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20th January 2023

By email:

Mahsa.Kavyani@babberghmidsuffolk.gov.uk
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Dear Ms Kavyani,

Ref: DC/21/06824 - Erection of 6no poultry houses with associated admin blocks, feed bins and ancillary development EIA development. Land at Fennings Farm, Stradbroke, Suffolk

I am writing from the Environmental Law Foundation, a registered charity that provides advice and support to communities on issues affecting their local environment. Having reviewed this matter on behalf of local parishes, we wish to raise significant concerns about the above planning application.

This concerns planning application DC/21/06824 above, for the erection of six poultry buildings to expand the capacity at the site by a further 308,000 birds each cycle and produce an additional 2.3 million birds/year. The proposal will more than double the existing capacity of the intensive poultry unit, producing a total in excess of 4.2 million birds/year.

CLIMATE CHANGE

Neither the officer's report (OR) nor the Environmental Statement (ES) have addressed climate change, despite Mid Suffolk District Council having made a climate change declaration, with a commitment to "ensure a sustainable pattern of development supported by low carbon transport infrastructure". This is mainly directed at transport but intensive livestock units are big generators of greenhouse gas emissions and the EIA Regs (Schedule 4) require that climate change impacts are addressed.

Babergh and Mid Suffolk District Councils (BMSDC) are producing a joint local development plan (JLP), which is currently undergoing examination and so is a material consideration. It highlights the

need to address climate change and water scarcity and contains Policy LP25 - Sustainable Construction and Design and Policy LP28 - Water Resources and Infrastructure. In addition to greenhouse gas emissions, intensive poultry units consume extremely large quantities of water, yet neither issue is addressed in the OR nor ES.

In the evidence base for the JLP, the Statement of Common Ground between BMSDC and Essex and Suffolk Water (ESW) Oct 2020 states, "ESW commented that the supply headroom in its Hartismere Water Resource Zone (WRZ) has now been exhausted by new non-household demand and so this would affect future non-household development. ESW confirmed they could meet expected household growth in the Water Resource Management period (2020 to 2025). It was also confirmed that ESW expect to be able to support the relevant proposed overall growth in the Joint Local Plan lifetime through future investment plans. ESW is however unable to provide water in the current Water Resource Management Plan period for new non-domestic processing activities. If uses of this kind were to come forward for development, then the water required would need to be planned for in the next Water Resource Management Plan period (Periodic Review 2024 known as PR24). This would also require investment in infrastructure or water transfer which would unlikely be operational until 2027."

BMSDC Water Cycle Study 2020, section 4, states that "ESW have confirmed that current supplies will be sufficient to serve the planned growth to 2025."

Whilst the Water Cycle Study 2020 states that "ESW would support the use of water recycling at Eye Airfield, where a growing agglomeration of food processing industries has led to a high growth in water demand", the study makes no mention of the water demand associated with the development of new, or the expansion of existing, intensive poultry units elsewhere in the district, supplying increasing numbers of birds to the meat processing factory on Eye Airfield.

Planning applications for new and/or extended intensive poultry units in this WRZ therefore represent unplanned growth.

In the ES Addendum cover letter, dated 18th July 2022 (p2, final paragraph), the applicant's agent acknowledges that "It is correct that Essex and Suffolk Water would not give the applicant a new supply, however, the existing supply is sufficient for the proposed sheds. This is before any additional provision via rainfall harvesting."

To be clear, rainfall harvesting will not provide anywhere near the volume of water required by the proposed sheds. Moreover, if the proposal is approved on this basis, then the current water supply that, according to The Water Cycle Study 2020, is 'sufficient to serve the planned growth to 2025' is at risk and new housing development plans may be jeopardised.

AMMONIA

Natural England raised concerns about ammonia impacts on a nearby unimproved grassland SSSI (Chippenhall Green) but removed its objection on receipt of confirmation that the units would house fewer birds than stated in the ES. Despite this, the ES was not amended and the OR does not recommend a planning condition to control the number of birds in the units.

The ammonia assessment has in any case understated effects by omitting assessment of impacts of the removal and spreading of the poultry litter, which generates around 50% of ammonia emissions from intensive poultry units. The fact that the manure is removed from site does not mean it can be excluded from the assessment (Squire v Shropshire Council, 2019).

The assessment also erroneously claims that recently constructed poultry units on the site have been accounted for in the background data provided by the Air Pollution Information System (APIS) because they commenced operation before 2020 (S3.4.7). The APIS data is the three year mean figure for 2017-2019, so the units would have to have commenced operation before 2017 to have

been accounted for in the APIS data. Also, because ammonia and nitrogen levels are already exceeded for the SSSI, Joint Nature Conservation Committee (JNCC) guidance states that adverse impacts cannot be ruled out even if the process contribution is less than one percent. Under the JNCC guidance, the assessment should also have made an allowance for development likely to take place over the next thirteen years, which would not meet decision making thresholds (DMT) at which air quality screening/assessment is required.

The risks posed by ammonia and nitrogen deposition to nearby ancient woodland (see Magic Map screengrab 1) see attached are not addressed in the ES or the OR. The Woodland Trust has issued guidance on ammonia impacts on ancient woodland here: <https://www.woodlandtrust.org.uk/publications/2019/04/ammonia-impacts-on-ancient-woodland>.

There is also priority habitat grazing marsh within 5 km, which is also vulnerable to nitrogen deposition and should have been considered in the air quality assessment. (See Magic Map screen grab 2)

POLLUTION FROM POULTRY WASTE LITTER AND WASTE WATER

The ES does not contain any information about the management of waste litter or waste water from the development, even though poultry waste has caused significant pollution problems elsewhere in the UK, especially in the catchment of the River Wye. There is conflicting information about how the waste litter will be disposed of and no information about how the waste water will be disposed of, despite the fact that the HRA for the Joint Local Development Plan lists a series of protected areas, which may be hydrologically connected to areas where the manure/waste water will be spread or otherwise disposed of.

- Stour and Orwell Estuaries SPA
- Stour and Orwell Estuaries Ramsar site
- Deben Estuary SPA
- Deben Estuary Ramsar site
- Minsmere – Walberswick SPA
- Minsmere – Walberswick Ramsar site
- Minsmere to Walberswick Heaths & Marshes SAC
- Redgrave and South Lopham Fens Ramsar site
- *Waveney & Lt Ouse Valley Fens SAC

The Variation to the Environmental Permit for the facility states: “Litter will be exported from the installation. Records will be kept of the quantities and the date of transfer, for example to a power station for recovery or third party for spreading on land and the names and addresses of the receiving farms.”

A letter from the applicant, appended to the ES Addendum cover letter, dated 18th July 2022, suggests that the intention is to send the waste litter to either Thetford or Eye Power Stations, “although the specific destination of the muck remains a commercial decision subject to future contract negotiations.”

The applicant’s statement is not conclusive and does not rule out the possibility that the manure could be spread on the land if it becomes more economic or convenient to do so. The Environment Agency (EPR Intensive Farming Jan 2010, Chap 3 p 34) : https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/297084/geho0110brsb-e-e.pdf states that “drainage from animal housing and water from cleaning out is considered to be slurry and should be collected in a tank or lagoon prior to land spreading or disposal”. Waste water is slurry and like manure, is a pollutant and is odorous, consisting of ammonia, nitrogen and phosphorous.

The Environment Agency is not responsible for waste exported offsite, outside the Environment Permit ‘permitted boundary’. Legal judgement in the cases of Squire v Shropshire Council (2019) and Keating v East Suffolk Council (2021) confirmed that the volume of waste and the land destined

for the spreading of poultry waste must be verified, by the LPA, for direct and indirect environmental effects to be properly assessed.

The Scoping Opinion had requested "an assessment of water generation from the construction and lifetime phases of the development together with a waste management strategy incorporating details of waste management facilities, both on and off site". This request has not been complied with but is not detailed in the OR.

According to the Environment Agency a waste management strategy should identify, in part, whether a manure agent or other third party will remove the manure and slurry and it should set out contingency plans in the event that a power station cannot receive the waste at any given time or land is unavailable for spreading and identify alternative land areas to be used or alternative storage to be provided. (EPR Intensive Farming Jan 2010 Chap 2.3.3 p.26)

The LPA should request a detailed waste management strategy for this proposal; "it cannot rely on generalised commitments to comply with best practice or fail to identify what exactly will be done with the waste from the facility." *

The ES should include an assessment of the development of water quality in accordance with the Water Framework Directive and we cannot see that this has been done. We are extracting for convenience the government's planning practice guidance:

Assessing impacts on water quality

Where water quality has the potential to be a significant planning concern an applicant should be able to explain how the proposed development would affect a relevant water body in a river basin management plan or designated sites of importance for biodiversity, and how they propose to mitigate the impacts.

Where it is likely that a proposal would have a significant adverse impact on water quality then a more detailed assessment will be required. The assessment should form part of the environmental statement, if one is required because of a likely significant effect on water.

When a detailed assessment is needed, the components are likely to include:

- *the likely impacts of the proposed development (including physical modifications) on water quantity and flow, river continuity and groundwater connectivity, and biological elements (flora and fauna)*
- *how the proposed development will affect measures in the river basin management plan to achieve good status in water bodies to ensure local authorities discharge their duty to have regard to river basin management plans when exercising their duties, including making planning decisions*
- *how it is intended the development will comply with other relevant regulatory requirements relating to the water environment (such as those relating to bathing waters, shellfish waters, freshwater fish, drinking water, internationally and nationally designated sites of importance for biodiversity) bearing in mind compliance will be secured through the Environment Agency's permitting responsibilities*

Paragraph: 016 Reference ID: 34-016-20140306

Revision date: 22 07 2019

There was no such assessment in respect of the manure and its impacts on water quality as is required.

ODOUR

The odour assessment considers only the emissions from the ridge fans and not from the clean-out, storage or spreading of manure. In *Squire v Shropshire*, the Court of Appeal held that the odour impacts of manure removal and spreading should have been considered in the ES and appear absent.

We would draw your attention to the response from the Odour consultant to concerns raised by the parish council about emissions during the clean-outs
It says:

“It is acknowledged that there is potential for increased emissions from a shed when litter is removed. However, it should be noted that the assessment assumed that maximum odour emissions as a result of rearing operations are released simultaneously from all existing and proposed buildings and that releases occur 24-hours a day, 365-days per year. As a result, the gross emission modelled during all periods is likely to be significantly higher than during clear out events, when as stated above, there is only the potential for releases from the fans serving one building at any one time.”

We are concerned that the consultant may not understand the way the clean-out process operates. This is when the most intense odours are released from the units. For a start, the greatest emissions of ammonia/dust/odour/particulates occur when the litter is disturbed as happens when it is removed from the buildings. When the birds are in the buildings, the manure piles up on the original bed of shavings.

The Health and Safety Executive describes the clean-out process as follows:

Litter/manure removal

- Using a mechanical bucket to scoop, scrape, pile up and tip litter.
- Using a shovel to remove litter from around the base of roof supports and other awkward areas inside a poultry house where a mechanical bucket cannot reach.
- Using a blower to remove litter from around roof supports/extensions.
- Using a mechanical rotary brush to sweep up the floor.

Cleaning poultry houses after depopulation (final clean)

- Using compressed air to clean extraction fan and casings.
- Using compressed air to blow down poultry material at high level.

Poultry dust - Technical and legal guidance (hse.gov.uk)

Ventilation must be operated at full capacity and doors opened and closed to ensure that the polluted (odorous) air is expelled from the building:

This is required by the Control of Substances Hazardous to Health Regulations 2002 (COSHH) (as amended). See HSE guide Controlling exposure to poultry dust Guidance for employers. Controlling exposure to poultry dust: Guidance for employers AIS39 (hse.gov.uk)

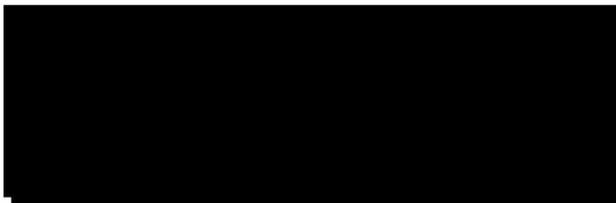
“Benchmark: minimum standards ■ Use shed ventilation (mechanical and/or natural) to maximum effect to reduce exposure. This should involve a combination of opening or closing shed doors, opening vents for natural air dilution and switching on ventilation fans to create the required airflow during the different stages of litter/manure removal”

We fail to see how any of this has been considered.

In response to concerns raised by the Environment Agency that odours from the gable end fans were not considered in the odour assessment (and that they would be used during hot weather when neighbours were outdoors), the applicant advised that cooling systems would be installed in the buildings and that these would negate the need for the gable end fans.

The cooling system is not mentioned in the ES and is not included in the noise assessment, although they would be another source of noise. It should also be noted that the operation of cooling systems necessitates the consumption of large volumes of water but this has not been quantified in the ES. Since the cooling system addressed a significant environmental impact, it should have been included in the EA and the LPA should have reconulted under EIA Reg. 25 on receipt of this information.

We have addressed significant shortcomings within this application and hope this letter is useful in drawing these to your attention. Without these matters being properly addressed the Council leaves itself open to potential public law challenge.



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*Analysis by Cornerstone Barristers of Keating v East Suffolk Council and Squire v Shropshire Council verdicts.

<https://cornerstonebarristers.com/inadequate-environmental-impact-assessment-intensive-chicken-farming/>