

Title of Report:	Request to Judicially Review PAC Decision.
Committee Report Submitted To:	Planning Committee
Date of Meeting:	27 January 2021
For Decision or For Information	For Decision

Linkage to Council Strategy (2015-19)	
Strategic Theme	Protecting and Enhancing our Environments and Assets
Outcome	Pro-active decision making which protects the natural features, characteristics and integrity of the Borough
Lead Officer	Head of Planning

Budgetary Considerations	
Cost of Proposal	Estimated £100,000
Included in Current Year Estimates	No
Capital/Revenue	Revenue
Code	34001 2940
Staffing Costs	No additional cost

Screening Requirements	Required for new or revised Policies, Plans, Strategies or Service Delivery Proposals.		
Section 75 Screening	Screening Completed:	N/A	Date:
	EQIA Required and Completed:	N/A	Date:
Rural Needs Assessment (RNA)	Screening Completed	N/A	Date:
	RNA Required and Completed:	N/A	Date:
Data Protection Impact Assessment (DPIA)	Screening Completed:	N/A	Date:
	DPIA Required and Completed:	N/A	Date:

1.0 Background

1.1 An enforcement notice relating to the unauthorised development of an anaerobic digester, combined heat and power plant, ancillary equipment and structures and associated hardcore area at land 35m NW of 133 Baranailt Road, Limavady was issued by Council in March 2018. The enforcement notice was appealed to the Planning Appeals Commission. The PAC issued its decision on 19 November 2020 granting planning permission underground (a) that planning permission ought to be granted in respect of the breach of planning control (report attached).

2.0 Details

2.1 In correspondence to Council dated 25 November 2020, Claire Bailey MLA and Rachel Woods MLA encourage Council to judicially review the PAC decision. They advise that they are seriously concerned that the PAC did not adequately consider nor deal with serious risks to the health of local residents and to nearby Natura 2000 sites and the operation is larger than that initially approved by Planning. They would also like to highlight existing levels of nitrogen deposition at nearby Ballynahone Bog SAC, which already exceed the critical load for that site and point to the requirement under Article 6 of the EU Habitats Directive for a project to proceed only having ascertained that it will not adversely affect the integrity of the site concerned.

2.2 A judicial review is the way in which a decision has been made rather than the rights and wrongs of the conclusion reached. The three grounds of a judicial review are:

- Illegality
- Procedural unfairness
- Irrationality

2.3 It is considered that the serious concerns raised in the correspondence have been addressed in the PAC Decision. The health impact of the development was considered at para.s 30-36. The assessment sets out the clear justification for the PAC consideration of this issue. The impact on nearby residents is further set out in para.s 37-85. All parties to the appeal had the opportunity to set out their evidence for the PAC to consider.

2.4 The impact on Natura 2000 sites is set out in para.s 86-89, 103-139. All parties to the appeal had the opportunity to provide evidence for the consideration of the PAC. Again the PAC clearly set out their consideration of this issue and endorses the conclusions of NIEA regarding the Habitats Regulation Assessment and all parties had the opportunity to submit their evidence on this issue.

2.5 The consideration of the planning history on the site and comparison with previous planning permission for and AD Plant were considered by the PAC at para.s 12-22 and para. 28 of the PAC decision. Each party had the opportunity to put forward their evidence on this issue. The PAC set out its consideration of this issue and the weight apportioned to this issue.

2.6 Whether or not we agree with the decision of the PAC is not a matter of a judicial review. It is not considered that the PAC erred in terms of the three grounds for judicial review. To proceed to judicially review the PAC decision would be high risk

and if lost Council would be liable to pay for the costs of the PAC defending its decision. This could be in the region of £40,000 plus on top of Council's own costs. An unsuccessful challenge would possibly cost Council an estimated £100,000 or greater.

2.7 The judicial review procedures do not prevent Claire Bailey MLA and Rachel Woods MLA judicially reviewing the PAC decision if they so wished to do so.

3.0 Recommendation

3.1 IT IS RECOMMENDED that the Planning Committee agree that Council do not proceed to judicially review the PAC decision.

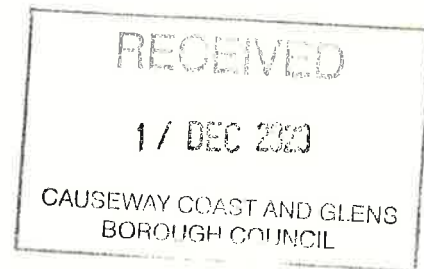


Northern Ireland
Assembly

Clare Bailey MLA
Rachel Woods MLA
Room 256, Parliament Buildings,
Stormont, Belfast, BT4 3XX
T: +44 (0) 28 9052 1504
E: clare.bailey@mla.niassembly.gov.uk
E: Rachel.woods@mla.niassembly.gov.uk

David Jackson Chief Executive,
Causeway Coast and Glens Borough Council
66 Portstewart Road,
Coleraine,
BT52 1EY.

25 November 2020



Dear Mr. Jackson,

Subject: Enforcement Appeal Decision Ref No. 2018/E0003; Application Reference EN/2018/0017

We are writing to you in relation to the recent enforcement appeal decision by the Planning Appeals Committee to quash the above enforcement notice and to grant planning permission for the anaerobic digester, combined heat and power plant, ancillary equipment and structures located 35m north-west of 133 Baranailt Road, Limavady.

We have read the decision by the PAC and are deeply concerned at the details contained therein. The anaerobic digester in question poses serious risks to the health of local residents and to nearby Natura 2000 sites, and the operation is larger than that initially approved by planning. These concerns raised in your council's enforcement notice were not adequately considered nor dealt with in the decision. We would also like to highlight existing levels of nitrogen deposition at nearby Ballynahone Bog SAC, which already exceed the critical load for that site, and point to the requirement under Article 6 of the EU Habitats Directive for a project to proceed only after having ascertained that it will not adversely affect the integrity of the site concerned.

We would like to encourage Causeway Coast and Glens Borough Council to undertake immediate action to have the enforcement appeal decision judicially reviewed.

Looking forward to hearing from you.

Yours sincerely,



Clare Bailey MLA
Leader of the Green Party NI



Rachel Woods MLA
North Down



Enforcement Appeal Decision

Park House
87/91 Great Victoria Street
BELFAST
BT2 7AG
T: 028 9024 4710
F: 028 9031 2536
E: info@pacni.gov.uk

Appeal Reference:	2018/E0003
Appeal by:	Assured Energy LLP
Appeal against:	An Enforcement Notice dated 5 March 2018
Alleged Breach of Planning Control:	Unauthorised anaerobic digester, combined heat and power plant, ancillary equipment and structures and associated hardcored area.
Location:	Land 35m NW of 133 Baranailt Road, Limavady, Co. Londonderry.
Planning Authority:	Causeway Coast and Glens Borough Council
Application Reference:	EN/2018/0017
Procedure:	Informal Hearing on 18 September, 20 September & 31 October 2019.
Decision by:	Commissioner Mandy Jones, dated 19 November 2020.

Grounds of Appeal

The appeal was brought on Grounds (a) and (f) as set out in Section 143(3) of the Planning Act (Northern Ireland) 2011. There is a deemed planning application for the development set out in the Enforcement Notice. The other grounds of appeal were withdrawn.

Preliminary Matter

1. The enforcement notice was accompanied by a determination under Regulation 34(1) of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017 confirming that an Environmental Statement was required in respect of the alleged breach of planning control specified in the notice. An Environmental Statement (ES 2018) was submitted to the Commission on 29 October 2018. Further Environmental Information (FEI 2019) was submitted on July 2019. The EIA Regulations explicitly provide for additional information to be provided by the appellant and others as appeals are being processed and the Commission is under a duty to take account of the totality of the environmental information presented to it. In reaching my conclusions I have taken into account all of the environmental information presented as required by legislation.

Ground (a) That planning permission ought to be granted in respect of any breach of planning control which may be constituted by the matters stated in the notice.

2. The deemed application is defined by the breach and relates to ‘an anaerobic digester, combined heat and power plant, ancillary equipment and structures and associated hardcored area’. Five draft reasons for refusal were forwarded by the Council and the main issues are as follows:
 - The need for the proposal;
 - The environmental, economic and social benefits offered by the proposal;
 - The impact on human health and residential amenity;
 - The impact on biodiversity and nature conservation;
 - The impact on air quality and water quality;
 - The impact on public safety;
 - The impact on nature conservation and
 - The impact of the development on road safety.
3. Section 6(4) of the Planning Act (Northern Ireland) 2011 requires the appeal to be determined in accordance with the Local Development Plan unless other material considerations dictate otherwise. Section 45 (1) of the Planning Act requires that where an application is made for planning permission, the decision maker must have regard to the Local Development Plan, so far as material to the application and to any other material considerations.
4. The Northern Area Plan 2016 (NAP) operates as the relevant LDP for the area in which the appeal site is located. It is also within the Ballykelly Moraine Site of Local Nature Conservation Interest (SLNCI). The NAP contains no specific policies relating to renewable energy proposals in the countryside.
5. The Strategic Planning Policy Statement for Northern Ireland (SPPS) states that its provisions are material to all decisions on individual planning applications and appeals. It sets out transitional arrangements that will operate until Councils have adopted new plans for their areas. In the interim, the SPPS will apply together with policy contained within existing Planning Policy Statements (PPS’s). Therefore, in addition to the SPPS, other relevant policy is contained within PPS 21 ‘Sustainable Development in the Countryside’; PPS 18 ‘Renewable Energy’ ; PPS 11 ‘Planning and Waste Management’; PPS 3, ‘Access Movement and Parking’ and PPS 2 Planning and Nature Conservation. Supplementary planning guidance is also set out in the Best Practice Guidance to PPS 18 ‘Renewable Energy’ and Draft Supplementary guidance on Anaerobic Digestion – June 2013.
6. The aim of the SPPS in relation to renewable energy is to facilitate the siting of renewable energy generating facilities in appropriate locations within the built and natural environment in order to achieve Northern Ireland’s renewable energy targets and to realise the benefits of renewable energy without compromising other environmental assets of acknowledged importance.
7. Policy CTY 1 of PPS 21 lists a range of types of development which are in principle acceptable in the countryside and that will contribute to the aims of sustainable development. In terms of non – residential development, policy CTY1 states that

planning permission will be granted for, inter- alia, renewable energy projects in accordance with PPS 18.

8. Policy RE 1 of PPS 18, Renewable Energy Development states that development that generates energy from renewable resources will be permitted provided the proposal, and any associated buildings and infrastructure will not result in an unacceptable adverse impact on :
 - (a) Public safety, human health, or residential amenity;
 - (b) Visual amenity and landscape character;
 - (c) Biodiversity, nature conservation or built heritage interests;
 - (d) Local natural resources, such as air quality or water quality and
 - (e) Public access to the countryside.
9. Proposals are also expected to be located at, or as close as possible, to the source of the resource needed for that particular technology under policy RE1. Further to policy set out in PPS 18, paragraph 6.225 of the SPPS states that the wider environmental, economic and social benefits of all proposals for renewable energy projects are material considerations that will be given appropriate weight in determining whether planning permission should be granted.
10. The wider environmental, economic and social benefits of the AD plant presented by the appellant are:
 - The use of AD technology at this scale contributes towards meeting Government targets in relation to renewable energy and greenhouse gas emissions;
 - The plant utilises the region's natural resources to enhance security of electrical energy supply as opposed to the use of non-renewable resources obtained from outside the region;
 - The plant offers an opportunity to increase in the regulation of wastes within the agricultural sector through the NIEA permitting process;
 - The plant supports jobs and businesses through the creation of an indigenous biomass supply chain which requires both local and rural suppliers to support the sector and through the day to day operational and maintenance requirements of the plant;
 - The digestate produced at the site has an improved fertiliser quality and can also be used as a substitute to inorganic fertilisers which are often manufactured using less sustainable methods;
 - The process has the benefit of being able to use waste substances (such as animal slurry) that are otherwise difficult to dispose of in an environmentally acceptable manner;
 - The digestion process reduces the volumes of waste and also has the benefits of reducing odour and removing harmful pathogens; and
 - When used as an AD feedstock, animal slurry benefits from a substantial and significant reduction in offensive odours from storage by up to 80%. The digestate produced is considerably less odorous than the input slurry.
11. Overall, I consider that the environmental, economic and social benefits presented weigh considerably in favour of the proposal. I therefore consider it appropriate to attach substantial weight to these in my considerations of the deemed proposal.

Planning History

12. On 4 December 2012, application B/2012/0120/F was approved on the lands specified in the EN for a 'Proposed Anaerobic Digester and combined heat and power plant to service farm with surplus to grid' (2012 approval). No storage clamps were included in the 2012 approval. Information was submitted as part of this application from the agent to confirm that the proposed feedstock input of 60 tonnes per day (which equates to 21,900t p.a.) and 499 kw output. The 2012 permission was granted having taken this information into consideration.
13. The 2012 approval included the following condition;

Condition 2 : The wastes to be accepted/ processed on site shall be restricted to the following as defined by the European Waste Catalogue Code 02 01 06 (animal faeces, urine and mature (including spoiled straw), effluent, collected separately and treated off site) and grass silage.
14. The layout of the 2012 approval consists of 2 separate tanks with concrete roofs. The first tank houses both the primary and secondary digester tanks (a 'tank in tank system') with the second tank for digestate storage. The approved layout includes a building to accommodate the Combined Heat and Power (CHP) unit to house the electricity producing biogas engines, pump room(attached to digester tank) and feeder. This permission relied upon the use of existing clamps located to the east on the opposite side of Drumreighland Lane for the storage of dry feedstock.
15. On 28 February 2018, application LA01/2017/1531/LDE was approved which certified the 'Part Construction of foundations and blockwork for combined heat and power plant (CHP) building approved under the B/2012/0120/F' (2018 LDE). It was common case that this confirms the commencement of the 2012 approval.
16. EHO served two nuisance abatement notices in respect of the AD plant in November 2017. Various remedial works were undertaken in response to the service of the nuisance abatement notices. The noise and odour abatement notices issued by the Council remain the subject of legal challenge.

Description of site and deemed proposal.

17. The extent of lands outlined in red on the EN covers an area of 1.25 hectares. It measures 70m wide by 125m in length and is located 180m down a laneway – Drumreighland Lane, off the Baranailt Road in a rural location 4km south west of Limavady. The laneway is shared with a number of other farm buildings and dwellings. The site contains an operational Anaerobic Digester with a 500 kw output and grid connection. The site slopes gently downwards from west to east, falling 10m over its 175m length. The plant comprises the following elements; primary and secondary digester tanks; end digester tank; feed hopper; 2 no reception pits (pre – pits); combined heat and power unit (CHP) containing 2 x 250 kw biogas engines, office and switch room; gas cleaning equipment; gas flare; pump room; heat exchange unit; dry feedstock storage clamps – 2 bays; general purpose storage clamp – one bay; site drainage system; traffic circulation / hardstanding areas and a weather station.

18. Anaerobic Digestion is a safe, well known renewable energy technology which uses biological processes to extract energy from organic materials for the primary purpose of generating biogas which is converted to 'green ' or renewable energy.
19. The process that takes place is that non – waste organic feedstock materials are delivered to the site and fed into the primary digester tank via the feed hopper (dry feedstock) or into pre – pit 1 (liquid feedstock). Inside the digester tanks, the feedstock is broken down by micro – organisms in a controlled, oxygen free environment. This process (called Thermophilic) involves mixing, temperature control and transfer between primary and secondary tanks and takes a minimum of 80 days. The biogas produced is piped from digester and storage tanks to the CHP building for combustion in one of its two gas turbine engines which in combination produce 500 kw of electricity output. The residual organic matter left behind after the biological digestion process has taken place (digestate) is pumped from the secondary digester into the end storage tank. The digestate is rich in nutrients and is stored in the covered on site storage tank until it is transferred into tankers and used as organic fertiliser spread on agricultural lands.
20. The AD plant runs on a 'continuous feed basis' whereby a volume of residual digestate is drawn off daily from the secondary digester tank into the end storage tank to allow the equivalent volume of feedstock to be fed into the plant. Dry feedstocks are covered and stored in the clamps at the top of the site. The plant has 245 hectares of agricultural lands currently available for the spreading of digestate generated from the digestate process (landbanks). Approximately 90% of the electricity generated at the plant is exported to the national grid, with around 10% used to run and operate the AD plant itself. Heat generated through the process is also reused to heat the primary and secondary digester tanks.

Differences between 2012 approval and as – built.

21. Instead of employing the tank in tank system, the AD plant as built has been constructed with separate primary and secondary digester tanks. A feedstock storage clamp with two bays has been located to the western end of the site and the design and location of the CHP building and feed hopper has also been changed. An overlay of AD plant as constructed and the 2012 approval is shown within the ES appendix 1.1.
22. It is proposed to retain the as – built layout of the existing 500 kw AD plant on the site with an annual feedstock cap of 16,000 t pa. A variation of condition 2 of the 2012 approval is sought to allow only liquid feedstocks which fall under the same waste code to be accepted and processed on the site. This will ensure that waste feedstocks are fed via a sealed system directly into pre – pit 1 (with an odour extraction kit) where they are pumped directly into the storage tanks. The reception and storage of dry waste based feedstocks on the site is not proposed.

Spreading of Digestate.

23. There are five landbanks A-E which are currently used to spread digestate generated by the plant. The volume of digestate that each landbanks can receive is calculated on an annual basis in a Nutrient Management Plan (NMP) and is affected by a number of factors including the quality of the digestate, stock levels on the receiving land bank and the amount of land available. The 2018 NMP for each landbank is

contained in EIA appendix E which contains co – ordinates and aerial photography/ mapping of each landbank as well as a detailed analysis of the digestate.

24. Objectors argued that a material change of use has occurred from the 2012 approval. This approval decision notice placed no restrictions on the quantity of feedstocks to be accepted and processed at the plant and no restrictions on the kw output. There was no requirement that all feedstock must originate from the adjacent farm. A planning decision should be capable of being understood in terms of the four corners of the permission ie the description of development, the approved drawings, and the conditions imposed. No references are made in the 2012 decision notice to extrinsic material to be referred to in order to provide in detail what was approved. The appellant pointed out that the final submission by the applicant on 7 November 2012 made it clear that the plant was to operate with an output capacity of 500 Kw and annual feedstock input of 60 t per day (21,900t pa).
25. In the November 2012 submission, the applicant proposed that feedstock for the plant was to be drawn from his farm and that *'digestate will be returned to fertilise the cropland contracted to grow the feedstock for the AD plant.'* (my emphasis) Accordingly, the applicant was not proposing to limit the source of feedstock from his farm. The feedstock was to be supplemented by contracted crops from other sources. Due to the amount of land required to service the 500 kw plant proposed, in my opinion it was obvious that additional feedstock sources would be outside the applicant's holding and the 2012 decision notice does not prevent this. The 2012 permission allows an AD plant with a 500 kw capacity to operate to *'service farm with surplus to the grid'* as specified in the description. I note the level of surplus is not defined or restricted. I do not accept the objector's arguments that a material change of use has occurred.

The Notice

26. The Council state that the deemed planning application is restricted to the development constructed at the time the notice was served. The notice has been appealed under Ground 143 (3) (a) of the Planning Act 2011, which states,
'In respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted'
This is reinforced in section 145 (5) :
'the appellant shall be deemed to have made an application for planning permission in respect of the matters stated in the enforcement notice as constituting a breach of planning control.....'

The alleged breach of planning control specified on the EN is described as '*Unauthorised anaerobic digester, combined heat and power plant, ancillary equipment and structures and associated areas.'*

27. I consider that the particular mitigation works referred to by the Council fall within this description. Future mitigation works are recommended in the Environmental Statement eg Landscaping and drainage. These have been assessed as part of the ES and can therefore be conditioned to be carried out within a specified timeframe after the date of decision. The appeal referred to by the Council was not EIA development and the future works proposed (railings and store) were not mitigation measures intended to reduce the environmental impacts of unauthorised development.

Fall Back

28. The appellant asserts that if retrospective permission was refused, they would revert back to the 2012 planning permission. Taking into consideration the appellant's evidence including the economic viability of this approach in which a detailed demolition/ rebuild cost analysis was presented within appendix 8 of the rebuttal statement I consider this to be a realistic fall-back position. I do not consider it to be a theoretical possibility as asserted by the objectors and Council. Accordingly, I consider that significant weight to be attached to the fall-back position.

Deemed Reasons for Refusal

29. Policy RE 1 (a) of PPS 18 requires that the development from renewable resources will not result in an unacceptable adverse impact on (a) public safety, human health or residential amenity.

Human Health

30. The Public Health Agency (PHA) stated in their consultation response dated 12 March 2019 that ' such facilities have a theoretical potential to cause adverse health effects from exposure to particulate matter (PMT), ammonia, general dust and other emissions. However another concern, noting the use of animal faecal material in its operation is the potential for bio aerosol releases from that material. It is an important public health consideration that the risk of spread of both viral and bacteriological communicable diseases to the adjacent human population is minimised.' It was suggested that a bioaerosol risk assessment should be considered as a modelling exercise to demonstrate that there is no adverse impact on human health.

31. Chapter 7 of the ES and appendix 2 of the appellant's rebuttal statement addresses human health. A risk assessment at table 7.1 of the ES, identifies the potential contamination sources, pathways and receptors together with the control measures implemented at the appeal site in order to prevent or minimise exposure pathways hence the risks to health. It includes consideration of the measures used to prevent or minimise the migration of contaminants through the ground to groundwater, gaseous emissions to air, dust and bio aerosols. Potential sources of contaminants included liquid feedstock, solid feedstock, emissions from the CHP engine stacks, emissions from the emergency flare, emissions from the pressure release valves of the digesters, spillage of feedstock, digestate or other materials resulting in contaminated water, leaks from CHP engines, oil drum or generator, end storage tanks, transport of digestate and feedstock and spreading. I was told that the receptors included approximately 25 properties within 300m of the site, the closest property being 35m from the site.

32. Part of the assessment of potential health impacts is the risk associated with pathogens. The AD plant operates at between 49 – 51° C. Digestate is retained in the primary and secondary digesters for at least 80 days before passing to the end storage tank. It is then kept in the end storage tank until it is to be spread to land in the open season. Following the AD process there is a low risk that pathogens may remain in the digestate spread on the land. The associated risks from applying digestate which includes animal faecal matter to agricultural land are no greater than the risks from spreading livestock manure directly to land which is an accepted practice.

33. Bioaerosols are created by wind passing over a surface or by agitation of a liquid. The potential for bioaerosols at the site is negligible as there are no open tanks containing liquids as both the pre – pits and digestate storage tanks are covered. During spreading of digestate the controls through the Nutrients Action Programme 2019-2022 will be implemented which includes the specification that anaerobic digestate slurry can only be spread by low emission slurry spreading equipment which includes bandspreading, dribble bar, trailing hose, trailing shoe, soil incorporation or soil injection methods. These methods exclude the spreading of digestate through the air which may have the potential to generate bioaerosols. Transportation of feedstock and digestate is also considered.
34. The risk assessment demonstrates that there is no potential for a significant impact on health as a result of the continued operations on the appeal site.
35. If animal faecal matter is to be accepted at the plant it will be subject to a Waste Management Licence. (WML) The protection of the environment and human health as a result of operations from waste management facilities is the responsibility of NIEA. NIEA will only issue a WML if they are satisfied that appropriate pollution control measures are in place and that the operations pose no unacceptable risk to human health or the environment.
36. I am satisfied that appropriate and robust risk assessments have been carried out which demonstrate that the deemed proposal will not result in unacceptable adverse impact on human health.

Residential Amenity - Noise

37. A noise impact assessment (NIA) is within the ES appendix 9. It identifies 25 residential properties within 300m of the AD plant with the nearest residential receptor located 55m to the south east of the digestate storage tank (no. 133 Baranailt Road). There is a cluster of residential properties located approx. 175m north east of the AD site. The area surrounding the site consists mainly of agricultural fields. A comparison of the noise impact on the nearest residential receivers against the World Health Organisation (WHO) *Guidelines for Community Noise* and an assessment of the potential for adverse noise impact in accordance with BS 4142: 2014 *Methods of Rating and Assessing Industrial and Commercial Noise* was carried out.
38. Monitoring noise surveys were carried out at the nearest sensitive receptors (133 Baranailt Road to the SE and 135 Baranailt Road to the NE) on 29 January – 30 January and after installation of initial noise mitigation measures on 10 April – 11 April 2018.
39. The mixer motor noise on the two AD tanks were identified as the main noise sources on the site. There are 3 mixer motors on the first AD tank and 2 mixer motors on the second AD tank. These were identified as being very loud with a discernible tone emanating from the source – they also operate by alternatively switching on and off at 10 minute intervals. Mitigation measures included the installation of a steel casing cover around each mixer motor and internal insulation of 50mm thick Rockwool to allow for absorption of the noise within the cover and prevent reverberant noise. This mitigation reduced noise breakout significantly. These mixer motor covers were installed in early February 2018. An assessment of the effectiveness is set out in

Table 3 of the NIA 2019 and shows that the noise levels at 1m from the mixer motor was reduced by 6-7 dB (A).

40. The external gas cleaning unit on the east façade of the CHP building was also identified as a significant external noise source clearly audible at the nearest receiver locations to the NE at 145 Baranait Road and 135 Baranait Road. In August 2018, a 2.2m high blockwork wall was installed at approximately 4m from the gas cleaning unit. This noise mitigation design has resulted in a noise level reduction of approx. 8 dB (A), while also attenuating the lower frequency tones.
41. Cassidy Acoustics were appointed by the objectors to review the noise chapter of the ES and determined that noise at the nearest noise sensitive receptor would be regarded as having a significant adverse impact both during daytime and night time periods according to the relevant assessment standards. It recommended further mitigation measures to address the tonal component of the noise associated with the AD, particularly as it noted that this could be easily resolved and would greatly improve the noise character and reduce overall noise levels.
42. To address the issues raised by Cassidy Acoustics for the objectors, that a tonal component was intermittently recorded at 1,000 Hz during a noise survey in December 2018, the appellant has constructed blockwork walls in front of the two mixer motors which are on the side of AD tank no. 1 and AD tank no. 2 facing towards the Moore property (no. 133 Baranait Road). The orientation of the walls was designed to allow for effective reduction in noise levels at the receiver locations while also allowing access for maintenance. The block walls were installed in the week beginning 8 July 2019. After installation, an assessment of the sound level reduction and the effectiveness of the new walls in attenuating the tonal component at 1,000 Hz was carried out on the evening of 11 July 2019.
43. It found that the broadband and frequency data indicates a significant reduction in sound pressure level in proximity to the mixer motors due to the walls in front of the mixer motors. The walls have resulted in a reduction of approx. 13 dB (A) L_{eq} and approx. 16 dB(A) L_{max} . At a frequency of 1,000 Hz the walls have resulted in a reduction of approx. 17 dB. While a tone at 1000 Hz is still measured at source, the sound level at 1,000 Hz has reduced from 67 dB to 51 dB. This is a significant noise attenuation and has resulted in a perceptible reduction in sound levels in proximity to these mixer motors on site.
44. At the site boundary opposite AD tank 1 mixer motor and AD tank 2 mixer motor, the sound pressure levels are approx. 47.5 dB(A) L_{eq} and approx. 46 dB at a frequency of 1,000 Hz. By comparisons, the sound pressure level at a frequency of 1,000 Hz naturally attenuates by 5 dB over a distance of 20m from the AD tank 2 mixer motor. Therefore, at a distance of 85m from the AD tank no 2 to the area of the rear of no 133, based on sound propagation calculations, equates to a sound pressure of approx. 35 dB (A) L_{eq} and approx. 33 dB at a frequency of 1,000 Hz. While the noise attenuation measures have not eliminated the tone at 1,000 Hz in terms of prominence, the noise attenuation measures have resulted in a significant reduction in the actual tone noise level at 1,000 Hz. The Council dispute the 85m distance used. From my own measurements, I am satisfied that this an accurate distance between the rear amenity space of no 133 and AD tank no 2 for the purposes of these sound propagation calculations. The 25m distance quoted refers to agricultural land in the appellants ownership.

45. The 11 July 2019 noise survey at the front of no 133 Baranailt Road, recorded a sound pressure level of 44 dB (A) L_{eq} and 37 dB (this was influenced by the AD plant and traffic on Baranailt Road and Drumreighland Lane). This shows that no tonal noise level at 1,000 Hz was recorded at this location.
46. The reported site specific sound pressure level of 36 dB (A) L_{eq} recorded by Cassidy Acoustics, (during both day and night time) and the above predicted sound pressure level of approx. 35 dB (A) L_{eq} are not significant noise levels and are not at a level which are adverse or significantly adverse.
47. BS 4142: 2014 requires that the potential to cause an adverse noise impact or a significant noise impact should be discussed 'depending on the context' of the noise. 'Context ' is not defined in BS 4142. However, the appellant points out that it is important to note that the typical level of common sounds on the dB (A) scale, indicate that an external noise level at the nearest residential receptor (133 Baranailt Road), is in the region of 35 – 36 dB (A) L_{eq} with a level of approx. 30 dB at a frequency of 1,000 Hz which is not a loud noise level.
48. With reference to the complaint history and monitored findings by EHO carried out on 5 October 2018 for a 15 minute period 11.05 – 11.20pm, the referenced noise sources included paddle motors, the filling and movements of a slurry taker and the movements of a loader. An 'equivalent noise level of 44.9 dB' was recorded. As required by BS 4141:2014, there is no reference to context and no background noise levels were undertaken - and I accept that it is impossible for the appellant to analyse these findings in any detail. I note that one noise complaint has originated from no 133, since the initial mitigation measures and none since the final mitigation measures installed in July 2019. At the hearing, the EHO officer reported results of sound readings taken the week before within the rear garden of no. 133. The reading was 33.1 db (A) L_{eq} , which equates with the appellant's sound propagation calculations. It was acknowledged by the EHO officer that due to the mitigation measures, the sound levels had reduced, although she could still pick up a tone – however this was not explained to be at an unacceptable level.
49. In conclusion, I am satisfied that the installed mitigation measures have resulted in the reduction of the noise levels from the operations of the AD plant to an acceptable level at the closest noise sensitive receptors ie 133 Baranailt Road. The overall noise levels from operations of the plant are not significant in terms of background noise. In terms of noise the AD plant will not result in an unacceptable adverse impact on residential amenity. Conditions are required to protect the amenity of residents.
50. The Council and objectors raised concerns regarding the noise from traffic movements around the site and deliveries. The appellant explained to me the traffic movements in a typical working day on the AD plant site. The loading of the feeder of the AD tanks takes place for approximately 1 hour between 8.30am and 10.30am each morning. This is undertaken using a typical front loader (Manitou). For approximately 15 days during the 'open season' when digestate spreading on surrounding lands takes place, there are a number of digestate tanker movements during the day – between 9.30am and 16.30pm. During the summer the site receives the delivery of silage feedstocks via tractor and trailer during cutting periods which occurs during daytime and up to late evening – this is infrequent. Lactose deliveries take place twice a week and last for 15 minutes. This equates to < 0.3 % of the year.

There are no traffic movements at night. I consider that these operations are fairly typical activities within a rural farming area. I consider that conditions are necessary to restrict traffic movements to, from and within the site to protect the amenity of residents.

51. I was told that in early July 2019, the appellant installed a high 1.8m high close boarded timber fence with a density of $> 25\text{kg/m}^2$. This will act as noise barrier especially for intermittent traffic movements along the site road which is directly adjacent to the site boundary with Mr Moore's property.
52. Given the pattern of traffic movements on site, imposition of conditions and the installation of the close boarded fencing, I am not persuaded that the traffic movements constitute a significant noise source throughout the day.

Residential Amenity - Odour

53. Anaerobic digestion is a biological process that produces a gas principally composed of methane (CH_4) and carbon dioxide (CO_2) otherwise known as biogas. Both methane and carbon dioxide are odourless. Biogas will contain trace levels of odourous gases such as ammonia (NH_3) and hydrogen sulphide (H_2S). The methane produced in the biogas in the appeal proposal plant is burned to produce heat and electricity. The levels of hydrogen sulphide in the gas are removed by gas scrubbing and cleaning equipment. The process in the AD plant ie decomposition or the rotting of organic matter under controlled conditions, is inherently odourous as the purpose is to produce biogas. Therefore, while there is the potential for odour emissions from an AD plant this does mean that an AD plant will always give off strong odours that are detectable off site. I was told that when plants are designed, constructed and operated in accordance with Best Available Techniques (BAT), AD plants can produce less odour than many common agricultural practices.
54. Chapter 10 of the ES assesses the odour impacts of the AD plant and also sets out mitigation measures which have been implemented and installed. It includes a detailed odour assessment to consider the potential impact of odour emissions from the AD plant on the sensitive receptors in the vicinity of the plant.
55. Based on subjective odour assessments of the identified odour sources and odour dispersion modelling, the following odour mitigation measures were installed on the AD plant in 2018 and are in accordance with Best Available Techniques;
- Removal of Solids Separator; this unit was removed in March 2018. This has removed the 'vent' above the separator as an odour source. The stored solids in the separator were not noted to be a strong odour source but the gases emitted to the atmosphere from the 'vent' were odourous;
 - The installation of a flexible biolene roof to the digestate tank with extraction of biogas for combustion in the CHP engines. This has removed the potential for release of AD gases from the digestate. These gases were noted to be a potentially strong odour source;
 - Cessation of direct tanker extraction activities, in that the AD plant reverted to normal running operations with only seasonal removal of digestate during the spreading season from 1 February to 15 October;

- Pre – pit x 2; Installation of a pipework system to extract malodorous air from the pre- pit to create a negative pressure. The system includes suitably selected and sized activated carbon based air treatment unit which release treated air to the atmosphere. This has removed the potential for release of gases from the pre pit which were noted to be a potentially strong odour source;
 - Feed hopper (vielfrass); Installation of a cover to contain odours. This has reduced the potential for release of silage odours;
 - Silage clamp material storage; regular inspections of clamp sheeting for cracks and tears and proper weighing down. On-going control of potential odours;
 - Weather station; Installation of an electronic weather station with logging and trending capabilities including wind speed, direction and temperature. This can identify adverse weather conditions for the purposes of increasing operator awareness of such conditions so site operations can be directed accordingly.
56. The appellant carried out subjective odour surveys to assess the benefits of the installed mitigation measures. These were undertaken on 19 September 2018, 20 September 2018, 30 November 2018, 3 December 2018, 21 March 2019 and 26 March 2019. These were carried out in accordance with the procedures outlined in the NIEA, Odour Impact Assessment Guidance for Permitted and Licenced Sites 2012.
57. During the odour survey periods undertaken on 19 and 20 September and 30 November 2018 it was reported that no distinguishable anaerobic digestion gases were recorded off site. The main area of potential odour source on site was noted to be the silage clamp. A faint and consistent odour typical of a silage clamp was noted in close proximity to this source and within the site boundary. The odour of the silage clamp was noted to be of a vinegary type odour – typical of the fermentation process. No distinguishable AD gases were noted within the boundary or off site. The AD tanks had a visible dome on top which indicates that any AD gases from the AD process or from the storage of digestate are being enclosed and extracted for combustion within the CHP plant.
58. On 3 December, the appellant's consultant requested that EHO officers undertook a joint odour survey and 8 individual surveys were undertaken. At 133 Baranailt Road – downwind of the AD plant – a faint and intermittent odour typical of a silage clamp was recorded and reported as being a 'vinegar' type odour typical of a silage clamp. No distinguishable AD gases were recorded and the tanks had visible domes indicating that AD gases are being enclosed within the tanks. Between 13.45 and 14.00 there was a lactose delivery to the site. Lactose deliveries are received twice a week before 5pm and the delivery time for a full tanker is 15 minutes. During the delivery a 'strong' odour was reported in the vicinity of the delivery point. The delivery point had been fitted with a pipework system to extract malodorous air through an activated carbon based treatment unit. During the delivery it was noted that there was a leak in the pipework and the appellant company were advised to replace this, the odour extraction unit was also not in operation. This specific odour was not detected at 133 Baranailt Road. It ceased after 15 minutes and the 'faint' and 'intermittent odour' was again recorded. The 2 EHO officers present were of the opinion that the odours off site at 133 Baranailt Road were 'strong' or 'very strong'.
59. It was noted that at the time of this survey a 'strong' and typical agricultural farm odour including manure and silage run- off was detected at the junction of Baranailt Road

and Drumreighland Lane in proximity to the nearest property to the east of this farm yard. Odours from manure and silage run – off at this location were noted to be ‘strong’ and ‘persistent’ and from the adjacent farmyard. Due to the west-north-west wind direction the silage odour detected was not from the AD plant site.

60. During 21 and 26 March 2019, under ideal meteorological conditions for off – site dispersion of odours, it was reported that no distinguishable AD gases were recorded off site.
61. Post Mitigation, between January and May 2019, the Council reported that there had been 6 odour complaints received. From my analysis of the EHO compliant worksheets each of the complaints from 133 (5 no.) and 165 (1no.) were verified by a site visit carried out by EHO and odour nuisance conditions were witnessed.
62. Following a site visit by EHO and Planning Officers upon invitation by the appellant to view the remediation measures regarding odour on 20 September 2018, EHO worksheets were provided for 8 complaints – primarily from 133 with one from 135 and one from 161 in September and October 2018. Each compliant was verified by EHO site visit and odour nuisance conditions were witnessed. In response to the single complaint from 161 Baranait Road on the 28 September 2018, the appellant stated that this related to drawing material off the tanks which was temporarily being undertaken while the new covering of the digestate storage tank was being installed and commissioned.
63. Statutory nuisance in terms of smell is defined within Section 63 1(d) of The Clean Neighbourhoods and Environmental Act (NI) 2011 ‘ *any dust, steam, smell or other effluvia arising on industrial, trade or business premises and being prejudicial to health or a nuisance*. EHO undertook a number of visits post mitigation (18 no.) in which statutory nuisance levels of odour were experienced. Witness statements have been provided which were considered in the court proceedings for the abatement notices along with updated residential statements in the objector’s submissions. The statements state that the malodour is characterised by either a strong vinegary gassy odour or a strong egg smell. The residents say that smells are pungent, nauseating and pulsate from the plant. They are forced to close windows and doors. The smells are unique to the area. It states that they cannot enjoy their outdoor amenity area to sit in or dry washing. Residents have reported eye and throat irritation as well as nausea. The Council attaches considerable weight to the frequency of complaints and that fact that many are corroborated by EHO.
64. The appellant claims that the compliant history and monitored findings by EHO do not include any site records or follow a reporting format consistent with the methodology outlined in the NIEA Odour Impact Assessment Guidance for Permitted and Licenced Sites, August 2012. The appellant claims that there is a lack of definition given to the accurate location of the odour surveys, whether the monitoring point is upward / downward, weather condition at the time – wind direction and strength, lack of mapping, assessment and recording of the odour intensity, persistent, extent etc. The ‘FIDOL’ methodology of reporting including frequency, intensity, duration, offensiveness and receptor location helps to determine the degree of odour pollution. The appellant claims that the odour surveys do not follow the suspected odour to its source location so as to pin point the exact cause of the reported odour nuisance and the lack of wide range descriptors used to define the odour experienced off site at the

receiver locations makes it difficult to interpret and assess the findings of the odour surveys undertaken by EHO.

65. Surprisingly, none of the details of the complaints were forwarded to the appellant company / operator at the time - which would have been helpful given the circumstances and would have allowed an accurate investigation to determine the odour source. I note this approach was agreed at the meeting with EHO and the appellant company on 20 September 2018 – however no details of any complaints were fed back to the appellant company. Timely knowledge of the complaints would have allowed for a joint site visit and allow for an accurate investigation to determine the precise odour source and assist in investigation and solving any on – going reported odour issues.
66. The appellant then carried out 4 additional odour surveys in accordance with the methodologies outlined in the NIEA Odour Impact Assessment Guidance for permitted and Licenced Sites. These were undertaken during periods of suitable wind direction/ strength when there has been a potential for complaint at the nearest residential property. These un-announced odour surveys were carried out on 21 March 2019 @10.30-12.15, 26 March 2019 @10.05-11.30 and @14.00-15.00 and 2 May 2019 @15.30 – 16.45. It was concluded that there was no AD gas odours detected off site.
67. The objectors refer to 21 March 2019 and 2 May 2019, odour reporting forms. The former states that at assessment location 8 (within the site and next to the AD tanks) that a 'very occasional H₂S smell? ' was observed at 11.48. Also the latter stated that 'AD gas odours experienced in the immediate locality of AD tanks' at 16.10. I note that these observations were within the site and close to the tanks. The overall conclusions were that no AD gas odours were detected off site.
68. Council state that since the appellant's odour assessments further complaints have been received on 8/9 September 2019 regarding odour over the previous weekend and its impact on residents – however details of these were not presented.
69. In conclusion, the appellant's post mitigation surveys in September and December 2018 and March and May 2019, indicated that no strong AD plant gas odours which could be described as a 'digestate gas smell' were detected in close proximity to the AD plant at residential receivers. The appellant claims that the installed mitigation measures have permanently removed the main odour sources ie odours from the solids separator and the digestate storage tank have allowed for the collection of all digestate gases and the subsequent combustion in the CHP engines. Also operational improvements on site have also reduced the potential for odours to emanate from the site and disperse. However, I am cognisant of the fact that there have been a number of complaints to EHO post mitigation, in September / October 2018 and between Jan and May 2019 – which have been verified by EHO. It seems that the majority of these are from no 133 Baranailt Road. I note that no complaints have been received from properties directly downwind of the prevailing wind direction or downwind of no 133 such as 131,127a, 127b and 127. I accept that it is difficult for the appellant to address any complaints, if they did not know about them and that it is difficult for them to analyse the EHO worksheets to determine the source of odour given the limited information recorded.

70. Even so, there seems to be some disconnect between the verified complaints made to EHO and the results of the post mitigation odour impact assessments carried out by the appellant company.
71. An updated Working Plan (within FEI July appendix 11) section 4.7 sets out the monitoring and control of odours. It requires staff to carry out daily olfactory monitoring at the site boundary downwind of operations and results taken and requires that all site staff are trained to identify significant odorous emissions. It also requires that any complaints received in respect of odour immediate action is to be taken and investigated and remedial measures implemented. With reference to comments by the objectors it now includes specifications for the carbon control unit at the lactose pumping to the pre pit and includes a programme of charcoal replacement every 2 years.
72. The appellant tabled five comprehensive odour management conditions and there was significant discussion around these at the hearing. In the event of a malodour compliant, I consider it necessary to impose an odour threshold value to assess against in terms of the level of odour at which a compliant is raised. The appellant put forward a trigger level of H₂S (hydrogen sulphide) concentration of 4 parts per billion (4ppb, 6 µg/m³) at a measurement location at the site boundary of 133 Baranait Road.
73. Concerns were raised at the hearing regarding whether the proposed hydrogen sulphide monitor should be located at a height of 0.5m above the ground rather than the suggested 1.5m to 1.8m above ground level. These concerns arose because of the worry that as hydrogen sulphide is 'heavier than air' it will form a layer that will sink to a low level and therefore any monitoring should be carried out at this low level. The appellant's technical advisor, indicated that the raw biogas generated in the digesters is a mixture of gases of which hydrogen sulphide is a minor part and mixed gases do not stratify readily due to turbulence from weather and motion and molecular diffusion. Given that stratification will not occur, I was told that the optimum height above ground level at which monitoring should be carried out for contaminants with the potential for odour or health effects generally is at the height at which they may be breathed in, which is between approximately 1.5 and 1.8m above ground level. In addition, monitoring equipment so close to the ground would be susceptible to water splashes and dirt kicked up from the ground by heavy rain or vehicles.
74. Subsequent actions to take in the event of the exceedance of trigger levels were also indicated including identifying the source, proposed mitigation measures and the duration for the implementation of such measures – all with the approval of the Planning Authority. Also proposed was a Methane (CH₄) automatic monitoring equipment installed in the same field housing as the H₂S monitoring equipment. These were agreed by the parties. The objectors also requested contact details to be made available – I note that all contact details are set out in the updated Working Plan.
75. I have no reason to doubt that with suitable robust conditions and strict adherence to the updated Working Plan that potential odours from the AD plant would be successfully addressed. Taking into consideration, the fall back approval on the site which does not impose any conditions in regard to the control of odours; the opportunity to attach conditions in the interests of protecting residential amenity and given the number of specific complaints by 133 Baranait Road which is the closest residential receptor, I consider it necessary to impose such conditions. If there are any issues the Council would be entitled to enforce against breach of condition. Other

statutory provisions exist which would also safeguard the residents. Taken together, I am satisfied that full safeguards would in place for the residents, and in particular Mr Moore at no 133 Baranait Road.

Public Safety

76. Objectors submitted a report by Dr Gornall dated 19 March 2019, which raised concerns in relation to the plant operating capacity, vehicle movements, emissions (noise and odour) and safety assumptions. This was responded to by a report by Ricardo Energy and Environment, July 2019 on behalf of the appellant.
77. In respect to the plant operating capacity the Gornall report assessed that the plant had an operating capacity of 1MW. The Ricardo report concluded that this assessment did not consider the physical constraints of the facility design, such as the CHP units, digestate storage capacity and operating dry solid content in the digesters and had based the assessment on feedstocks and feedstock tonnages not used or proposed to be used. When corrected to reflect current actual and proposed feed volumes the plants ability to generate biogas reflects a plant generating 500 kW of electricity. The as – built facility is also constrained by the CHP units (2 x 250Kw), the contractual limits for feeding electricity to the grid (500 kW), and the fiscal incentives of only having ROCS accreditation for 500 kw. I consider that a condition is necessary to cap the scale of operations and electrical generating capacity of the plant.
78. Vehicles Movements – Vehicles movements for the delivery of feedstock materials and the removal of digestate are provided in the EIA Chapter 11 (Transport) and specifically relate to the capacity of the plant. The Gornall report vehicles movements reflect those associated with a higher volume output plant and has assumed smaller vehicles resulting in a larger number of vehicle movements. I note that, the 2012 approval had no conditions associated with the movement of vehicles. The main storage of feedstock materials was on the other side of the lane which would result in up to 30 vehicle journeys each day crossing the lane to collect feedstock to feed the plant – the feed hopper is closer is also closer to the nearest residents house which would cause a greater level of disturbance than is the case with the constructed plant. The as built plant has the silage clamps to the far western end of the site (furthest away from nearest residents) which would be filled on a seasonal harvest basis, therefore reducing daily vehicle movements delivering feedstocks. The feed hopper is at the western end, again further away from the nearest residents. In conclusion, I consider that vehicles disturbance would be much lower than that suggested by the Gornall report as the extent of feedstock would be lower, vehicles loads greater and the plant layout mitigates exposure to unacceptable disturbances for the nearest neighbour.
79. In terms of safety assumptions, the appellant company confirmed that operators of processes handling hazardous materials are required to undertake assessments of potential incidents and identify possible equipment failures and accidents that might lead to any of the events cited by Dr Cornell occurring, and to develop control measures that mitigate the risk of such events occurring and the extent of the impact if an event were to occur. The appellant confirmed the following assessments are in place:
- A Hazard and Operability Survey (HAZOP),

- DSEAR and ATEX assessments including the identification of ATEX zones which have been updated to include the installation of the cover to the digestate storage tank.
 - Dangerous Substances and Explosive Atmospheres Regulations 2002 (DSEAR),
 - ATEX is the name commonly given to the two European Directives for controlling explosive atmospheres. ATEX certification may be required dependent upon the type of equipment and the nature of the hazardous area in which it has to be installed.
- Working Plans which include the following procedures; Accident Management Procedure, Fire Safety Procedures and Leak and Spillage Procedures.

80. Gas leaks and explosion risks – Dr Cornell’s report seems to suggest that the risk of worst case scenarios affecting nearby residents is high, in particular from fire and explosions and from asphyxiation and poisoning by biogas and H₂S. The Ricardo report includes a review of the facility operating data which indicates that the actual impact on nearby residents for many of the worst cases scenarios is negligible. Also undertaken is a qualitative assessment of the factors (plant failures) that need to occur simultaneously for such worst case events to occur. The Ricardo report concludes that the low impact on residents combined with the low risk that the incidents would occur in the first place means that the risks of worst case scenarios occurring are very low and typical for an AD plant of this scale, and not as asserted by the Cornell report as high.

81. Emergency Flare - Dr Cornell contends that the current flare is ‘unacceptable’ based on it not reflecting the ‘the standard for large biogas plants,’ and he also asserts that ‘ the flare, in my opinion is too close to the dwelling and the normal design distance would be 200m’. The CHP units are located to the north west of the plant in excess of 100m from the nearest dwelling - 133 Baranailt Road. The emergency flare is located to the west of the CHP units and approximately 140m from 133 Baranailt Road. The Ricardo report concludes from air dispersion modelling that the location of the flare does not present any risk to nearby residents and complies with regulatory requirements as an emergency flare for a small AD facility. The flare is also serviced and regularly tested. I note that the current flare is further away from the nearest neighbour than the flare in the 2012 approval.

82. Tank leaks – Dr Cornell’s report states that there is a visible crack in the storage tank and a bund should be provided. From a regulatory point of view the site is not required to have tank bunds, however a perimeter bund is in place. I note that a structural integrity assessment has been prepared by Professor B McFarland of McFarland Associates Civil and Structural Engineering Consultants which concludes that the risk of failure of the tanks is extremely unlikely. The appellant provided information that a Macrete Ireland Ltd engineer assessed the tank and noted that there was hairline cracks with no signs of weeping and the storage tank in his opinion is structurally sound.

83. In the event that any leakages may occur, these would be identified by means of a daily visual inspection and monitoring and measures are in place to contain any spills. The appellant has assessed the risk of significant leaks and has in place appropriate leak and spillage procedures. (All of which are in the Working plan – appendix 11 of appellant’s rebuttal statement). Low level bunding is proposed to divert and capture

any small leaks that could arise to a holding tank at the bottom of the site located within the concrete apron to the east of the storage tank.(drg 3595 A02 rev dated 4/7/2019).

84. In conclusion, I consider that the Gornall report lacks an evidential analysis of the deemed proposal and relies on general assumptions. In my opinion, the Ricardo report provides a robust rebuttal to the concerns raised and demonstrates that the operation and design of the plant contains a number of strict safeguards, back – up measures and fail safes to significantly reduce the risks of major accidents. In addition, the Ricardo report concludes that to the best of the author’s knowledge there are no known instances of failures of this specific plant type.
85. Policy RE 1 (d) of PPS 18 requires that the development from renewable resources will not result in an unacceptable adverse impact on local natural resources, such as air quality or water quality.

Air Quality and Water Quality.

86. The Council stated that the ES has not demonstrated that the proposal will not result in an unacceptable impact on air and water quality in respect of designated European sites and sites of Nature Conservation Importance. An updated air quality assessment taking into account the comments of DAERA Natural Heritage and Conservation Area division dated 4 December 2018 was submitted in Appendix 7 of the appellant’s SoC.
87. Appendix 4 of the appellant’s rebuttal statement is their response to the comments of NIEA Water Management Unit (WMU) dated 12 February 2019 in respect of water quality, landbank spreading capacity and on site digestate and dirty water storage capacity. The appellant has stated that in summary, careful feedstock selection and planning will regulate the amount of digestate produced to ensure sufficient storage capacity is available on site to cover the closed spreading period and that the level of the digestate produced by the plant does not exceed landbank capacity.
88. In terms of the need for any additional landbanks, it would appear that NIEA WMU comments are made on the basis that the plant will always run at the maximum feedstock capacity of 20,750 p.a. I was told that in reality this is not the case as the plant regulates the feedstock input to control digestate output so that it is commensurate with the landbank capacity therefore ensuring compliance with the NAP regulations. The impact upon water quality from the spreading of digestate containing organic manures is considered in table 6.11 of the ES Hydrology and Hydrogeology chapter. NIEA’s response to the ES, confirms that it is satisfied that adherence to the requirements of the NAP regulation should ensure no water quality effects from land spreading of digestate. It was confirmed that on site dirty water is collected in pre-pit 2 (dirty water tank) and is spread to land when the levels are high. Issues in relation to biodiversity and nature conservation are addressed below.
89. Accordingly, I conclude that objections in terms of human health, public safety, residential amenity including odour and noise and air and water quality in so far as they are referred to in the Council’s first deemed reason for refusal in connection with Policy RE1 of PPS 18 have not been sustained.

Roads Issues

90. Planning Policy Statement 3 (PPS 3) Access, Movement and Parking, Policy AMP 2 : Access to Public Roads states that planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access, onto a public road where such access will not prejudice road safety or significantly inconvenience the flow of traffic. It states that the acceptability of access arrangements, including the number of access points onto the public road, will be assessed against the Department's published guidance. Consideration will also be given to the nature and scale of development; the character of existing development; the location and number of accesses and the standard of the existing road network together with the speed and volume of traffic using the adjacent public road and any expected increase. Development Control Advice Note 15, Vehicular Access Standards also provides relevant guidance.
91. I concur that the baseline position is approval B/2012/0120 for an AD plant with a 500kw output which has no restrictions on the sources or tonnage of feedstocks. This has been implemented and is a live planning permission. As such, in the appellant's analysis, the traffic associated with this approval has been factored into the baseline conditions which is in accordance with the *Traffic Assessment Guidelines for Development Proposals in Northern Ireland 2006*. This guidance makes reference to the Institution of Highway Engineers and Transportation Traffic Impact Assessment (TIA) guidelines 1994 – it is this guidance which establishes the 5% traffic increase as the threshold. These TIA guidelines set out the process for determining the traffic impact of a development and the starting point is the existing traffic conditions. At paragraph 3.2.9, the TIA guidelines note that the existing conditions '*should identify any developments that have planning permission but are not yet implemented, or any schemes that are implemented but are as yet unlet or empty*'. The implemented approval on the site falls into the second category, as it is not yet completed, and is therefore not yet contributing to traffic on Drumreighland Lane. The proposal to retain the constructed AD plant will replace the approved plant.
92. The AD plant is on the Drumreighland Lane which a rural lane serving a number of premises and farmlands. As mitigation measures, the appellant proposes a one way system to access / exit the AD plant. It is proposed to access the site via the Glenhead Road lane and exit the site via Drumreighland Lane onto the Baranait Road. This would reduce the amount of traffic on the Drumreighland Road by 50 %.
93. DFI roads argued 2 main issues – intensification of the lane and lane width. It was accepted that the required visibility splays of 4.5m x 160m onto the Baranait Road are in place.
94. Intensification: In CCG rebuttal statement at appendix 4, DFI Roads calculated a figure of increased vehicle movements at 13% - 15% which is greater than the 5 % intensification threshold. It was concluded therefore that AMP 3 of PPS 3 is relevant in that the additional increased use of a sub – standard access (in terms of the access width only) has road safety implications in that the current access is insufficiently wide to allow vehicles to safely pass at the end of the lane which means that HGVs and large tankers making reversing manoeuvres back out onto the Baranait Road, therefore prejudicing road safety. Therefore, as a consequence of the intensified use of the lane DFI Roads consider the widening of the access as a requirement in

accordance with Dcan 15 section 10. The reason for refusal stipulated that the following change is required : required access width unto Baranait Road should be increased to 6m for the first 20m from the edge of the public road with 10m radii. It was agreed that the required visibility splays of 4.5 x 160m are in place. The need for improvement of the access only arises with intensification above the trigger of 5 %.

95. At the hearing the appellant provided updated Traffic Calculations for intensification in response to DFI Roads comments and concluded a 3% increase in traffic movements. This took into consideration the proposal to use the lane from Glenhead Road and also a proposed feedstock cap of 16,000 tpa – which could be conditioned.

Lane user	DFI estimate	Corrected DFI estimate (excluding 60 t per day AD Plant)
1.Existing houses	130	150
2.Permitted houses	0	20
3.Permitted AD	2	4 + seasonal
4.Farm Traffic	0	4+ seasonal
5.Workshop at 145a	0	2
6.Moores Contractors	0	16 + seasonal
Baseline Total	132	196 + seasonal
7.AD plant (revised for 16000tpa cap)	16	12 (reduces to 6 with one way system)
8.Impact	13%	3%

1. DFI have accounted for 13 houses on the lane but there are 15
2. DFI have previously agreed and continue to support traffic from 2 further houses
3. In the ES the AD traffic was estimated at 20 vehicles per day. A portion (20%) was from landbank E which is what DFI roads consider to be the permitted AD traffic.
4. There is a farm on the lane with 200 cattle – taken to equal the AD plant.
5. 145a is a workshop and nominal traffic would be 1 trip each way
6. Moores operate an agricultural contractors from no 133. 16 vehicles assume 4 arrive and depart twice a day.
7. DFI considered all of the trips to be additional. This is not the case as they acknowledge that an AD plant was approved. For the 20075 tpa proposal there would be a further 16 trips per day which reduces to 12 additional trips with the 16000 tpa. (This is notwithstanding that the appellant considers 100% of the trips are permitted)
8. The 16 trips is halved due to the proposed on one way system.

96. The appellant concludes that even when the 60t per day permitted is ignored, intensification will still not occur as the average trips per day will not result in traffic increases above 5 %.

97. Various arguments were put forward at the hearing to dispute the figures presented by the appellant. It was argued that some of the houses are vacant and the workshop is vacant, and Moore's contractors are seasonal and would have only have 8 vehicle movements. I note that the number of dwellings on the lane was taken from the Council's own records.
98. It is irrelevant the some houses and workshop are vacant. The farm with 200 cattle is Mr Gamble's. Even with 8 vehicles for the Moore's workshop, it does not affect the overall figures and intensification. I am satisfied with the figures presented demonstrate that there is no material intensification.
99. Access Width: DFI states that concerns remain in relation to the width even though the proposal may be below the 5% threshold in that width is a free standing issue and not dependant on the 5 %. The nature and size of vehicles to and from the proposal should be considered. Dcan 15 requires a minimum of 6.0m width and Drumreighland Lane is 4.1m. Therefore it is not wide enough for 2- way traffic. Road safety concerns that vehicles would not be able to pass and large vehicles would reverse unto the Baranailt Road. Access width should accommodate the largest vehicle. Space is required to come off the road say for 20m however this is not specified in policy.
100. Collision history from the Police Service of Northern Ireland was presented by the appellant between 127 and 165 Baranailt Road which recorded 1 'slight collision' with 3 'slightly injured' in the period between 1 July 2009 and 10 June 2019.
101. The appellant also referred to approval B/2014/0167 for a dwelling on the lane in which Roads Service were content with 5m width minimum for the first 10m from the edge of the road. Although this approval is for a dwelling, it was considered large enough for 2 vehicles to pass.
102. The requirements state that the access width onto the Baranailt Road should be increased to 6m for the first 20m from the edge of the public road with 10m radii. Undisputed evidence was that, the lane is 5.5m wide for 12m and 4.1m wide thereafter and my own site measurements confirm this. Taking into consideration that AD traffic will be travelling from the proposal in one direction only – exiting, that traffic will be on the lane exiting for only a short period of time, the seasonality of the proposal, the fall back which allows two way traffic and 60t per day which would result in more conflict, the fact that the required visibility splays of 4.5 x 160 m are in place and the collision history for the previous 10 years I consider that the width of the access onto Drumreighland Road is not unacceptable and would not prejudice the safety and convenience of road users. I have not been persuaded that the development is in conflict with PPS 3 Policy AMP 2 and the Council's second deemed reason for refusal has not been sustained. In addition, I am also satisfied that the development can meet the necessary road safety requirements as set out in bullet 4 and 5 of Policy WM1 of PPS 11.

PPS 2: Natural Heritage

103. The Council's fifth deemed reason for refusal referred to Policies NH1 and NH3 of PPS 2. Planning Policy Statement 2, Natural Heritage, Policy NH1 – European and Ramsar Sites – International, states that planning permission will only be granted for a development proposal that, either individually or in combination with existing and / or proposed plans or projects, is not likely to have a significant effect on a European

Site (Special Protection Area, Special Areas of Conservation, candidate Special Areas of Conservation and Sites of Community Importance); or a listed or proposed Ramsar Site. Where a development proposal is likely to have a significant effect (either alone or in combination) or reasonable scientific doubt remains, the Department shall make an appropriate assessment of the implications for the site in view of the sites conservation objectives. Appropriate mitigation measures in the form of planning conditions may be imposed. In light of the conclusions of the assessment, the Department shall agree to the development only after having ascertained that it will not affect the integrity of the site.

104. Policy NH3 – Site of Nature Conservation Importance – National, states that planning permission will only be granted for a development proposal that is not likely to have an adverse effect on the integrity, including the value of the site to the habitats network, or special interest of an Area of Special Scientific Interest.
105. The Habitats Directive (92/43/EEC) transposed by the Conservation (Natural Habitats) Regulations (Northern Ireland) 1995 as amended requires every public body to consider the implications of a proposal on European designated sites and make an appropriate assessment where there are any likely significant effects.
106. A Shadow Habitats Regulation Assessment (sHRA) – Stage 1 Assessment of Likely significant effects and Stage 2 Appropriate Assessment was submitted by the appellant in July 2019. This was to inform the Competent Authority's Habitats Regulations Assessment. The PAC are now the competent authority.
107. The site of the AD is not in, or immediately adjacent to any Natura 2000 designated site. The closest Natura 2000 site to the AD is the River Roe and Tributaries SAC which lies 3km to the east. Other sites within 10km are Lough Foyle SPA and Lough Foyle Ramsar Site, with the River Faughan and Tributaries SAC and Binevenagh SAC just outside this distance at 10.24km and 10.91 km respectively. The closest watercourse to the AD plant is 0.19 km north of the site which drains into the designated Lough Foyle sites located around 5km downstream to the north.
108. The spreading of fertilisers should be considered a project under both the EIA Directive and the Habitats Directive. The spreading of slurries, digestates and other fertilisers must be assessed. The proposal also includes 5 landbanks (A to E) for the spreading of resultant digestate. NIEA recommended assessment of likely significant effects within 7.5 km of each area. Designated Natura Sites potentially affected within this radius include Lough Foyle SPA and Ramsar Sites, River Roe and Tributaries SAC, Bann Estuary SAC, Magilligan SAC, Skerries and Causeway SAC, River Faughan and Tributaries SAC, River Foyle and Tributaries SAC and Binevenagh SAC. The closed watercourses from each landbank vary from immediately adjacent in most cases to 0.46km away for Landbank C.
109. The landbanks are identified in the ES. Each landbank comprises of a group of fields which receives digestate through spreading. The volume of digestate that each landbank can receive is calculated on an annual basis in a Nutrient Management Plan(NMP) which is affected by the quality of the digestate, stock levels on the land bank and the amount of land available for spreading. The 2018 NMP for each landbank is contained in appendix E of the ES.

110. Within the sHRA: Stage 1 screening concluded that the proposal has the potential to result in :

- 1) The degradation of aquatic habitats through a deterioration in water quality resulting from the AD plant and landbanks A to E, with potential to impact the following Natura 2000 sites : Lough Foyle SPA, Lough Foyle Ramsar, Lough Foyle River and Tributaries SAC, River Roe and Tributaries SAC and the Bann Estuary SAC and
- 2) An increase in airborne emissions from spreading of digestate on Landbanks A to E, with potential to impact the following Natura 2000 sites : Lough Foyle Ramsar, Lough Foyle River and Tributaries SAC, River Roe and Tributaries SAC, Bann Estuary SAC, Magilligan SAC, Skerries and Causeway SAC, River Faughan and Tributaries SAC, and Binevenagh SAC.

111. It was concluded that these pathways could potentially result in likely significant effects upon favourable conservation status of qualifying features of nine designated sites. Likely Significant Effects are possible when this project is considered alone and in combination with other relevant plans and projects. It is therefore considered necessary for this project to progress to Stage 2 – Appropriate Assessment.

112. Stage 2 results of Appropriate Assessment (AA).Following the incorporation of in built and additional mitigation:

- 1) AD Plant – already has a number of mitigation measures in place. Additional mitigation to further reduce the risk of fuel and digestate leaks is required and
- 2) Landbanks – digestate spreading to follow NAP guidelines, including producing detailed maps of the areas of fields to be left untouched due to the proximity of watercourses. The use of low emission manure application techniques are also recommended.

113. Stage 2 determined that the identified likely significant effects of the deemed proposal, when considered alone and in combination with other relevant plans and projects, would not result in an adverse effect on the integrity of any designated site.

114. In the CCG rebuttal it noted that it is current NIEA policy to consider any development with emissions of less than 1% of the critical load or level to be insignificant. However, I was informed that this policy is being reviewed in light of case law, legal advice and expert opinion. It was stated that NIEA cannot conclude with sufficient certainty as to the absence of effects on designated sites even when the process contribution is less than 1 % the critical load.

115. At the hearing the representative from NIEA stated that they were using different guidance within in an internal document which sets out the SES approach to consideration of ammonia emitting projects. This document is entitled 'Guidance for assessment of ammonia emitting projects for the purposes of Habitats Regulations Assessment 'by Shared Environmental Service dated 30. 07. 2019. As post hearing evidence, it was circulated to all parties for comments and to inform the shadow HRA.

116. The key difference was that SES assesses process contributions greater than 0.1 % of critical levels. Thereafter SES assesses each project in light of evidence and the site selection features and conservation objectives for sites potentially affected.

117. I also was told by CCG that the levels referred to in SES guidance ie the new 0.1 % trigger level is currently subject to legal challenge. It is an internal unpublished guidance document. In that context, I must give greater weight to the original document.
118. In this context, the post hearing evidence does not advance this argument any further. However, I note that even taking into consideration the appellant's post hearing evidence in response to the ' internal ' trigger levels, NIEA's final position dated 22 November 2019 was that if land spreading is undertaken in accordance with the NAP 2019 regulations there should be no detrimental impact to waters in the vicinity of the spreading.
119. The role of NIEA, acting as the Statutory Nature Conservation Body (SNCB), is to provide advice to competent authorities in relation to the potential impacts of a proposal on the bio and geo diversity of Northern Ireland's suite of nationally and internally designated sites. The PAC as the competent authority, has a legal requirement to consult the SNCB under Regulation 43 of the Conservation (Natural Habitats) Regulations 1995 (as amended) and to have regard to any representations received within a reasonable time. The PAC is entitled to give great weight to any such representations if it judges it appropriate to do so.
120. NED is content with the proposed Drainage Plan (dated 19/6/2018) which shows contaminated run off directly to a dirty water tank and the use of a cellular storage tank and fuel separator for surface non contaminated water before connecting to and existing storm water network east of the site. DFI River Agency have consented to discharge into a Tributary of Bessbrook River 300m SE of the site.
121. Digestate will be store in a waste storage tank and eventually be used on agricultural land as fertiliser. Potential effects from the proposal may arise as a result of increased ammonia emissions and resulting nitrogen deposition on the designated sites.
122. NIEA agree with the outcome for the shadow HRA, that there should be no adverse effect on any receiving watercourses in the vicinity of the digestate landbanks. This is predicated and supported by the fact that all land spreading will have to be carried out in accordance with the Nutrient Action Plan 2019 and the new spreading restrictions coming into force in 2020 within the Nutrient Action Programme Regulations (Northern Ireland) 2019.
123. An explanatory note further explains the comments by SES and provides to me further confidence in the shadow HRA. It includes the following description for each landbank and the AD plant:

AD plant and Landbank E:

124. *Lough Foyle SPA/ Ramsar*: Making use of present guidelines from NIEA there are no likely significant effects. Using the precautionary approach, the digestate areas were taken to AA in the sHRA resulting in the modelling which demonstrates no adverse effect on site integrity. Even when adopting the SES guidelines there is only one 5km square modelled as potentially receiving over the 0.1% PC (this is only 0.66 % so well below the current NIEA threshold of 1%) and is therefore considered that

there can be no adverse effect on site integrity, either alone or in combination, as a result of the AD plant and Landbank E.

125. *River Roe and Tributaries*: Making use of present guidelines from NIEA there are no likely significant effects. Using the precautionary approach, the digestate areas were taken to AA in the sHRA resulting in the modelling which demonstrates no adverse effect on site integrity. Even when adopting the SES guidelines there are two 5km squares modelled as potentially receiving over the 0.1% PC (this is only 0.66 % so well below the current NIEA threshold of 1%) and is therefore considered that there can be no adverse effect on site integrity, either alone or in combination, as a result of the AD plant and Landbank E.

Landbank A:

126. *River Faughan and Tributaries*: Making use of the present guidelines from NIEA there are only likely significant effects in one 5km square. Using the precautionary approach the digestate areas were taken to AA in the sHRA resulting in the modelling which demonstrates no adverse effect on site integrity. Even when adopting the SES guidelines there are only two 5km squares modelled as potentially receiving over the 0.1% PC (one is only 0.66 %, so well below the current NIEA threshold of 1%; the other 2.3%). At this one location the background ammonia concentrations are already at 2.05 µg/m³ which exceeds the CLe for woodland but not for otter and salmon. The modelled maximum PC is 0.07µg/m³ for this 5km square. This addition as noted above is 3.4 % of the background level. No incombination effects were found at this point. It is considered that this slight increase over background concentrations (modelled using precautionary approach and showing maximum modelled potential contributions) will not have a significant effect on the SAC receptors which are otter and Atlantic salmon and their supporting habitats. There is no potential for adverse effects on site integrity as a result of this small addition to the background concentration at one part of the SAC. It is likely that habitats and species will already be adapted to background levels of ammonia already exceeding the CLe for more sensitive species, and the PEC does not exceed the CLe for the qualifying species at this location.

Landbank B

127. No process contribution to Bann Estuary

Landbank C

128. *Lough Foyle SPA/ Ramsar*. Making use of the present guidelines from NIEA there are no likely significant effects. Using the precautionary approach, the digestate areas were taken to AA in the sHRA, resulting in the modelling which demonstrates no adverse effect on site integrity. Even when adopting the SES guidelines there is only one 5km square modelled as potentially receiving over the 0.1% PC (this is only 0.16% - so very close to the current NIEA threshold of 1%) and it is therefore considered that there can be no adverse effect on site integrity of Lough Foyle SPA and Ramsar site, either alone or in combination , as a result of Landbank C.

129. *River Roe and Tributaries SAC*. Making use of the present guidelines from NIEA there are no likely significant effects. Using precautionary approach the digestate areas were taken to AA in the sHRA, resulting in the modelling which demonstrates

no adverse effect on site integrity. Even when adopting the SES guidelines there are only two 5km square modelled as potentially receiving just over 0.1% PC and it is therefore considered that there can be no adverse effect on site integrity, either alone or in combination.

Landbank D.

130. *River Foyle and Tributaries SAC*: Making use of the present guidelines from NIEA there are no likely significant effects. Using precautionary approach the digestate areas were taken to AA in the sHRA, resulting in the modelling which demonstrates no adverse effect on site integrity. Even when adopting the SES guidelines there are only two 5km square modelled as potentially receiving just over 0.1% PC and it is therefore considered that there can be no adverse effect on site integrity, either alone or in combination.
131. In Combination Figures – NIEA have considered the potential for in – combination effects with planning application B/2015/0005/F – which is yet to be determined. The maximum Process Contributions from the proposal to Natura 2000 sites are listed for specific grid references ranging in levels from 0.004 to 0.024 $\mu\text{g}/\text{m}^3$ ammonia. These locations within Lough Foyle SPA and River Roe SAC do not coincide with locations of any of the predicted ammonia concentrations resulting from the AD plant and Landbanks. No combination effects are anticipated.
132. From the time of completion in 2016 - With reference to the environmental impact from the time of completion of the plant it was concluded that the consented 2012 AD uses the same plant as the existing operational plant, albeit within different buildings; therefore the emissions from the plant on site would be the same as it is today. Figures show the modelled operational ammonia emissions from the site between 2016 – 2018 ie without a biolene cover and is illustrated on figure 9. As well as modelling emissions without a cover, the scenario modelled broadcast spreading of digestate at each landbank. This is reflected by higher ammonia levels in the vicinity of the AD plant, but the spatial extent of effect encroaches very little into Natura 2000 sites.
133. Between 2016 and 2018, the NIEA guidelines recommended a trigger threshold of 1% of the critical level for ammonia for further assessment. Based on this figures 9 and 10 indicates that there was no likely significant effect on any Natura 2000 sites, apart from a possible edge effect on the closet woodland in the River ROE & Tributaries SAC. However the total area of River Roe and Tributaries SAC affected by this plume is only 0.58% of the total area of the SAC (ie 2.37 ha out of a total of 407.6 ha) – therefore it was considered that this would not have an effect on the integrity of any Natura 2000 site.
134. The SES guidelines were not applicable between 2016 – 2018 – however if the revised trigger threshold is applied of 0.1%, the potential effects are only restricted to the small area within the Natura 2000 site, as described above.
135. No evidence was presented that there had been any significant effects on qualifying features of Natura 2000 sites since the plant became operational. It should be noted that the reduction in emissions from Landbanks due to the mandatory future use of LESSE from February 2020 onwards, provides further assurance that there will be no likely significant effects on Natura 2000 sites as a result of ammonia emissions.

136. In summary:

- The emissions from the 2012 consented development would have met the relevant de minimis guidance levels, with no effects on the integrity of any Natura 2000 sites anticipated;
- The site, as operated between 2016 – 2018, would not have been having any adverse effects on the integrity of any Natura 200 sites; and
- The existing sHRA (plus the supplementary maps provided) demonstrate that there will be no adverse effect on site integrity.

137. Accordingly, I am satisfied that the shadow HRA and accompanying information takes into account the environmental impact of the scheme from the time of its completion. Information from the appellant was to supplement the shadow HRA and was only in response to the updated guidance from SES, it is not more FEI as referred to by the Council.

138. These conclusions were roundly endorsed by NIEA. As the competent authority responsible for the HRA under the Habitats Regulations, I accept and adopt these conclusions. In considering the impacts of the development on the biodiversity and conservation interests of the area, I consider that objections are not sustained and the Council's deemed reason for refusal has not been sustained.

139. The Council alleges that additional assessments of the landbanks are required as some are within present day and climate change floodplains raising the potential for pollution pathways into water courses. However, this is not supported by the ES consultation responses, most notably DAERA who stipulate that adherence to the NAP regulations should ensure no water quality effects from the spreading of digestate. As noted in the Hydrology FEI submission, restrictions contained within the NAP regulations prevent application of fertilisers, chemical and organic in certain conditions including water logged soils, flooded land or land liable to flood when heavy rain is forecast. Adherence to these restrictions will reduce the potential for pollution pathways into watercourses from flooding. The NAP regulations do not prevent spreading in floodplains, rather that it is carefully managed.

Policy PPS 11: Planning and Waste Management.

140. Refusal Reason 3 and 4 refer to PPS 11, Planning and Waste Management Policy Policies WM1 and WM 2. Policy WM 2 Waste Collection and Treatment Facilities states that proposals for the development of a waste collection or treatment facility will be permitted where:

- (a) There is a need for the facility as established through the Waste Management Strategy (WMS) and the relevant Waste Management Plan (WMP).

141. The appellant claims that there is a need for this type of facility as set out in the Northern Ireland Waste Management Strategy – 'Delivering Resource Efficiency' published in 2013. The WMS is highly supportive of anaerobic digestion as an effective form of recovery. Page 44 states *'The Department supports efficient energy recovery from residual waste in accordance with the waste hierarchy which can deliver environmental benefits, reduce carbon impacts and provide economic opportunities.... Anaerobic digestion and other thermal treatment facilities provide*

energy from waste... can contribute to meeting NI's non- fossil fuel obligations ... as well as helping NI meeting its landfill diversion targets'

142. The WMS recognises that the benefits of this form of recovery include, *'preventing some of the negative greenhouse impacts of waste in landfill Offers a considerable climate change benefit.... also off setting fossil fuel power generation and contributing towards renewable energy targets.'*
143. The relevant Waste Management Plan (WMP) for the North West Region Waste management Group was reviewed in 2015 and is consistent with the WMS in terms of advocating anaerobic digestion to treat agricultural wastes. In any case, the need for the proposal on this site has already been established by the granting of the 2012 approval which is extant.
144. I am satisfied that a need for such a facility has been established through the WMS and relevant WMP. Criterion (a) has been met.
145. Criteria (c) bullet 5 requires where it is demonstrated that new buildings / plant are needed these must have an acceptable visual and environmental impact. Chapter 8 of the ES and appendix 10 of the FEI, assesses landscape and visual issues and includes a Landscape and Visual Impact Assessment (LVIA).
146. In terms of landscape effects it concluded that the effects to the Glenhead Road and Drumreighland area are rated as slight or negligible due to the visual containment of the site. None of the key landscape, natural, cultural, heritage, amenity or recreational features identified in Landscape Character Area 37 Roe Basin are affected. In terms of visual effects, five critical views from the local road network including Baranailt Road and Glenhead Road were assessed and concluded that the AD plant has no significant or unacceptable visual effects on any of these views due to roadside and substantial intervening vegetation, set back, topography and nature of views. I note that the Planning Report for the 2012 approval stated that the proposal *'will not result in an adverse impact on the environment or consequently an adverse impact on the amenity of residential dwellings in the surrounding area as there is no views of the site from points/public road network'*. I consider that this opinion also reflects the limited impacts of the existing AD plant. Additional Landscaping is proposed and includes augmentation and gapping up of peripheral hedging ensuring the improvement and future visual screening from close proximity areas – and this can be conditioned – as per drg PAC 1, read in conjunction with the Landscape and Management Plan dated Feb 2019. As such, it will not result in an unacceptable impact that cannot be prevented or appropriately controlled by mitigating measures.
147. Policy WM1 of PPS11, Environmental Impact of a Waste Management Facility states that proposals for the development of a waste management facility will be subject to a thorough examination of environmental effects and will only be permitted where it can be demonstrated that all of a number of criteria are met. The Council identify bullet 1, that the development will not cause demonstrable harm to human health or result in an unacceptable adverse impact on the environment which have been addressed previously.
148. Bullet 2 requires that the proposal is designed to be compatible with the character of the surrounding area and adjacent land uses. The proposal is on agricultural land in the countryside in close proximity to feedstock sources. As discussed, the layout of

the plant together with the mitigation measures installed ensure that it is compatible with the adjacent residential uses. Bullet 4 and 5 relate to roads issues already addressed.

149. Bullet 8 requires that the development will not have an unacceptable adverse impact on nature conservation which has been previously addressed.
150. The Council state that the proposal is contrary to bullet 9, in that it has not been demonstrated that the types of waste to be deposited or treated and the proposed method of disposal or treatment will not pose a serious environmental risk to air water, soil resources that cannot be prevented or appropriately controlled by mitigating measures.
151. In terms of environmental risks to water and soil, I note the consultation response from DAERA (Natural Areas and Conservation Areas Section) to the ES dated 4 December 2018 concluded that no adverse impacts will arise in waterways both around the plant and land spreading areas as a result of drainage proposals and adherence to the requirements of the current Nitrates Action Program (NAP) for Northern Ireland. Also, the Land, Soil and Air section of DAERA also raises no concerns in respect of land or soil arising from their consultation of the ES, also dated 4 December 2018. The response of Geological Survey NI dated 21 January 2019, also raises no issues of Geological concern arising from the development and Rivers Agency was content with the development from drainage and flood risk perspective in their response to the ES dated 16 February 2019. The potential for environmental risk to air quality is considered under the fifth reason for refusal. I conclude that the Council's deemed reasons for refusal 3 and 4 in relation to PPS 11, Policy WM1 and WM2 have not been sustained.

Exceptional Circumstances

152. It was argued that case law indicated that only in exceptional circumstances should retrospective planning approval be granted for unauthorised EIA development. I was referred to *Ardagh Glass Ltd v Chester City Council (2010)* and *R (Baker) v Bath and North East Somerset Council (2013)* in which the decision maker must consider whether the circumstances are exceptional to justify a retrospective regularisation of EIA development. The Ardagh Glass case involved a challenge to a High Court decision to dismiss an appeal against the retrospective granting of planning permission for a large glass container factory which was EIA development. In the first instance, the High Court judge had found that permission could be granted, provided that the decision maker made it plain that developers could not gain any advantage by pre – emptive development and that such development was only permitted in exceptional circumstances.
153. The decision was upheld and the appeal was dismissed. It was concluded that firstly, it would be an affront to common sense if retrospective planning permission could not be granted where an inadvertent failure to comply with the Directive had not merely caused no environmental harm but was positively beneficial in environmental terms; secondly, it was a fundamental principal of community law that measures to ensure compliance with a Directive had to be proportionate – a prohibition upon the grant of retrospective planning permission for an EIA development, regardless of circumstances and the environmental circumstances of the breach, would be wholly disproportionate. Thirdly, the decision complied with ECJ judgement in European

Communities v Ireland which recognized that, subject to certain conditions, there may be exceptional circumstances in which national law could permit regularisation of an unauthorised EIA development.

154. The Council and objectors argued that the appellants have had an unfair commercial advantage in that they have had 2/3 years operating with no environmental statement and many opportunities to resolve any issues – which flies in the face of the precautionary principle and have caused historic environmental harm by using the site on an experimental basis. It was argued that, the PAC must be mindful of the message which granting permission would send to other developers that it is permissible to unlawfully develop commercial anaerobic digesters without first having sought permission and undertaken an environmental assessment. For example, the developer has had an unfair commercial advantage between January 2016 and February 2018 when the AD plant was operational and did not have a noise attenuation cover on the mixer motors. As described in the ES, the noise was ‘very loud with a discernable tone emanating from the source’. The appellant then installed a noise attenuation cover in February 2018 which resulted in ‘a significant noise reduction at the nearest residential properties.’ However, this ignores the fact that for over 2 years noise levels were at unacceptable levels. The PAC must take note of the environmental harm that has occurred and must ensure that the lessons which the appellant has learnt from that harm, and mitigation measures are not unfairly relied upon to the advantage of the appellant. The appellant seeks to gain an unfair advantage from its breach of EU Law.
155. The appellant argued that to refuse planning permission for a scheme which is environmentally acceptable because there are no exceptional circumstances is disproportionate. However, if the PAC do not agree about being disproportionate, it was considered that there are exceptional circumstances. It was presented that exceptional circumstance’s include the previous planning approval, the LDC, the realistic fall back position and the environmental betterment of the deemed scheme which is a matter of planning balance. It was also argued that the Ardagh Glass scheme was not comparable as it commenced without any consent.
156. I have not been provided with any definitions of what may constitute exceptional circumstances but in my opinion, the environmental betterment of the scheme, the planning history of the site and the realistic fall – back position creates an exceptional reason in this case to grant retrospective planning permission on the appeal site. Whilst I acknowledge the objectors arguments regarding previous environmental harm including noise and odour and unfair advantage, these are outweighed by the opportunity to achieve a better solution. In these circumstances, I consider there to be no legal bar on the grant of retrospective planning permission for EIA development.
157. The objectors argues that the EIA was inadequate as incorrect baselines has been used in respect of chapters 3 -7 and 11 as a consequence it would be unlawful for the Commission to accept these baselines. In rebuttal the appellant clarifies that in Chapter 3 (Drainage and Flooding), the baseline describes the as built plant however the assessment carried out and mitigation proposed is on the basis that the storm run off rate from the as built plant will be restricted to green field run off rates ie pre – development rates. With regard to the spreading baselines referred to in the Ecology Chapter, the FEI Ecology submission states that the proposed feedstock tonnage cap is not considered to have a greater impact than the consented unlimited feedstock input of the 2012 submission. It was also noted that the landbanks have been under

long term agricultural management receiving regular applications of organic manure prior to being replaced by digestate from the plant. In Chapters 5 (Geology and Soils) and 6 (Hydrology and Hydrogeology) of the ES, the sources of information are the same regardless of whether there is development on the site or not. I accept that the baselines used were correct.

158. The objectors ask the Commission to resist any temptation to defer important matters of environmental protection to other statutory regimes in light of the human health issues raised. I note that PPS 11, paragraph 2.4 states that ' The Department considers that planning control should not duplicate other statutory controls or be used to achieve objectives relating to other legislation. The Department must make its planning decisions on the basis that the pollution control regimes will be properly applied and enforced. The relevant expertise and statutory responsibility for pollution control rests with the relevant pollution control authorities'. The NIEA will only issue a WML if they are satisfied that the proposed operations pose no unacceptable risk to human health or the environment.

159. Objectors raise impacts on bats and otters. In terms of bats the ES identified 2 trees as having a low suitability for bats. I agree with the appellant that this does not automatically trigger the need for additional night time surveys as surveying guidance stipulates that trees with a low suitability do not require additional surveys. Although bats are European protected species, 2 trees which have a low suitability for bats does not constitute a feature of international importance as claimed. In terms of otters, the ES confirmed that habitats within 50m of the site are not suitable for otter. This was reconfirmed during a subsequent site visit on 9 July 2019 which found that there were no habitats suitable within 100m of the site. DAERA also raised no concerns in respect of Otters. Accordingly, no significant impacts on protected species are considered likely to arise from the proposal. It was asserted by objectors that the granting of planning permission would result in a violation of European Convention of Human Rights. The legislative and planning process which operates in Northern Ireland is compliant with European Directives and the grant of planning permission is entirely within the remit of the Commission.

160. The spillage event of 17 May 2018 referred to by objectors was recorded by the appellant and included within the rebuttal statement. I note that it concluded that the spillage was contained within the site and no off site impacts were reported – CCTV images confirmed this.

Conclusions

161. My conclusions on this deemed appeal may be summarised as follows:

- The proposed plant offers substantial environmental, economic and social benefits to which significant weight should be attached;
- There is a realistic fall back position;
- The deemed proposal offers environmental betterment with the opportunity to impose and secure conditions;
- The development would not have an adverse impact on public safety, human health, or residential amenity;

- The development would not have an adverse impact on biodiversity and nature conservation;
- The development would not have an adverse impact on air quality and water quality and
- Objections in relation to roads issue are not determining.

162. I have found that all of the Council's deemed reasons for refusal have not been sustained. I have not been persuaded that the third party objections related to the deemed proposal are determining. Subject to the implementation of conditions set out below, I am satisfied that the deemed proposal for an AD plant meets the requirements of Policies PPS 18, PPS 3, PPS 11, PPS 21, PPS 2 and the relevant policies in the SPPS. Accordingly, the deemed proposal represents a form of development that in principle is acceptable in the countryside and on this basis the deemed proposal is approved.

163. The appeal on ground (a) succeeds. As I have concluded that the AD plant should be approved, I do not need to consider the remaining ground (f) appeal.

Decision

The decision is as follows:

- The appeal on ground (a) succeeds and planning permission is granted for the anaerobic digester, combined heat and power plant, ancillary equipment and structures and associated hardcored area, subject to the conditions set out below.
- The Enforcement notice is quashed.

Conditions

1. The electrical output of the plant shall not exceed 0.5 Mw. Written records confirming the operating output of the plant shall be made available to the Planning Authority within 2 weeks of request.
2. The feedstock tonnage imported into the plant shall not exceed 16,000 tonnes per annum. Written records of feedstock tonnages accepted on site shall be made available to the Planning Authority within 2 weeks of request.
3. The waste feedstock to be accepted for processing at the plant shall comprise only the waste types defined as European Waste Catalogue Code 02 01 06; animal faeces (excluding pig faeces and pig slurry), urine and manure (including spoiled straw) effluent, collected separately and treated off – site. Only pumpable liquid wastes shall be accepted and shall be delivered to a reception pit on the site fitted with an air management system designed to attenuate the odourous component in air displaced from the reception pit as the waste is delivered.

4. Non – waste feedstocks can be accepted and processed by the plant excluding dairy by – products containing lactose.
5. The plant shall operate in accordance with the Working Plan; June 2019 – Version 2 (appendix 11 of FEI July 2019). This Working Plan shall be maintained on site and shall be available for inspection.
6. An up to date Nutrient Management Plan (NMP) shall be maintained on site each year. The NMP shall be available for inspection and shall be retained for at least 5 years to ensure sustainable locations for the digestate are maintained. Digestate must be analysed by a certified laboratory in order to calculate nutrient loadings. The laboratory used must be certified for both nitrogen and phosphorous and for digestate analysis.
7. Feedstock deliveries to the plant, shall not take place outside the hours of 08.30 – 18.00 Monday to Saturday.
8. Traffic movements associated with the storage of silage on the site in association with the normal operations of the AD plant shall take place between the hours of 0800 – 2300 Monday to Saturday and 0900 – 1200 Sunday for a period not exceeding 25 days per calendar year.
9. Traffic movements associated with the removal of digestate off – site to allow for normal operations of the AD plant shall take place between the hours of 0800 – 2000 Monday to Saturday for a period not exceeding 40 days per calendar year.
10. Traffic movements associated with the loading of the feed hopper shall take place for a duration not exceeding 3 hours per day between the hours of 0830 – 1800 Monday to Saturday and 0900 – 1200 Sunday.
11. Traffic associated with conditions 7, 8, and 9 entering the site from the public road shall do so via the Glenhead Road entrance and shall exit via Drumreighland Road.
12. Noise levels from the operation of the plant associated with the Anaerobic Digestion facility, shall not exceed 37 dB (A) during day time and 33 dB (A) during night time at 1m from the facade of the nearest residential receiver location. There shall be no audible or measured tonal characteristic to the sound from the operation of the plant associated with the Anaerobic Digestion facility.
13. On receipt of a written request from the Planning Authority following a complaint from an occupant of a dwelling relating to noise associated with the anaerobic digester facility, the plant operator shall cause an independent 24 hour noise monitoring survey to be undertaken by a suitably qualified and competent person at the complainants' property within one month in suitable weather conditions. The Council shall be advised in writing of the date of the survey at least three working days prior to the event, to enable Environmental Health Officers to witness the measurement exercise. The results of the survey shall be assessed in accordance with BS4142 '*Methods for rating and assessing industrial and commercial sound*' and a 1/3 octave band assessment carried out in accordance with Annex C thereof. The test results and the date on which they were based

shall be submitted to the planning authority within 10 working days of completion of this survey.

14. The anaerobic digestion plant shall operate in accordance with the Odour Management Plan (October 2019).
15. Emissions of hydrogen sulphide (H_2S) as a result of the activities associated with the anaerobic digestion plant at the site shall not exceed a trigger level H_2S concentration of 4 parts per billion ($6 \mu g/m^3$) at the proposed measurement location at the site boundary with the adjacent residential property at no 133 Baranailt Road identified in drawing PAC 1.
16. Within one month of the date of this permission, a suitably calibrated and maintained hydrogen sulphide monitor shall be installed at a height of between 1.5 – 1.8m above ground level in the location identified in drawing Pac 1 to automatically sample and record H_2S concentrations continuously at 15 minute intervals. The results of the H_2S monitoring shall be retained by the operator for a period of no less than 2 years and shall be provided to the Planning Authority within 2 working days of any request.
17. In the event that the trigger level H_2S concentration of 4 ppb is exceeded at the monitoring location on more than four consecutive readings taken at 15 minute intervals, an independent odour assessment specialist shall be instructed by the plant operator to attend the site and shall carry out an assessment of the presence, nature and source of the odour. The results of the assessment shall be presented to the planning authority within 7 working days of request.
18. In the event that the independent assessment confirms the presence of odours off – site arising from the AD plant, proposals for the emission control shall be submitted to the planning authority for approval within 7 working days. The proposals shall identify the odour source, mitigation measures, the duration for implementation of the approved measures and date that mitigation measures will be completed. Within 7 working days of the implementation of measures, an independent assessment shall present a verification report to the planning authority.
19. All existing vegetation on the site boundaries shall be permanently retained and the proposed planting and landscape works as set out in drawing PAC 1 (to be read in conjunction with Landscape and Management Plan Rev A Feb 2019) shall be carried out in the first planting season following the date of approval. Trees or shrubs dying, removed or becoming seriously damaged within five years of being planted shall be replaced in the next planting season with others of a similar size and species unless the planning authority gives written consent to any variation.
20. The storm drainage network specified and detailed on drawing no. W-010 Rev P3 shall be constructed and made operational within 2 months of the date of approval.

This decision is based on the following drawings:

- PAC 1 : Proposed Landscape Management Plan, drg no 6200-L-101
- PAC 2 : Block Plan (drg 3595 A02 rev A, dated 4.7.2019)
- PAC 3 : Sections and Elevations (drg 3595 A 05 rev A, dated 4.7.2019)
- PAC 4 : Pre Pit Plans and Section F-F (drg 3595 A09 rev A, dated 4.7.2019)
- PAC 5 : Existing FSD at laneway (drg 17080- MRA-001 rev A)
- PAC 6 : Proposed drainage plan (drg W-010 rev P3)

COMMISSIONER MANDY JONES

List of Documents

Causeway Coast & Glens Borough Council

LPA/ A: Statement of Case and appendices: March 2019

LPA/ B: Rebuttal Statement and appendices: July 2019

LPA/ C: Rebuttal of Rebuttal: September 2019

LPA/ D: Consultee Responses to Further Environmental Information: September 2019

including:

Council

DFI Roads

DFI Rivers Planning, Advisory and Modelling Unit

DEARA Drainage and Water

DEARA Natural Heritage

LPA/ E: Response to NIEA: Dec 2019

LPA/ F: Response to Comments made to NIEA info : Feb 2020

LPA/ G: NIEA: SES Guidance and Information to inform a HRA : Nov 2019

Appellant

APELL/ A : Statement of Case: March 2019

Proposed Landscape Plan drg no 3200-L-101

Landscape Management Plan Rev A

Environmental Statement Volume 1: October 2018

Environmental Statement Volume 2: October 2018

APELL/ B : Rebuttal Statement and Further Environmental Information July 2019 and Shadow Habitats Regulations Assessment

Updated drawings:

Block Plan (drawing 3595 A02 Rev A dated 4.7.2019)

Sections and Elevations (drawing 3595 A 05 Rev A dated 4.7.2019)

Pre pit Plan and section FF (Drawing 3595 A09 Rev A dated 4.7.2019)

Existing FSD at Laneway (Drawing 17080-MRA-001 Rev A 0)

APELL/ C: Updated Traffic Calculations from MRA Partnership
– circulated at the hearing

APELL/ D: Letter from MJCA dated 7 November 2019.

APELL/ E: Responses: Oct 2019

APELL/ F: Responses: Dec 2019

APELL/ G: Responses: Feb 2020

Objectors

OBJ/ A: Baranait Residents Group: Statement of Case: March 2019

OBJ/ B: Baranait Residents Group: Rebuttal: July 2019

OBJ/ C: Responses to Further Environmental Information: August 2019

Including : Mr and Mrs J McArthur Rebuttal Statement
 Mr and Mrs D McArthur Rebuttal Statement
 Mr J Moore Rebuttal Statement
 Mr and Mrs McFall Rebuttal Statement
 Mr and Mrs Givans Rebuttal Statement
 Mr and Mrs King Rebuttal Statement
 Mr R Moore Rebuttal Statement
 Mr and Mrs Cupples Rebuttal Statement
 Dr Les Cornell Rebuttal Report

OBJ/ D: Johnathan Moore – 133 Baranait Road : Statement of Case : March 2019

OBJ/ E: Johnathan Moore – 133 Baranait Road: Rebuttal : July 2019

OBJ/ F: David McArthur (Sweetman Planning) – Statement of Case : March 2019

OBJ/ G: Gwyneth McQuiston – Statement of Case : March 2019

OBJ/ H: Supplementary Statement of Case – Johnathan Moore : Dec 2019

OBJ/ I: Supplementary Statement of Case – Mr Sweetman on behalf of D McArthur : Dec 2019

OBJ/ J: Statement from BRG: Dec 2019

OBJ/ K: BRG Rebuttal: Feb 2020

Appearances

Day 1

Causeway Coast and Glens Borough Council

Planning Authority: Philip Henry instructed by CCG Council
Cathy McKeary
Denise Dickson
Julie McMath
Andrew Gillan DFI Roads
Malachy Kerney SES
Susanna Allen SES
Joanne O'Kane Environmental Health
Bryan Edgar Environmental Health
Keith Finnegan NIEA
Lisa McNally NIEA

Appellant:

Stuart Beattie instructed by Clever Fulton Rankin.
Brendan Martin
Adam Larkin Gravis Planning
Conor Lydon White Young Green
Gavin Ward WYG
Penny Ward WYG
Shane Carr Irwin Carr Ltd
Mervyn Keegan AONA Environmental Consultants
Richard Agus MRA Partnership
Paul Cooke WYG
Leslie Heasman MJCA
Andrew Godley Ricardo
Philip Turner Assured Energy
Paul Kingston Assured Energy
Andrew McLoughlin Assured Energy
Micaela Fitzpatrick Cleaver Fulton Rankin
Hannah Bulmer Cleaver Fulton Rankin
Brian McFarland McFarland Associates
Andrew Bunbury Park Hood

Objectors :

Conor Fegan instructed by
Peter Brown Martin King French & Ingram Solicitors
Dr Matthew Cassidy Cassidy Acoustics
Dr Les Cornall Process Consultant PM Group
Johnathan Moore 133 Baranalt Road, BRG
Jason McArthur BRG
Peter Sweetman
Gwyneth McQuiston BRG
John Dallat MLA
George Robinson

Day 2

Causeway Coast and Glens Borough Council

Planning Authority: Philip Henry instructed by CCG Council
Cathy McKeary
Julie McMath
Andrew Gillan DFI Roads
Malachy Kerney
Susanna Allen SES
Joanne O'Kane Environmental Health
Bryan Edgar Environmental Health
Keith Finnegan NIEA
Lisa McNally NIEA

Appellant:

Stuart Beattie instructed by Clever Fulton Rankin.
Brendan Martin Cleaver Fulton Rankin
Adam Larkin Gravis Planning
Conor Lydon White Young Green
Gavin Ward WYG
Penny Ward WYG
Paul Cooke WYG
Shane Carr Irwin Carr Ltd
Mervyn Keegan AONA Environmental Consultants
Richard Agus MRA Partnership
Leslie Heasman MJCA
Andrew Godley Ricardo
Philip Turner Assured Energy
Paul Kingston Assured Energy
Andrew McLoughlin Assured Energy
Micaela Fitzpatrick Cleaver Fulton Rankin
Hannah Bulmer Cleaver Fulton Rankin
Brian McFarland McFarland Associates
Andrew Bunbury Park Hood

Objectors :

Conor Fegan instructed by Martin King French & Ingram
Solicitors
Dr Les Cornall Process Consultant PM Group
Johnathan Moore 133 Baranalt Road, BRG
C Rea Community Places
Jason McArthur BRG
Peter Sweetman
Olga Harper

Day 3

Causeway Coast and Glens Borough Council

Planning Authority: Philip Henry, barrister instructed by CCG Council

Cathy McKeary

Julie McMath

Andrew Gillan DFI Roads

Malachy Kerney SES

Susanna Allen SES

Joanne O'Kane Environmental Health

Bryan Edgar Environmental Health

Paul Mc Loughlin, barrister instructed by NIEA

Keith Finnegan NIEA

Appellant:

Stuart Beattie barrister instructed by Clever Fulton Rankin.

Brendan Martin Cleaver Fulton Rankin

Adam Larkin Gravis Planning

Conor Lydon White Young Green

Gavin Ward WYG

Penny Ward WYG

Paul Cooke WYG

Shane Carr Irwin Carr Ltd

Mervyn Keegan AONA Environmental Consultants

Richard Agus MRA Partnership

Philip Turner Assured Energy

Paul Kingston Assured Energy

Micaela Fitzpatrick Cleaver Fulton Rankin

Objectors :

Conor Fegan instructed by Martin King French & Ingram
Solicitors

Charlotte Smith Solicitor

Johnathan Moore 133 Baranalt Road, BRG

Jason McArthur BRG

Peter Sweetman

Pauline McHenry



PLANNING APPEALS
COMMISSION
30 OCT 2018
File No. _____

Rev	Date	Amendment	Checked By

Landscape Architects :



PAC 1.
Park Hood
Organisational Design

CHARITABLE LANDSCAPE ARCHITECTS AND ENVIRONMENTAL CONSULTANTS
14-16th Floor, 143 Upper Richmond Road, Brixton, SE4 3JZ
T: 020 8079 8020 F: 020 8079 8028 E: info@parkhood.com, www.parkhood.com

Client :	Assured Energy LLP
Project :	Proposed Anaerobic Digestion Plant
Title :	Proposed Landscape Plan
Scale :	1:1000(A3)
Date :	October 2018
Drawg. no. :	6200-L 101

Extract from PAC 1.