
- b) Restrictions on the times of the use of the boilers as set out in this report.
- c) No on-site wood chipping.
- d) The implementation of the increased height of the flues.
- e) The use of boilers with the specification supplied.
- f) When the CHP unit and Biomass unit in operation the background noise level measured at the nearest residential property shall not exceed 5dB above the background noise levels.
- g) All doors shall remain close on the buildings which contains the plant and machinery while in operation.

13.3. In the absence of such conditions, the adverse impacts on residential amenity would be of a significance and extent that they would not be outweighed by the benefits.

13.4. The setting of the listed building would be preserved.

## **RECOMMENDATION**

**Grant permission subject to conditions**

## Annex 1

### CONDITIONS

#### In Accordance:

1. **The development hereby permitted shall be carried out solely in accordance with the following plans**

**D.02 Site Plan**

**D.03 Location plan**

**D.01c Floor Plans & Elevations received 22.11.2019**

**Planning & Historic Statement received 07.04.2021**

**Noise Impact Assessment Revision L received 02.06.2021**

**Addendum to Noise Impact Assessment received 02.06.2021**

**Letter received 26.02.2020**

**On Site Processes received 10.03.2020**

**Location Plan – storage 18.02.2020**

**ref 18-4275 Air Quality Assessment**

**Boiler Data Sheet received 09.03.2020**

**Boiler Reference 18.02.2020**

**Commissioning Certificates**

**D1 Stack Height Assessment**

**Biomass Boiler Information**

**Emissions Certificates**

**Email received 09/03/2020**

Reason: In order to ensure that the development is carried out in complete accordance with the approved plans and any material and non-material alterations to the scheme are properly considered and specifically to ensure there are not unacceptable impacts on residential amenity to accord with the provisions of the development plan and specifically policies S2 and S32 of the Allerdale Local Plan (Part 1) 2014.

#### Other:

2. **The boilers shall not operate outside of the times 07:00hrs to 18:00hrs.**

Reason: In the interests of preserving the amenity of nearby residents, in compliance with National Planning Policy Framework and Policy S2, S4 and S32 of the Allerdale Local Plan (Part 1), 2014.

3. **Neither boiler approved shall be used without the increase in the height of the associated flue as hereby approved and as detailed within the plans referred to in condition 1. The said flues shall be retained at this height whilst the boiler to which they serve is in use.**

Reason: In the interests of preserving the amenity of nearby residents, in compliance with National Planning Policy Framework and Policy S2, S4 and S32 of the Allerdale Local Plan (Part 1), 2014.

- 4. When the CHP Unit and the Biomass units are in operation the noise level emitted at the boundary of the nearest residential properties shall not exceed 5dB above background noise levels between the hours of 07.00hrs to 18.00hrs.**

Reason: In the interests of preserving the amenity of nearby residents, in compliance with National Planning Policy Framework and Policy S2, S4 and S32 of the Allerdale Local Plan (Part 1), 2014.

- 5. No wood chipping shall be carried out at any time within the farm (defined as the land within the blue line on the plan attached to this decision notice).**

Reason: In the interests of preserving the amenity (noise emissions) of nearby residents, in compliance with National Planning Policy Framework and Policy S2, S4 and S32 of the Allerdale Local Plan (Part 1), 2014.

- 6. All operations associated with the use hereby approved, including the drying of the woodchip, shall be undertaken in compliance with the submitted document Ref 19.039 On Site Processes dated March 2020 and received 10 March 2020.**

Reason: In the interests of preserving the amenity of nearby residents, in compliance with National Planning Policy Framework and Policy S2, S4 and S32 of the Allerdale Local Plan (Part 1), 2014.

- 7. The biomass boiler shall be operated using wood chip only.**

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, in the interests of preserving the amenity of nearby residents, in compliance with National Planning Policy Framework and Policy S2, S4 and S32 of the Allerdale Local Plan (Part 1), 2014.

- 8. The moisture content of the wood chip shall be 30% or less and shall be tested on site using a moisture meter as well as monthly testing being undertaken of wood chip samples.**

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, in the interests of preserving the amenity of nearby residents, in compliance with National Planning Policy Framework and Policy S2, S4 and S32 of the Allerdale Local Plan (Part 1), 2014

- 9. Details of the monthly fuel sampling and fuel sampling process should be recorded at the site and made available at all times upon request of Allerdale Borough Council.**

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 in compliance with National Planning Policy Framework and Policy S2, S4 and S32 of the Allerdale Local Plan (Part 1), 2014.

- 10. All doors shall remain closed on the building which contains all plant and machinery associated with the CHP unit at all times when in operation.**

Reason: In the interests of preserving the amenity of nearby residents, in compliance with National Planning Policy Framework and Policy S2, S4 and S32 of the Allerdale Local Plan (Part 1), 2014.

- 11. Any vehicles delivering wood chip to the site shall be covered at all times.**

Reason: In the interest of highway safety and to accord with policy S22 of the Allerdale Local Plan (Part 1), 2014.

