

**REPORT TO:** Planning Committee  
**MEETING DATE:** Tuesday 15 March 2022  
**BY:** Executive Director for Place  
**SUBJECT:** Application for Planning Permission for Consideration

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***Note** - this application was called off the Scheme of Delegation List by Councillor McMillan for the following reasons: This is a complex report, based on changes to renewable energy initiatives, economic pressures, and market changes. There are concerns over the effect of traffic movements, road safety and noise and the environmental damage and impact of odours. The report also refers to the future of the Quarry which might impact on many other matters, were it to reopen. I therefore ask that this be brought to Committee for information and wider consideration.*

***Note** - this application was also called off the Scheme of Delegation List by Councillor Hoy for the following reasons: There is significant local concern which should be examined by the committee. These concerns include, but are not limited to: impact of traffic, issues involving vehicle and pedestrian safety, excessive noise, possible pollution and smells generated on site. In light of these this application should be subject to a site visit and full scrutiny by the committee.*

Application No.      **21/01525/P**

Proposal              Section 42 application for Variation to Condition 2 and Condition 3 of  
planning permission 17/00922/P

Location              **Bangley Quarry  
Huntington  
Haddington**

Applicant              Green Forty Development Ltd

**RECOMMENDATION**      Consent Granted

## **REPORT OF HANDLING**

### **PROPOSAL**

The application site is an area of land within Bangley Quarry, which is located in the countryside to the northeast of Haddington. Quarry operations ceased at the site in 2008 with all buildings and structures removed, however planning permission remains extant for ongoing mineral extraction. The site is in an area of the quarry in which the site

owner and former operator, Tarmac, previously operated an asphalt plant during the most recent period of mineral extraction. The site is accessed from the C112 classified public road to the southwest. Within the quarry and to the south of the application site is a Site of Special Scientific Interest, designated for geological reasons.

Residential properties closest to Bangle Quarry are located between some 257 and 330 metres to the southwest, those being Huntington Stable Cottage (Category C listed building), Huntington House (Category A listed building,) and Huntington West Lodge. Ugston Old Farm (Category A listed building), Ugston Farmhouse (Category C listed building) and Ugston Farm Cottages are located some 600 metres to the south. Garleton Lodge, a guest house, is located some 370 metres to the northeast.

In February 2018 planning permission (ref: 17/00922/P) was granted, subject to conditions, for the construction on the application site of an anaerobic digestion plant, ancillary equipment, on-site infrastructure and associated works, hereafter referred to as the Bangle Quarry AD plant.

Planning permission 17/00922/P has been implemented to the extent that works have been initiated to dig and lay the foundations of buildings on site.

Condition 2 of planning permission 17/00922/P states:

"The capacity of the anaerobic digestion plant hereby approved shall not exceed 77,500 tonnes per annum.

Reason:

To restrict the capacity of the plant to that applied for, in the interests of the amenity of the area and road safety."

Condition 3 of planning permission 17/00922/P states:

"No household or commercial food waste or animal by-products shall be transported to, or processed within the anaerobic digestion plant hereby approved.

Reason:

In the interests of the amenity of the area."

Planning permission is now sought through this application for the variation of Conditions 2 and 3 of planning permission 17/00922/P.

The proposed variation to Condition 2 is to allow the capacity of the anaerobic digestion plant to increase to 100,000 tonnes per annum.

The proposed variation to Condition 3 is to allow animal by-products to be transported to and processed within the anaerobic digestion plant.

Submitted with the application is a Planning Statement, a Planning Policy Considerations report, a Transport Assessment, a Transport Safety Assessment & Management Plan, an Odour and Air Quality Assessment including a modelling report and an Overview of Pollution Prevention and Control Process & Considerations report.

In the applicant's submitted Planning Statement, it is stated that since the grant of planning permission 17/00922/P there have been changes in the UK Government Renewable Energy Initiatives, Government and societal drive for sustainability and Feedstock Markets. The Planning Statement informs that, with regard to the UK

Government Renewable Energy Initiatives, the Renewable Heat Incentive (RHI) which was previously the main support mechanism for biomethane injection projects such as the one at the application site has been replaced with the Green Gas Support Scheme (GGSS). These schemes are very similar with the main difference that affected the Bangley Quarry AD plant being:

- o Historically for the RHI, biomethane must be proven and reported to achieve 60% greenhouse gas emissions savings relative to the EU fossil fuel heat average. For the new Green Gas Support Scheme (GGSS) this will be increased to 70%.

The Planning Statement advises that the above amendment encourages the use of more sustainable feedstocks over less sustainable ones, and to do this it assesses the carbon intensity of biomethane produced through life cycle analysis (LCA). To produce the most sustainable biomethane and ensure compliance with the new GGSS scheme, the Bangley Quarry AD plant wishes to process less energy crops and straw in favour of agricultural animal by-products such as chicken litter, farmyard manure and slurries (manures).

With regard to Feedstock Markets, the Planning Statement states that the Bangley Quarry AD plant and their feedstock partners have been approached by various local farmers regarding supply of agricultural animal by-products. Chicken litter, cattle muck and slurries are readily available to the Bangley Quarry AD plant while offering additional environmental benefits when processing compared to energy crops due to the following factors:

- o producing biogas from manures reduces methane emissions from manure spreading (methane is one of the most potent greenhouse gases and is released when manure decomposes in the atmosphere/fields);
- o traditional fertiliser price has increased significantly alongside natural gas prices, meaning farmers are looking for alternative fertilisers such as digestate from the Bangley Quarry AD plant which they can swap for manures and slurries;
- o improved quality of the resultant fertiliser (digestate) when animal by-products are used as a feedstock;
- o developments the agricultural industry is facing regarding ammonia emissions which will impact the use of fertilisers and slurries;
- o increase in the price of cereals in recent years has increased significantly. This alongside wider economic drivers means that farmers are less incentivised to grow energy crops as traditional cereals are so valuable to sell in other markets; and
- o a knock on effect of the increase in costs of traditional fertiliser is that any energy crops are less economically viable for both the growers and the Bangley Quarry AD plant.

The above means that there is now a desire for the Bangley Quarry AD plant to use agricultural animal by-products which are more readily available than they were previously.

The Planning Statement informs that the issues highlighted have in combination driven a decision for the Bangley Quarry AD plant to seek to process agricultural animal by-products. The animal by-products the Bangley Quarry AD plant intends to process would principally be chicken litter, farm yard manure and cattle slurry. The animal by-products feedstocks now proposed to be processed within the Bangley Quarry AD plant are less energy dense (kwh / tonne) than the materials that are approved to be processed meaning one HGV delivery can carry a larger tonnage of animal by-products than feedstocks such as straw.

The Planning Statement further informs that the physical size of the Bangley Quarry AD plant would not increase and it would be constructed as approved by the grant of planning permission 17/00922/P. However it is stated that as a consequence of processing animal by-products materials, which are less energy dense, means that the weight of feedstock materials being processed on the application site would increase, which would result in the Bangley Quarry AD plant having to surpass the capacity limit of processing 77,500 tonnes per annum imposed by condition 2 of planning permission 17/00922/P. The Bangley Quarry AD plant has a physical capacity and hence has a limitation on quantities of feedstocks that can be handled, which is some 100,000 tonnes per annum, and is limited by the size of the digester tanks, which would remain unchanged. Therefore the Bangley Quarry AD plant cannot physically process more than 100,000 tonnes per annum.

It is stated in the applicant's submitted Transport Assessment that the majority of feedstocks would be sourced from the local farming and agricultural markets as available, and it is anticipated that these will consist of energy crops, animal wastes such as cow manure and chicken litter, straw and vegetable processing residues. Agricultural feedstocks would be largely stored off-site, on the existing farms where they are grown. Feedstocks would then be delivered to the site using a 'just-in-time' approach, as and when they are required by the digestion process. The by-product of the process, digestate, will be returned to the farmers as a renewable, low-carbon biofertiliser - an alternative to conventional synthetic fertilisers.

In the Transport Assessment it is stated a 'just-in-time' approach to feedstock delivery would ensure that traffic movements to and from the site would be spread evenly and consistently throughout the year to prevent seasonal spikes in traffic movements. It is also stated that as the feedstocks received would be agricultural, brewery and distillery by-products and residues sourced from the local area, the Bangley Quarry AD plant serves to reroute materials that would originally have been being transported to another end-user.

The applicant's Transport Assessment advises it is anticipated that the frequency of two-way HGV and tractor trailer movements associated with feedstock deliveries would be 55 per day, and that the frequency of two-way vehicle movements associated with the removal of digestate and liquefied CO<sub>2</sub> would be 30 per day. In total this equates to 85 two-way vehicle movements per day.

As planning permission remains extant for mineral extraction at the quarry the applicant has acquired data from the site owner, Tarmac, of what vehicle movements could be were the quarry to become operational again. The applicant advises that this has been factored into a cumulative impact assessment undertaken of the combined impact from traffic from an operational quarry and the operational use of the proposed anaerobic digestion plant on the surrounding road network.

Tarmac have confirmed to the applicant that in the event of a restart of quarry operations, the output would likely be in the order of 100,000 tonnes per annum (equivalent to some 5,000 HGV loads). This equates to some 40 two-way HGV movements per day over 250 working days per year.

In total then, the applicant's Transport Assessment informs that the potential cumulative impact of the vehicle movements from the Bangley Quarry AD plant and a reactivated quarry use could be 125 two-way vehicle movements per day on the road network surrounding the Quarry.

The original Transport Assessment undertaken for planning permission 17/00922/P

predicted 91 two-way vehicle movements per day associated with the operation of the Bangley Quarry AD plant, and when added with a reactivated quarry use would be a total of 131 two-way traffic movements. Based on the revised indicative feedstock mix to include animal by-products, the impact on the Bangley Quarry AD plant traffic two-way movements would be a reduction from 131 to 125, so a reduction of 6.

Therefore were the quarry not to be reactivated then the traffic two-way movements would reduce from 91 as predicted in planning permission 17/00922/P, to 85 as predicted through this application.

Therefore the Transport Assessment concludes that, whether or not the quarry operations were to restart, the proposed variation of Conditions 2 and 3 of planning permission 17/00922/P would not have a harmful impact on the traffic flow, capacity and safety of the road network surrounding Bangley Quarry.

The applicant's submitted Transport Safety Assessment & Management Plan points out that Condition 8 of planning permission 17/00922/P requires that all HGV traffic, including tractor trailers with a maximum gross weight of greater than 15 tonnes, access the site only by way of the A199 public road and the C112 classified public road to the southwest of Bangley Quarry, and not from the A1637 to the east. As a typical unladen tractor trailer weighs some 15 tonnes, the submitted Transport Safety Assessment & Management Plan states that it can reasonably be concluded then that most laden delivery vehicles would use the A199 and the C112 public road to the southwest to access the Bangley Quarry AD plant and would not access the site from the east.

However, in order to alleviate any impact resulting from vehicle movements associated with the Bangley AD plant, the Transport Safety Assessment & Management Plan informs that 9 of the existing passing places on the roads surrounding Bangley Quarry have already been upgraded and improved, as required by Condition 7 of the planning permission 17/00922/P, and the widening and strengthening of those passing places would ensure that local traffic would have sufficient means of accommodating any vehicles associated with the development.

However in any event the applicant has advised it is their intention to make a commitment that all delivery vehicles, including HGV traffic and tractor trailers, shall access and leave the site only by way of the A199 public road and the C112 classified public road to the southwest of Bangley Quarry. This commitment, they state, is in the interests of the amenity of local residents.

The applicant's submitted Odour and Air Quality Assessment states that the anaerobic digestion to include the processing animal by-products has the potential to lead to odorous emissions during the receipt storage and handling of these materials. To address all environmental concerns, appropriate management of these emissions has been integrated into the planning and design stages of the Bangley Quarry AD plant and its associated processes. The Assessment informs that a full Pollution Prevention and Control (PPC) permit would need to be acquired from the Scottish Environment Protection Agency (SEPA). This will require that the plant is designed, constructed, and operated to comply with the regulations set out by SEPA. The implementation of PPC regulations would ensure that a high level of protection is provided to the environment at all times during the lifetime of the plant. Under the PPC, SEPA would monitor and control odour as well as the various other applicable environmental criteria.

The submitted Odour and Air Quality Assessment further states that animal by-product materials such as chicken litter, farm yard manure & cattle slurry would be delivered to site where on arrival to site these would be delivered straight to the already approved

process building where the doors would be closed and the materials would be tipped into the clamp bays within that building. Several mitigation strategies would be in place to ensure odour levels associated with handling of those materials are in keeping with the original permitted development as follows:

- o Operational Methodology - All animal by-product arriving to site would be transported directly to the process building. That building would be held under negative pressure and doors would be opened only for the entry and exit of vehicles. Materials would be tipped into the clamp bays within that building and shovelled from these bays and fed to a dedicated feed system within this sealed and odour treated building. From this feed system the materials would be pumped through enclosed pipework directly to the sealed anaerobic digestion system. Animal by-product materials would be delivered in a just in time manner and would be stored in that building;

- o Outdoor Area Controls - In the outdoor areas no animal by-products would be fed;
- o Process Building Specification - The process building would be held under negative pressure and doors would only be opened for the entry and exit of vehicles. That building would be specified as recommended as the Best Available Technology (BAT) and required for the SEPA PPC Regulations;
- o An Odour Control Unit (OCU) - An OCU is to be installed to provide odour abatement, processing potentially odorous air within the process building. This unit would be chosen based on BAT criteria and would entail significant investment to install, in the range of £400,000 - £600,000, a considerable cost to the project. This odour control unit would take the odorous air and treat to a pre prescribed level so that the expelled air would contain odour levels which are known and measurable;
- o Digestate Storage Tank - The digestate storage tank has an airtight roof / dome so it would not be a source of odour emission;
- o SEPA Pollution Prevention Control permit (PPC) - As previously noted, a Pollution Prevention Control permit would be in place to control all the above alongside wider site activities.

The submitted Odour and Air Quality Assessment concludes that odour would not present a loss of amenity in the surrounding area.

## EIA

Under the provisions of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 the proposed development falls within the category of a Schedule 2 Development, being one that may require the submission of an Environmental Impact Assessment (EIA). Schedule 3 of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 sets out the selection criteria for screening whether a Schedule 2 development requires an EIA. On 2 December 2021 the Council issued a formal screening opinion with the conclusion that the proposed development is not likely to have a significant effect on the environment such that consideration of environmental information is required before any grant of planning permission. It is therefore the opinion of East Lothian Council as Planning Authority that there is no requirement for the proposed development to be the subject of an EIA.

## DEVELOPMENT PLAN

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that the application be determined in accordance with the development plan, unless material considerations indicate otherwise.

The development plan is the approved South East Scotland Strategic Development Plan (SESplan) and the adopted East Lothian Local Development Plan 2018.

There are no policies of SESplan relevant to the determination of this application.

Policies NH2 (Protection of Sites of Special Scientific Interest and Geological Conservation Review Sites), NH5 (Biodiversity and Geodiversity Interests, including Nationally Protected Species), NH12 (Air Quality), NH13 (Noise), T1 (Development Location and Accessibility) and T2 (General Transport Impact) of the adopted East Lothian Local Development Plan 2018 are relevant to the determination of this application.

It is stated in paragraph 9.6 of the adopted East Lothian Local Plan 2008 that the Council is supportive of Government policy to secure greater energy generation from renewable sources. The benefits will be weighed against the impact on the local environment and features of interest.

Material to the determination of the application are Scottish Planning Policy: June 2014 and Planning Advice Note 51: Planning, Environmental Protection and Regulation (PAN51).

Scottish Planning Policy on renewable energy states that the commitment to increase the amount of electricity generated from renewable sources is a vital part of the response to climate change. In this, there is potential for communities and small businesses in urban and rural areas to invest in ownership of renewable energy projects or to develop their own projects for local benefit. Planning authorities should support the development of a diverse range of renewable energy technologies whilst guiding development to appropriate locations. Factors relevant to the consideration of applications for planning permission will depend on the scale of the development and its relationship with the surrounding area, but are likely to include impact on the landscape, historic environment, natural heritage and water environment, amenity and communities, and any cumulative impacts that are likely to arise.

In terms of the above, it is stated in the applicant's Planning Statement that biomethane injection projects such as the one at Bangleigh Quarry are incentivised to produce gas from wastes (as opposed to energy crops or by-products) for the following reasons:

- o There are no other more sustainable alternative uses for these feedstocks;
- o Lower Carbon emissions associated with gas produced when Total Lifecycle Analysis (TCA) is taken into account; and
- o Eligibility for a wider range of Government Renewable schemes.

Replacing some of the energy crops (Grass and Hybrid Rye) and straw with animal by-product feedstocks will achieve the above and the proposed revised feedstock mix to include animal by-products to replace energy crops and straws results in a biomethane which has much lower carbon emissions overall (some 60% reduction). The proposed variations to the operation of the Bangleigh Quarry AD plant would contribute directly to a key aim of the Scottish Government to mitigate climate change by deriving energy from renewable, low carbon sources. In doing so, the proposed variations would stimulate the sustainable growth of a rural economy by providing a means for farmers to diversify their businesses, reduce emissions and creating new employment opportunities. The wider community would benefit in turn by the security of supply of renewable gas derived from local agricultural wastes into the national gas network in Haddington.

It is stated that when organic wastes and materials are recycled and utilised for

energy/fuels, carbon savings are delivered across multiple fronts. Processing of animal by-products materials at the Bangley Quarry AD plant would give further overall CO2 emissions reductions associated with the project.

PAN51 advises that its central purpose is to support the existing policy on the role of the planning system in relation to the environmental protection regimes. In Paragraph 38 it states that planning decisions should be made on planning grounds in the public interest and should not be used to secure objectives achievable under other legislation or powers. However, the issues controlled under other legislation may be material considerations, for example the impact of a proposal on air or water quality, even though the regulation of emissions or discharges fall to be dealt with under other legislation. Likewise, when SEPA comments on a planning application and is also the environmental regulator, it should assess the land use aspects of the planning application to clarify whether, on the information available at the time, the proposed development is potentially capable of being consented under the (SEPA) licensing regime.

Also material to the determination of the application are the written representations received to it.

## **REPRESENTATIONS**

A total of 15 written objections have been received to this application.

The main grounds of objection can be summarised as follows:

- \*the proposed development would lead to increased traffic on a road unsuitable to take such vehicles leading to damage and a major impact on the road network, all of which would constitute a road safety hazard to drivers, pedestrians and horse riders and would result in a loss of amenity;
- \* local roads are not suitable for an increase in traffic from large vehicles;
- \* the number of vehicle movements in the submitted Transport Assessment are underestimated;
- \* no anaerobic digester destined traffic should use the A6137-Bangley Quarry road;
- \* additional traffic would lead to increased emissions from the vehicles;
- \* there is no real reasoning or justification for the variations that are sought to the original conditions;
- \* the proposed development would result in obnoxious smells coming from the Bangley Quarry Plant by using animal by-products;
- \* animal by-products are significantly more likely to create odour, nuisance and hygiene issues particularly when being transported - normally by tractor and open trailer;
- \* the proposal would undoubtedly have a significant adverse impact on amenity - including health & hygiene - not only in the immediate area around the facility but over a significant wider area over which these bad neighbour waste products will be transported;
- \* there would be noise pollution from a mixture of transport vehicles and unloading at the facility would have a significant and deleterious effect on the environment as well as putting unacceptable strain on the roads and existing users;
- \* it is questioned whether the proposed quantities of by-product can be sourced locally;
- \* granting the requested variation sets a dangerous precedent;
- \* the passing places required by Condition 7 of planning permission 17/00922/P have not been constructed to the required specification;
- \* conditions of planning permission 17/00922/P must be complied with;
- \* the green credentials of the proposed development have not been demonstrated taking into account emissions from vehicles delivering to and from the site;
- \* the proposals would have a particular adverse impact on the tourist focused Garleton



Lodge business;

- \* planning permission 17/00922/P has expired and thus the application should not be considered;
- \* the proposals are not minor variations but material changes to approved scheme of development and should not be determined as mere variations;
- \* the proposals would bring about an inevitable and unacceptable increase in HGV/AV movements into and out of the development site via a wholly unacceptable c-class road;
- \* there is no mechanism in place to monitor transport movements;
- \* changes to the highway code would lead to road and pedestrian safety issues and pose a danger to horse riders and cyclists;
- \* the reports submitted with the application cannot be considered truly independent;
- \* there have been a proliferation of developments in the area since the grant of planning permission 17/00922/P and thus there would be a direct conflict and adverse interaction between the Bangley Quarry AD plant and additional traffic from those developments;
- \* the processing of animal by-products would lead to airbourne pollution and the potential for the widespread release of noxious odours;
- \* the entry/exit point to and from the AD plant is dangerous;
- \* Bangley Quarry is known to have a presence of several species of birds of prey which should be taken into account; and
- \* there is a potential of leakage of polluted waste from the site.

Planning permission 17/00922/P has been implemented and has not therefore expired. It remains extant.

If any future application was submitted to the Council for any further changes to the Conditions imposed on the grant of planning permission 17/00922/P such application(s) would be assessed on their own merits.

The requirement to meet the terms of Condition 7, or any other Condition, of planning permission 17/00922/P is not a material consideration in the determination of this application and would a matter to be investigated by the **Council's Planning Enforcement Service**.

In terms of the impact of the proposed development on tourism, there is no evidence to substantiate the assertion of some of the objectors that the proposed development would harm tourism in East Lothian.

## **COMMUNITY COUNCIL**

Haddington Community Council, as a consultee on the application advise that it is their view that there were good reasons that the planning conditions were imposed in 2017 based on the residents and the Community Councils concern over traffic volumes to and from the site and the impact of the smell on the residents living adjacent to the access roads to the quarry. Therefore, there seems no justification to change or grant the variations sought at this juncture, before the Anaerobic Digestion Plant is built.

The erection and operation of an anaerobic digestion plant, ancillary equipment, on-site infrastructure and associated works on the application site within Bangley Quarry has been established by the grant of planning permission 17/00922/P. That planning permission has been implemented and remains extant. Works commenced on site but were suspended due to the outbreak of COVID-19 and the applicant has confirmed construction is likely to recommence in March 2022.

The determination of this application therefore rests only on the planning considerations

of the likely additional impacts the proposed variation of Conditions 2 and 3 of planning permission 17/00922/P would have on the amenity of the area, including on any nearby residential properties and neighbouring land uses, on traffic movements and road safety and on any biodiversity interests.

NatureScot have been consulted on the application given that Bangley Quarry Site of Special Scientific Interest (SSSI) is located to the south of the application site. NatureScot advise that they have no comment to make to the proposals, being satisfied that they would not affect the SSSI nor have any harmful impact on protected species.

The **Council's Biodiversity Officer** has also been consulted on the application and advises that the proposed development would not have any harmful impact on the biodiversity interests at the site including on any protected species.

On these above considerations the proposed development does not conflict with Policies NH2 or NH5 of the adopted East Lothian Local Development Plan 2018.

The **Council's Public Health and Environmental Protection Officer** advises that the Bangley Quarry AD Plant would be regulated under the terms of a Pollution Prevention and Control (PPC) permit issued and enforced by the Scottish Environment Protection Agency (SEPA). The terms of the permit would include conditions so that matters such as odour and operational process noise would be controlled by SEPA. Therefore, the Public Health and Environmental Protection Officer would have no regulatory role over such matters with regard to the operation of the Bangley Quarry AD Plant as proposed to be altered by the variation of Conditions.

However, the Public Health and Environmental Protection Officer has reviewed the applicant's submitted Odour and Air Quality Assessment and advises he can only advise on potential impacts on those pollutants that fall to the Council to regulate as part of its Local Air Quality Management (LAQM) responsibilities. On this, he is satisfied that LAQM Air Quality Objectives would not be exceeded at any sensitive receptor and thus the proposal would not lead to any harmful impacts on any nearby residential property on the matter of air quality.

The Public Health and Environmental Protection Officer is also satisfied that there would no harmful impact on the amenity of any nearby residential property from odour arising from the operation of the Bangley Quarry AD Plant if animal by-products are to be processed within as proposed through this application. The Public Health and Environmental Protection Officer again advises that SEPA would require the operator of the Bangley Quarry AD Plant to adopt appropriate and effective odour mitigation measures under their regulatory control.

With regard to noise the Public Health and Environmental Protection Officer confirms that the noise control embodied in Condition 6 of planning permission 17/00922/P should continue to apply and would ensure that noise arising from the operation of the Bangley Quarry AD Plant as it would be altered in the manner proposed would not have a harmful noise impact on the amenity of any nearby residential property or land use. That control can be imposed again were planning permission were to be granted for this proposed development.

SEPA have also appraised the submitted Odour and Air Quality Assessment, and advise that odour and emissions have been satisfactorily modelled and on the matter of odour and air quality they do not advise that the operation of the operation of the Bangley Quarry AD Plant as proposed to be altered by the variation of Conditions would harm the amenity of any nearby residential property or land use.

SEPA further confirm that the Bangley Quarry AD Plant would still require to be permitted under their separate regulatory regime, namely the Pollution Prevention and Control (Scotland) Regulations 2012 (PPC) and that it is their view it is likely that a PPC application would be successful for the AD plant to operate under the revised Conditions as proposed.

SEPA could also impose any separate noise control they thought appropriate through their separate PPC permit process.

On the matter of odour arising as a result of transportation of animal by-products to the application site, SEPA have advised that their PPC permit process only regulates activity that takes place within the application site boundary and they cannot exercise control over vehicle movements to and from the site.

Therefore the Public Health and Environmental Protection Officer requested information from the applicant on this matter. The applicant has confirmed that all delivery vehicles of animal by-product materials would be sheeted/covered to mitigate the release of odours in transit and the sheeting/covers would only be removed once the delivery vehicle is inside the process building which has an odour abatement system, and the sheeting/covers would be replaced before vehicles leave the building.

The requirement that all delivery vehicles of animal by-product materials to be sheeted/covered from their point of origin to the process building and that the sheeting/covers would only be removed once the vehicle is inside the process building and the doors of that building are closed to mitigate the release of odours in transit can be imposed as a condition on a grant of planning permission. The Public Health and Environmental Protection Officer is satisfied such control would ensure that odour impacts arising as a result of transportation of animal by-products to the application site would not have an unacceptable impact on the amenity of any nearby residential property, nearby operating businesses or tourism uses or other land uses.

On these foregoing considerations of air quality, odour and noise, the proposed variation of conditions would not have a harmful impact on the amenity of any nearby residential property, nearby operating businesses or tourism uses or other land uses. In this the proposals are consistent with Policies NH12 and NH13 of the adopted East Lothian Local Development Plan 2018 and with Scottish Planning Policy: June 2014 and Planning Advice Note 51: Planning, Environmental Protection and Regulation.

Paragraph 191 of Scottish Planning Policy: June 2014 states that planning authorities should consider the need for buffer zones between dwellings or other sensitive receptors and some waste management facilities. As a guide, appropriate buffer distances may be:

- \* 100m between sensitive receptors and recycling facilities, small-scale thermal treatment or leachate treatment plant;
- \* 250m between sensitive receptors and operations such as outdoor composting, anaerobic digestion, mixed waste processing, thermal treatment or landfill gas plant; and
- \* greater between sensitive receptors and landfill sites.

Notwithstanding the findings of the above assessment of the impact of the proposed variation of Conditions on the operation of the Bangley Quarry AD plant on the amenity of nearby residential properties, businesses and land uses, there are no residential properties within 250 metres of the application site. The proposed development

therefore complies with the 250 metre buffer zone in Scottish Planning Policy: June 2014.

The **Council's Road Services** have appraised the applicant's submitted Transport Assessment and Transport Safety Assessment & Management Plan. Road Services advise that the submitted Transport Assessment demonstrates that there would be a reduction in the overall traffic movements to and from the application site due to differing mix and volumetric densities of material being processed as now proposed with the introduction of processing animal by-products.

Road Services advise that they are content with the findings of the Transport Assessment, satisfied that the predicated reduced level of vehicle trips to and from the site as identified in the submitted Transport Assessment is a reliable basis on which to assess the proposed changes to the operation of the facility, and that the proposed increase in capacity of the Bangley Quarry AD plant to 100,000 tonnes per annum is unlikely to result in any increase in vehicle movements to and from the site. Road Services confirm, as with their assessment of previous planning permission 17/00922/P, that there is ample reserve capacity in the local road network to accommodate the movements associated with trips to and from the site, and that the construction of the roads is of sufficient depth and condition to cope with the level of traffic identified in the submitted Transport Assessment.

Road Services raises no objection to the application, being satisfied that traffic likely to be generated by the proposed development could be satisfactorily accommodated on the local road network and thus it would not result in a road or pedestrian safety hazard. The proposed development does not conflict with Policies T1 and T2 of the adopted East Lothian Local Development Plan 2018.

Road Services acknowledge that the applicant has made a written commitment that all delivery vehicles accessing or exiting the site will do so via the C112 public road to the southwest of the quarry entrance with no delivery vehicles approaching or leaving via the C112 public road to the northeast. Road Services support such a commitment.

As the applicant has made a commitment to route all delivery vehicles from/to the A199 to the southwest it would be reasonable to impose a condition on the grant of planning permission that all delivery vehicles, including HGV traffic and tractor trailers, arriving and leaving the site should do so only by way of the A199 public road and the C112 classified public road to the southwest of Bangley Quarry.

With this condition in place, no delivery vehicles would pass the road serving the guest house of Garleton Lodge and therefore delivery vehicle movements associated with the operation of the Bangley Quarry AD plant would not have an unacceptable impact on the operation or amenity of that business.

In conclusion, the proposal is considered to be in accordance with the provisions of the stated relevant Development Plan policies and there are no material considerations which outweigh the proposal's accordance with the Development Plan.

A revised version of Planning Series Circular 3/2013 (Development Management Procedures) was published by the Scottish Government in September 2015. Annex I of the Circular gives guidance on applications for planning permission under section 42 of the Town and Country Planning (Scotland) Act 1997, as amended. The application that is the subject of this report is made under section 42 of the Act. Annex I states that "Planning authorities should attach to the new permission all of those conditions from the previous permission, where it is intended these should apply and ensure (where

appropriate) that permission is granted subject to the conclusion of any appropriate planning obligation". Therefore, planning permission should be granted for the applied for variation to Condition 2 and 3 of planning permission 17/00922/P and subject to the conditions from planning permission 17/00922/P, where it is intended these should apply. In this case, Conditions 1, 4, 5, 6, 8, 9, 10 and 12 should continue to apply. The wording of some of the conditions require to be altered to accurately reflect the planning permission to which they relate.

## CONDITIONS:

- 1 No development shall take place on site unless and until final site setting out details have been submitted to and approved by the Planning Authority.  
  
The above mentioned details shall include a final site setting-out drawing to a scale of not less than 1:200, giving:
  - a. the position within the application site of all elements of the proposed development and position of adjoining land and buildings;
  - b. finished ground and floor levels of the development relative to existing ground levels of the site and of adjoining land and building(s). The levels shall be shown in relation to an Ordnance Bench Mark or Temporary Bench Mark from which the Planning Authority can take measurements and shall be shown on the drawing; and
  - c. the ridge height of the proposed shown in relation to the finished ground and floor levels on the site.  
Reason:  
To enable the Planning Authority to control the development of the site in the interests of the amenity of the area.
  
- 2 The capacity of the anaerobic digestion plant hereby approved shall not exceed 100,000 tonnes per annum.  
  
Reason:  
To restrict the capacity of the plant to that applied for, in the interests of the amenity of the area and road safety.
  
- 3 No household or commercial food waste shall be transported to, or processed within the anaerobic digestion plant hereby approved.  
  
Reason:  
In the interests of the amenity of the area.
  
- 4 No delivery vehicles shall access or egress the application site between 11.00pm - 07.00am on any day.  
  
Reason:  
In the interests of the amenity of the area.
  
- 5 There shall be no outside storage of feedstock or animal by-products.  
  
Reason:  
In the interests of the amenity of the area.
  
- 6 The anaerobic digestion plant and associated development all as hereby approved shall at all times operate in compliance with the following requirements:
  - (i) the Rating Level, LArTr, of noise emanating from any associated plant or machinery serving the proposed anaerobic digestion plant (when measured 3.5m from the façade of any neighbouring residential property) shall be no more than 5dB (A) above the background noise level, LA90T. All measurements to be made in accordance with BS 4142: 2014 "Methods for rating and assessing industrial and commercial sound";

(ii) noise associated with the operation of any plant and/or machinery within the anaerobic digestion plant and any other part of the development hereby approved shall not exceed Noise Rating curve NR20 at any octave band frequency between the hours of 2300-0700 and Noise Rating curve NR25 at any octave band frequency between the hours of 0700-2300 within any nearby residential property. All measurements to be made with windows open at least 50mm.

Reason:

In the interests of the amenity of any nearby residential property.

- 7 All delivery vehicles including HGV traffic and tractor trailers shall access and egress the site only by way of the C112 classified public road and the A199 public road to the southwest of Bangley Quarry. At no time shall any HGV traffic, including tractor trailers, enter or leave the application site via the C112 public road to the northeast of Bangley Quarry.

Reason:

In the interest of the amenity of the area.

- 8 Within 2 months of the grant of this planning permission a scheme of landscaping in the form of the provision of a tree and shrub planted earth bund to the north of the entrance of Bangley Quarry shall be submitted to and approved in writing by the Planning Authority.

The formation of the bund and the tree and shrub planting comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner. The bund shall thereafter remain in place. If any of the new trees or shrubs die, are removed or become seriously damaged or diseased they shall be replaced in the next planting season with others of similar size and species, unless the Planning Authority gives written consent to any variation.

Reason:

In order to ensure the implementation of a landscaping scheme in the interests of the landscape character and visual amenity of the area.

- 9 Within 2 months of the grant of this planning permission a method statement in accordance with part 3.1.7 of the 'Bangley Quarry AD Plant: Confidential Annex to the Ecology Survey Report' by mbec environmental consulting dated September 2017 docketed to planning permission 17/00922/P shall be submitted to and approved by the Planning Authority in consultation with Scottish Natural Heritage. Development shall thereafter be carried out in accordance with method statement so approved.

Reason:

In the interests of nature conservation.

- 10 Should the anaerobic digestion plant hereby approved not supply gas for a continuous period of 12 months, it shall be deemed to have ceased to be required and, unless otherwise agreed in writing by the Planning Authority, shall be removed from the site, along with all associated plant and equipment. Within one month from the removal of the anaerobic digestion plant and all associated plant and equipment, details of the restoration of the cleared digestion plant site, including a restoration timetable, shall be submitted to and approved in advance by the Planning Authority. The cleared digestion plant site shall thereafter be restored in accordance with the details so approved.

Reason:

To ensure that any development which has ceased to serve its intended purpose is removed from the site, in the interests of the amenity of the area.

- 11 All vehicles delivering loads of animal by-products materials to the application site shall be sheeted/covered from their point of origin to the application site, and the sheeting/covers will only be removed once the vehicle is inside the process building within the application site and the doors of that building are closed. The sheeting/covers will be replaced on all such delivery vehicles prior to leaving the process building.

Reason:

In the interest of safeguarding the amenity of the area affected by the movement of vehicles transporting animal by-products materials to the application site.