

North Lincolnshire Green Energy Park Project – Examination of Development Consent Order

Post Hearing Submission on behalf of AB Agri Limited
7 February 2023

Planning Inspectorate Ref: EN010116
Interested Party Ref: 20032351



Contents

1 INTRODUCTION2

2 WRITTEN SUBMISSION OF ORAL CASE2

3 POST HEARING NOTES3

4 RESPONSE TO THE APPLICANT’S RESPONSE TO AB AGRI’S
WRITTEN REPRESENTATIONS4



1 INTRODUCTION

1.1 This post-hearing submission has been prepared on behalf of AB Agri Limited and include written submission of oral case made and post-hearing notes requested at the hearing held on 26 January 2023, our response on the Applicant's response to our Written Representations (WR) submitted at Deadline 3.

2 WRITTEN SUBMISSION OF ORAL CASE

Issues in respect of waste

2.1 AB Agri confirmed that they had reviewed the Applicant's responses to our representations and understood the points made regarding controls of odours as well as pest control. Notwithstanding this, AB Agri remains concerned that the Applicant is not able to control the space between the two plants which gives rise to the risk of transmission of salmonella principally. AB Agri explained that this is a constant ongoing issue for animal feed production, particularly on the riverside site as it attracts birds. Seagulls and other birds (carrying salmonella or other diseases) are always part of risks that AB Agri faces. AB Agri explained that since the salmonella control in the UK animal feed was identified over 30 years ago, the principles of risk assessment have been based on all the controls available such as pest control, but also dealing with environmental proximity and doing as much as practically possible to limit the risk of ingress (of salmonella carrying rodents and birds). AB Agri stated that this is the essential point – by building the proposed facility adjacent to AB Agri's plant will increase the risk. For this reason, AB Agri stated that further steps will need to be taken to protect its facility from the threat posed by the proposed facility.

2.2 AB Agri provided a context to AB Agri's site, as follows:

- The site was originally built in the mid 1980s by JE Porter Limited who constructed a large number of poultry farms which were fed from the feed mill. The site went through changes in ownership and AB Agri acquired the site in 2009.
- The site was originally part of the nitro chemical plant site which was destroyed in the explosion in 1974. The original animal feed mill (built in the 1980s) was demolished and rebuilt in 2004.
- In the UK, 1.1 billion chickens are consumed per year. AB Agri's feed mill at Flixborough feeds 10% of those (ie around 110million chickens per annum). Therefore, the site is a significant strategic site in terms of UK food supply chain.
- If the feed mill is contaminated by salmonella as a result of the proposed development, it will have a very significant effect on the poultry supply chain in the UK. The feed that AB Agri supplies goes to chickens that are distributed to supermarkets and restaurants/takeaways. Therefore, the impact is significant and at national level, as the salmonella contamination would result in the shortages or lack of chickens in supermarkets.

2.3 AB Agri stated that the proposed measures put forward by the applicant start to address some risk but they do not reduce the risk to a reasonable level, as there is still a very real chance of salmonella migrating from rodents and birds into the feed mill as a result of the proposed development adjacent to AB Agri's plant, which does not currently exist. AB Agri went on to explain that the raw material intake faces the river and open countryside, which will be exposed to the proposed waste facility, dramatically increasing the risk to the animal feed mill production at Flixborough.

2.4 In response to the Examining Authority's question about what AB Agri is seeking would satisfy, beyond what the applicant is offering, AB Agri stated that there will need to be significant further changes to the plant (ie on site mitigations) in order to reduce the risk to an acceptable level to ensure that AB Agri can operate within the parameters of safely supplying feed to the poultry supply chain. It would require significant investment to the site in order to achieve the segregation of the plant from the risk and improving manufacturing techniques on the basis that there is no effective means of ensuring that rodents and birds will not travel between the two adjoining facilities.

Issues relating to flood model

2.5 The flood model used by the Applicant to inform the Flood Risk Assessment (FRA) was originally constructed by the Environment Agency to assess flood risk at a strategic level, covering a large catchment area. The model grid, which is used to define the floodplain, consists of grid cells that are very large, with each individual cell covering an area 25m x 25m. This is far too coarse to accurately represent flooding in built up areas, such as the Flixborough Industrial Estate, as flood flow routes along roads or between buildings, for example, cannot be accurately represented. Due to the coarse scale of the modelling, the predicted impacts on third-party flood depths due to the proposed development are reported in the FRA to an accuracy of $\pm 25\text{mm}$, whereas the Environment Agency typically expect models to be able to assess flood impacts to a resolution of $\pm 5\text{mm}$, with any increase in flood depths of over 5mm being unacceptable. Given the model coarseness, the results of the modelling cannot be used to

assess flood risk to the AB Agri site resulting from the proposed development and it is not suitable to inform the development of flood mitigation/defence measures.

- 2.6 The modelling undertaken by the Applicant does not appear to represent the potential overtopping of the existing flood defences at the Flixborough dock area. This is a key concern for AB Agri as this area is opposite their site and, if overtopping were to occur, the proposed development could potentially result in more flood waters being directed onto the AB Agri site, thus increasing their flood risk. The peak 1 in 200 plus climate change (up to the year 2065) tidal water level in the River Trent at the location of the dock has been reported by Buro Happold, on behalf of the Applicant, to be 6.2mAOD which is higher than the flood defence crest height reported in the FRA. In subsequent correspondence, Buro Happold have stated the following; 'The NLC 2017 model that was used for the FRA incorporated topographic survey data undertaken in 2016 to inform the Lincolnshire Lakes Flood Defence Scheme study'. This is likely the reason why the level data does not necessarily match the data shown in the FRA Figure 5.3 which is from a different data source and is indicative of only the upstream and downstream crest levels for the particular reach along the bank'. It is understood that the Applicant is planning to undertake topographic survey for the flood defences to confirm crest levels, and detailed flood modelling undertaken. Until it is confirmed that the model is accurately representing the flood defences in this area, no confidence can be put on the findings of the FRA.

3 POST HEARING NOTES

- 3.1 At the hearing on 26 January 2023, AB Agri was requested to provide clarity on the existing measures in place to deal with biosecurity risks and what would be necessary to improve those and why the improvements are necessary.
- 3.2 The biosecurity risks to the feed mill plant at Flixborough arise from potential salmonella contamination. As stated previously, salmonella bacteria are highly contagious and contamination risks arise from vehicles, rodents and birds' droppings carrying diseases and salmonella. Salmonella contamination can persist for long periods of time and is a major hazard as it would result in the disruption or closure of the feed mill facility which would affect the UK's food supply chain.
- 3.3 As stated in our WR, a stringent biosecurity control is in place to minimise the risk, with measures involving controlling dust, manage the flow of equipment, preventing rodent infestations, preventing contamination from birds' droppings and the sanitisation of vehicles. More specifically, the following biosecurity controls are in place at the site:
- The site is equipped with heat treatment as "Salmonella Kill Step" as set out in Agricultural Industries Confederation's the Universal Feed Assurance Scheme (UFAS) in compliance with the Defra Code of Conduct for the Control of Salmonella in Feed. The heat treatment manages the normal microbiological loading in raw materials and occasional challenges at raw material intake.
 - All three lines have short term conditioners feeding long term conditioners - all feeds treated to a minimum of 80c for well in excess of 2 minutes as per the UFAS guidance;
 - All three lines have filtered air, with coolers located within a room with two stage filtration;
 - The site has 'Neubacid Soft IV Plus acid' available to deal with salmonella, if present, which is an additional measure used alongside the heat treatment and paid for by customers at their request.
 - Acid treated wheat (which cannot be heat treated) is created using the Neubacid for inclusion in broiler feed; and
 - Virkon disinfection application, via hand sprayers or drive over mats, is used for vehicle biosecurity.
- 3.4 The existing biosecurity control is satisfactory for the existing situation where there is no facility handling waste of significant quantity adjacent to the site. The biosecurity risks will increase if the proposed facility is operated even with the measures proposed by the Applicant, such as:
- routing of waste in the vicinity of AB Agri;
 - vehicle specifications in terms of biosecurity;
 - cleansing procedures for vehicles delivering or transferring waste on site;
 - pest control and management; and
 - monitoring the effectiveness of the tipping hall negative pressure environment.
- 3.5 The proposed facility will handle waste of significant quantity adjacent to AB Agri's site. Currently there are no HGVs handling waste in the vicinity of AB Agri's site. The Applicant has been ambiguous in terms of how waste will be delivered by road. We note from the Applicant's response to our WR that operators are required to ensure that RDF is wrapped or containerised. It is noted that a minimum of six layers is

typically applied for non-containerised RDF, but the precise number of layers will be ultimately determined by the requirements of the hauliers and the off-takers involved. The Applicant states that they are able to specify such requirements to its suppliers. However, the Operational Environmental Management Plan only goes as far as baled waste being delivered in curtain sided trucks – there is no requirement for bales to be completely wrapped or sealed.

- 3.6 With regards to birds and rodents, it should be noted that the biosecurity risk from birds and rodents will increase as there is a higher chance of them transmitting salmonella and other diseases from the waste handling operation in the area, as they are attracted by waste facilities handling food and organic waste materials. The risk is high because of the area lies on the riverside where birds are generally present.
- 3.7 Not all measures suggested by the Applicant are reflected in the Operational Environmental Management Plan (OEMP) or other parts of the DCO, so it is not clear how the proposed measures will be enforced and be effective. Fundamentally, the biosecurity risk for AB Agri will significantly increase by the introduction of the proposed facility, handling a significant quantity of waste, in close proximity, as the measures proposed by the Applicant do not deal with the eventuality of potential tipping hall negative pressure failure, RDF delivered without being sealed or adequately wrapped and vehicles sanitisation not taking place regularly. Therefore, even if the OEMP includes all measures proposed by the Applicant, in AB Agri's experience, the increased biosecurity risk cannot be reduced to a reasonable level.
- 3.8 The existing biosecurity control at the Flixborough site is not proportionate to the increased risk as set out above and on-site mitigations, particularly around the raw intake area, are required to minimise the risk to an acceptable level.
- 3.9 As discussed at the hearing session, AB Agri and the Applicant have arranged a meeting for Monday 27 February 2023 to discuss the biosecurity issues.
- 3.10 With regard to flood risk model, Buro Happold on behalf of the Applicant has shared outputs of the additional analysis undertaken as referred by them at the hearing session. They also advised that another flood model is being developed by the Environment Agency which they are advised to use as the basis for the detailed design stage and that the modelling undertaken to date is appropriate for the Flood Risk Assessment. Our position remains unchanged in that without accurate and detailed flood modelling and necessary mitigation measures, no confidence can be drawn from the information available that the proposed development will not increase the flood risk to AB Agri's site. It is therefore considered that detailed flood modelling/assessment and flood mitigation measures, including physical works, to be informed by the detailed flood risk assessment, are secured by the DCO as a pre-commencement requirement.

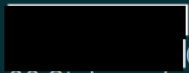
4 RESPONSE TO THE APPLICANT'S RESPONSE TO AB AGRIS WRITTEN REPRESENTATIONS

- 4.1 AB Agri's response to the Applicant's response to our WR relative to biosecurity issues is covered above.
- 4.2 With regard to temporary acquisition, we note that the Applicant is not intending to interfere with or disrupt the ongoing operations of AB Agri and has made an assumption that the occupation of Plot 5-54 should not cause interference to AB Agri's operation, citing that Plot 5-54 is an area of 'non-operational' grassland. However, as we previously stated, AB Agri requires full access around all buildings, including for the warehouse. Therefore, the temporary acquisition of Plot 5-54 could compromise AB Agri's enjoyment of its land. More importantly, construction works and activities within AB Agri's site in extremely close proximity to the raw material intake will significantly increase the biosecurity risk of the site, even with usual construction environmental management plan.
- 4.3 We note that if construction of the flood defence can be secured without the temporary possession of AB Agri land then this option will be taken. In the absence of an alternative which avoids the temporary possession of AB Agri's land and the design of the flood defence wall, we maintain our objection to the temporary possession of Plot 5-54.
- 4.4 We reiterate that the Order provides for compensation for 'loss and damage' (clause 31(5)). In the worst-case scenario airborne and ground contamination could result in a business extinguishment claim incurring a cost disproportionate to the purposes of the possession and which may have a significant impact on the viability of the project. Our concerns about the proposed compulsory acquisitions are therefore not addressed by the compensation provision in the Order. The Applicant has not demonstrated a compelling case to take temporary possession in light of the potential damage that it may cause AB Agri's business.



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