

ANGUS COUNCIL

DEVELOPMENT STANDARDS COMMITTEE – 19 OCTOBER 2021

PLANNING APPLICATION – NORTH MAINS OF CONONSYTH, ARBROATH, DD11 3SA

GRID REF: 357390:747016

REPORT BY SERVICE LEAD – PLANNING AND SUSTAINABLE GROWTH

Abstract:

This report deals with application No [21/00550/FULL](#) which seeks retrospective planning permission for the change of use of land and buildings to a biomass production operation including the formation of a district heating system and the installation of three boilers, flues and associated works at North Mains of Cononsyth, Cononsyth, Arbroath, DD11 3SA by Cononsyth Farms Ltd. The planning application is recommended for approval subject to conditions.

1. RECOMMENDATION

It is recommended that the planning application be approved for the reason and subject to the conditions given in section 10 of this report.

2. ALIGNMENT TO THE ANGUS LOCAL OUTCOMES IMPROVEMENT PLAN/CORPORATE PLAN

This report contributes to the following local outcome(s) contained within the Angus Local Outcomes Improvement Plan and Locality Plans: -

- Safe, secure, vibrant and sustainable communities
- A reduced carbon footprint
- An enhanced, protected and enjoyed natural and built environment

3. INTRODUCTION

3.1 Retrospective planning permission is sought for the change of use of land and buildings to a biomass production operation including the formation of a district heating system and the installation of three boilers, flues and associated works at North Mains of Cononsyth, Arbroath. A location plan is provided at Appendix 1.

3.2 North Mains of Cononsyth is an agricultural building complex located around 2.5km northeast of Redford and a similar distance to the southwest of Friockheim. The application site measures around 1400sqm and incorporates land and buildings associated with the farm and is surrounded by agricultural buildings and land.

3.3 The application is retrospective, the use is in operation, and the related works have been undertaken. The biomass production operation involves the use of buildings at the northwest of the building group to house biomass plant, drying bays, and storage of dried biomass. Land at the north of the building group is used for the purposes of timber storage and chipping. The biomass boilers, of which there are three with a fourth proposed under separate application, feed a district heating network which provides heat to buildings within the farm complex. Each of the existing boilers has a flue which projects from the roof of existing buildings.

- 3.4 The biomass production operation is undertaken in order to provide seasonal drying capability for agricultural products such as grain, cereals and digestate; and to dry the woodchip which is required to fuel the three boilers and heat buildings via a district heating network. Timber is delivered to the site and chipped to provide fuel for the boilers. Some of the woodchip is dried in drying bays contained within existing buildings using heat from the biomass system. Dried woodchip is also supplied to customers in the surrounding area.
- 3.5 Vehicular access is taken from the B961 Dundee – Friockheim public road and no alteration to that arrangement is proposed.
- 3.6 The proposal has been varied to amend the description of development in order to clarify that the application also relates to the operational development associated with the biomass operation and district heating system as shown on the submitted application drawings.

4. RELEVANT PLANNING HISTORY

- 4.1 A planning application [21/00024/FULL](#) was submitted earlier this year for the installation of a 900kW biomass boiler system and associated works including the installation of a 12.7m flue. That application is subject of report 320/21. During consideration of that application it became apparent that other development had taken place at North Mains of Cononsyth without the requisite planning permission. This was raised with the applicants and their agent and the current application has been submitted in an attempt to regularise the situation. Members will be aware that planning legislation makes specific provision for the submission of applications for retrospective planning permission.
- 4.2 Planning application [21/00337/FULM](#) was submitted earlier this year for the erection of two 32,000 capacity free-range hen sheds and associated infrastructure including feed silos, egg packing facility, vehicular access, access tracks, drainage and landscaping. The sheds proposed in that application would be located around 500m to the west of North Mains of Cononsyth. That application remains under consideration.

5. APPLICANT'S CASE

- 5.1 An Air Quality Impact Assessment was submitted which considers the air quality impacts associated with the operation of the boiler units and flue stacks and assesses impacts on nearby sensitive receptors. The assessment considers the impact of emissions from the proposed and existing boiler installations of nitrogen dioxide (NO₂) and particulate matter (in the PM₁₀ and PM_{2.5} fractions). The assessment indicates that in relation to human health impacts: -
- the predicted annual mean or relevant percentiles of short-term average concentrations at receptors were significantly less than each of the respective NO₂, PM_{2.5}, and PM₁₀ air quality objectives; and
 - the site is not forecast to result in the exceedance of any air quality standards or guidelines at relevant receptors.

The assessment concludes that there are no significant impacts due to air pollution at any relevant exposure location.

- 5.2 Three Renewable Heat Incentive Emissions Certificates for the three biomass boilers were submitted. These indicate that the biomass boilers would be fuelled by chipped or compressed wood.
- 5.3 A supporting statement was submitted and it describes how the biomass production

operation currently functions and includes a number of photographs of the site. That statement is summarised as follows:-

- since 2012 the farm has had 2 drying bays predominantly used for drying of crop cereals. Outwith crop drying periods, the drying floors are used to dry woodchip to fuel the biomass heating systems.
- Deliveries of timber occur 8-10 times per year and timber is stockpiled until chipping is required.
- Chipping is carried out by an external contractor 6-8 times per year, typically over a 4 hour period.
- Approximately 900 tonnes dry weight is used by the applicant and 800 tonnes is sold to customers.
- There are 14 regular customers within an 8km radius. Woodchip is collected by customers via tractor and trailer approximately 6 times per year. By comparison, agricultural vehicles move 9000 tonnes of potatoes and 4000 tonnes of grain.
- The three existing biomass boilers have been in operation over the last 8 years. Two are used to supply the district heating network and one is used for air drying of cereals and wood chip. The existing boilers have air quality certification as a requisite of the Renewable Heat Incentives Regulations.

5.4 All supporting information can be viewed on the council's [public access](#) website.

6. CONSULTATIONS

6.1 **Angus Council Environmental Health** – confirmed no objection subject to conditions which would restrict the type of biomass boiler model and fuel that could be burned; would restrict the diameter and height of the flues; would restrict the annual hours of operation for each biomass boiler; would restrict the noise levels which could be generated; and require the submission of a noise management plan.

6.2 **Angus Council Roads** – confirmed no objection.

6.3 **Scottish Water** – no response from this consultee.

6.4 **Community Council** – the application was included on the consultation list sent to all community councils. No community council has offered comment.

7. REPRESENTATIONS

7.1 Seven letters of representation have been received that raise objection to the application. The letters are provided at Appendix 2 and can also be viewed in full on the council's [public access](#) website.

7.2 The following matters have been raised and are discussed at Planning Considerations: -

- proposal is contrary to the Angus Local Development Plan;
- adverse amenity impacts associated with noise, smell, air quality reduction, and visual impact, and adequacy/accuracy of supporting information and assessments;
- adverse health impacts associated with particulate emissions;
- adverse amenity impacts caused by additional smells due to the burning of manure from the proposed chicken sheds;
- the proposal, along with additional plans to develop two large poultry sheds, would result in the overdevelopment and overindustrialisation of the rural area;
- adverse impacts upon prime agricultural land;
- adverse impacts associated with additional vehicular traffic;
- increased risk of localised flooding; and
- inaccuracies and inconsistencies in the supporting information.

7.3 Other matters raised are addressed below: -

- very limited public consultation has been undertaken – neighbour notification is undertaken in accordance with the provisions of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013. The planning application did not require to be advertised in the local press in accordance with the provisions of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013. However, details of the application have been published on the council's Public Access system. There was no requirement for the applicant to undertake any form of public consultation prior to the submission or during the determination process of the planning application.

8. PLANNING CONSIDERATIONS

8.1 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that planning decisions be made in accordance with the development plan unless material considerations indicate otherwise.

8.2 In this case the development plan comprises: -

- TAYplan (Approved 2017) (TAYplan); and
- Angus Local Development Plan (Adopted 2016) (ALDP).

8.3 The relevant policies are provided in Appendix 3 and have been considered in the preparation of this report.

8.4 The site is not located within a development boundary and is not allocated or otherwise identified for development within the ALDP. Policy DS1 states that outwith development boundaries proposals will be supported where they are of a scale and nature appropriate to their location and where they are in accordance with relevant policies of the ALDP.

8.5 Policy TC15 of the ALDP indicates that proposals for employment development outwith development boundaries will only be supported where the scale and nature of the development is in keeping with the character of the local landscape and pattern of development; and where the development represents rural diversification and is to be used for agriculture or uses which by their nature are appropriate to the rural character of the area. It requires the proposed use to be acceptable at the location, and consideration of impacts on the built and natural environment, amenity, access, and infrastructure. Policy PV9 relates to renewable and low carbon energy development and indicates that proposals will be supported in principle where they satisfy a number of identified criteria. In addition to those listed above, consideration is required in respect of landscape and visual impact (including cumulative impacts with other development); aviation, defence, seismological or telecommunications facilities; water environment; and site restoration. The council's Renewable and Low Carbon Energy Development Supplementary Guidance (2017) contains relevant planning considerations for biomass developments which are similar to those listed above.

8.6 The biomass operation at the site is directly related to the agricultural activity that takes place at the farm complex. Biomass boilers are used to supply a district heating system for buildings in the farm complex and for the air drying of agricultural crops. There is a rationale for the biomass boilers to be located at the site to feed a district heating system that serves existing buildings. There is a clear locational justification for the biomass boilers and associated district heating system.

- 8.7 The biomass boilers are housed in buildings contained within the farm complex and the flues serving the boilers are seen in the context of those agricultural buildings. The visual impact associated with the flues is minimal and they do not look out of character in a working farm complex. The pipework associated with the district heating system is underground and does not give rise to any significant landscape or visual impact.
- 8.8 The closest residential property to the site is the farmhouse at North Mains of Cononsyth which is located directly south of the complex of farm buildings. It is served by the district heating system and in the ownership and control of the applicants. The closest dwelling unrelated to the operation is located more than 200m from the buildings containing the biomass boilers and associated flues. The submitted air quality assessment indicates that the development does not result in the exceedance of any air quality standards and there are no significant impacts due to air pollution at any relevant exposure location. The environmental health service has considered the content of that information and is satisfied impacts on air quality and amenity in general are not significant and can be appropriately controlled by planning conditions which restrict the type of biomass boiler model, limit the type of fuel to be burned, control the stack height of the boiler flues, and restrict noise levels which could be generated by operation of the system.
- 8.9 There is no evidence to suggest that the operation of the boilers or the operational development that has been associated with the installation of the district heating system gives rise to any significant impact on built or natural heritage interests. Material is delivered to fuel the boilers, but this is an operational farm where there are regular vehicle movements associated with delivery and dispatch of agricultural produce. The roads service has raised no concern regarding the suitability of the access and there is no evidence of significant impact on other infrastructure in the area.
- 8.10 In addition to the operation of the biomass boilers, the applicants produce woodchip at the site as a feedstock for the boilers and for other parties in the wider area. While production of biomass material on-site may not be essential for the operation of the boilers, there are clear benefits in the applicants having ready access and control over the supply of material. The biomass production operation occupies a relatively small area at the north of the farm complex, and it represents a form of diversification for the farming operation which allows the use of drying facilities within the buildings on a year-round basis. It enables the applicant to produce fuel to meet their own needs, while helping to meet the needs of others in the surrounding area. The principle of this type of activity is broadly compatible with the locational policy set out in development plan policy.
- 8.11 The biomass production activity involves the delivery of timber and its subsequent chipping, drying, and dispatch to customers. Timber is delivered to the site and stored in locations to the north of the building complex until it is chipped. The roads service has raised no concern regarding road safety impacts associated with the delivery of timber or dispatch of woodchip and again it is recognised that there are frequent vehicle movements associated with the normal operation of the farm buildings. The storage of timber adjacent to the existing farm buildings does not give rise to significant landscape or visual impact. External storage in and around farm buildings is commonplace and the storage area is not unusually visible from public areas. The environmental health service has reviewed information in relation to noise associated with the biomass production operations, including wood chipping and is satisfied it does not cause significant impact to the amenity of those that live in the area having regard to recognised criteria. It has recommended a noise limit condition and a further condition requiring the submission of a noise management plan to ensure that noise impacts associated with the chipping of timber are mitigated. In addition, a condition is proposed that controls the frequency

and duration of chipping activity to mitigate impact associated with that activity and to control the scale of the operation.

- 8.12 Biomass production is not an unusual or inappropriate activity in a rural area and there is locational justification for it at this site. The scale and nature of the operation does not give rise to any significant issues in terms of the character of the landscape or pattern of development. It does not adversely impact the built or natural environment, amenity impacts are not significant, suitable and safe access is available, and it does not adversely affect infrastructure in the area.
- 8.13 The site is classified as prime agricultural land, but activities are largely contained within existing buildings or on land associated with the existing farm complex. Land used for the temporary storage of timber is not permanently lost from agricultural use. In any event, council policy allows development on prime agricultural land where it constitutes renewable energy development. The development would not adversely affect the viability of the farm unit; on the contrary it is likely to support its viability.
- 8.14 The proposal does not give rise to any other significant issues in terms of development plan policy or relevant council guidance and it is of a scale and nature appropriate for the location. The proposal complies with the development plan.
- 8.15 In addition to the development plan it is relevant to have regard to other material considerations. In this case material considerations include relevant planning matters raised in letters of objection, Scottish Government policy and guidance, and the fact that use and development has taken place at the site for some time.
- 8.16 The concerns regarding emissions and amenity impacts associated with the development are noted. However, the council's environmental health service has reviewed all information submitted in support and in objection to the application. While some discrepancy in supporting information has been identified, it is satisfied that emissions associated with the development do not exceed relevant criteria and that impact on amenity can be controlled by planning conditions. It is also recognised that the operation appears to have been undertaken for several years and there is no record of complaint in relation to the activities. The conditions proposed would not eliminate emissions associated with the development but should ensure that they are within acceptable limits.
- 8.17 It is recognised that there is significant concern regarding the planning application for the poultry sheds to the west of the site. However, that application remains undetermined. Any decision in relation to this application will be considered in the future determination of that application, but for the reasons set out above the landscape and visual impacts, and the impacts on prime agricultural land associated with the development provided by this application are not considered unacceptable. Conditions proposed below would restrict the feedstock that can be used for the biomass boilers.
- 8.18 The junction between the site access and the public road is long-established and is located where there is reasonably good visibility in both directions. The roads service has indicated that it has no objection to the application and it is satisfied that the continued use would not give rise to significant road safety issues. The junction is well used by agricultural vehicles throughout the year and there is no evidence that this activity, or any activity associated with the ongoing biomass production operation at the site has given rise to any significant road safety issues.
- 8.19 The site is not located within an area which is identified on SEPA maps as being at risk from flooding. The nature of the development is not one that is particularly sensitive or vulnerable to flooding, and the scale and nature of the proposal is such that it is unlikely to result in any significant impacts upon the water environment or increase the risk of flooding.

- 8.20 Those making representation have indicated that there are errors and inconsistencies in the information submitted in support of this application and the information submitted in relation to the application for the proposed additional boiler and flue. That includes discrepancies in relation to vehicle numbers, frequency of chipping activities, and air quality thresholds. These matters have been taken into account in the assessment of the application and in the preparation of this report, but they do not materially affect the acceptability of the proposal having regard to its overall scale and nature, its location on a working farm and relationship to neighbouring property, and the advice of consultees. Conditions are proposed that seek to control the operation and to ensure that it operates in a manner that does not give rise to unacceptable impacts.
- 8.21 Paragraph 33 of Scottish Planning Policy (SPP) states that where a development plan is more than five years old, the presumption in favour of development that contributes to sustainable development will be a significant material consideration. In this case TAYplan is less than 5-years old but the ALDP has recently become more than 5-years old as it was adopted in September 2016. The policies contained in the ALDP are generally consistent with TAYplan and SPP and are therefore considered to provide an appropriate basis for the determination of this application. However, the production and use of woody biomass to fuel a district heating system associated with an established agricultural business would contribute towards sustainable development. There are no adverse impacts which would significantly and demonstrably outweigh the benefits of the proposal when assessed against the wider policies in the SPP.
- 8.22 Information provided by the applicants suggests that the biomass production use has taken place for a number of years and there is no record of any complaint regarding that use. However, the use has not taken place for a continuous period of 10-years and therefore it is not lawful. The applicants have also indicated that the three existing biomass boilers have been in situ for a period of more than four-years. Operational development can be considered lawful and immune from enforcement action after a period of four-years, but in this case the situation is not clear-cut as the boilers have been operated in association with a use that is unauthorised. In this instance there is uncertainty whether the installation of the boilers and their flues would be lawful after four years or 10 years. While the applicants have not applied for a certificate of lawfulness of existing development, instead submitting this application in an attempt to regularise the matter, it is possible that the operational development associated with this application could be lawful.
- 8.23 In conclusion, the application provides for use of land and buildings for the production of woody biomass, and for the installation and operation of biomass boilers, associated flues, and a district heating system that serves the farm complex. The application is retrospective, and it is understood that the operation has been taking place to varying extents over several years without complaint from neighbours. The site benefits from reasonable separation to neighbouring property and the scale and nature of the development is appropriate in association with an agricultural operation in a rural area. Consultees have raised no objection regarding the operation and available information indicates that it can continue to operate without significant adverse impact on the character, amenity, or environment of the area, and without adverse impact in relation to road safety or infrastructure. In that respect the development provided for by the application is compatible with relevant policies of the development plan. The application has attracted objection and the matters raised have been considered by consultees and have been taken into account in the preparation of this report. Where appropriate conditions are proposed to deal with issues raised in the representations, but there are no matters that justify refusal of planning permission. The development provided by this

application is compatible with the relevant provisions of the development plan and there are no material considerations that justify the refusal of planning permission.

9. OTHER MATTERS

HUMAN RIGHTS IMPLICATIONS

The recommendation in this report for grant of planning permission, subject to conditions, has potential implications for neighbours in terms of alleged interference with privacy, home or family life (Article 8) and peaceful enjoyment of their possessions (First Protocol, Article 1). For the reasons referred to elsewhere in this report justifying this recommendation in planning terms, it is considered that any actual or apprehended infringement of such Convention Rights, is justified. The conditions constitute a justified and proportional control of the use of the property in accordance with the general interest and have regard to the necessary balance of the applicant's freedom to enjoy his property against the public interest and the freedom of others to enjoy neighbouring property/home life/ privacy without undue interference.

10. CONCLUSION

It is recommended that the application be approved for the following reason and subject to the following conditions:

Reason(s) for Approval:

The development provides for the production of woody biomass, and for the installation and operation of biomass boilers, associated flues, and a district heating system to serve and support an existing agricultural business. It complies with the relevant policies of the development plan as it is compatible with the locational criteria identified in the plan and as it does not give rise to unacceptable impacts on amenity, natural and built environment, road safety or infrastructure subject to conditions. There are no material planning considerations that justify the refusal of planning permission contrary to the provisions of the development plan.

Conditions:

1. The biomass boilers hereby approved, shall be operated and maintained in full accordance with the manufacturer's instructions and shall not be used to burn fuel other than that tested for in the Renewable Heat Incentive Emissions Certificates as detailed in the information supporting this application. The three biomass boilers are restricted to the number, make, and model specified in the documentation supporting this application or such other type of replacement boiler as may be approved by the Planning Authority following submission of information to demonstrate that it would result in the same or reduced concentrations of NO₂, PM_{2.5} and PM₁₀ as set out in the COGEO Air Quality Impact Assessment for North Mains of Cononsyth Version 1.1 dated 01/06/2021.

Reason: In order to ensure that the biomass boilers are operated in a way which does not result in unacceptable air quality impacts on occupiers of surrounding residential properties.

2. All emissions into the atmosphere from each of the biomass boilers shall be discharged vertically from the flue stacks of the height and diameter detailed for each respective boiler in the COGEO Air Quality Impact Assessment for North Mains of Cononsyth Version 1.1 dated 01/06/2021.

Reason: In order to ensure that the biomass boilers are operated in a way which

does not result in unacceptable air quality impacts on the occupiers of surrounding residential properties.

3. The development hereby approved shall be operated in accordance with the COGEO Air Quality Impact Assessment for North Mains of Cononsyth Version 1.1 dated 01/06/2021. The annual operating hours of each boiler shall not exceed those described in Table 6.4 Exhaust Specification and Emission Rates of that document. A register of operating hours for each boiler shall be maintained by the operator and shall be made available for inspection by the planning authority at its request.

Reason: In order to ensure that the development is operated in a way which does not result in unacceptable amenity impacts on the occupiers of surrounding residential properties.

4. Noise from any plant or equipment associated with the development hereby approved shall not exceed Noise Rating Curve 30 between 0700 and 2300 and Noise Rating Curve 20 at all other times, as measured within any dwelling or noise sensitive premises with the windows open at least 50mm.

Reason: In order to safeguard residential amenity from excess noise caused by plant or equipment within the site.

5. That within 2 months from the date of planning permission, a detailed noise management plan shall be submitted to and approved in writing by the planning authority. The noise management plan shall, without prejudice to other matters, include the following: -

- details of all mitigation measures considered necessary to meet the noise limits specified above;
- a noise complaint procedure; and
- a procedure for the review of the noise management plan to ensure it is kept up to date in the event of a substantiated noise complaint or any changes in procedures or plant or equipment used at the site.

Thereafter the site shall be operated at all times in full compliance with the noise management plan as approved or amended by the planning authority.

Reason: In order to ensure that the development is operated in a way which does not result in unacceptable noise impacts on the occupiers of surrounding residential properties.

6. The chipping of timber within the site shall not take place on more than 12 days in any calendar year; for a maximum duration of 5 hours in any day; and shall only take place between the hours of 0800-1800. There shall be no more than one chipper operating at any time.

Reason: In order to regulate the frequency and duration of timber chipping because that is the basis on which the application has been assessed; and chipping of a greater frequency and duration could result in materially different impacts on amenity and on the character of the area.

NOTE: No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) were relied on to a material extent in preparing the above report.

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Appendix 1: Location plan
Appendix 2: Letters of representation
Appendix 3: Relevant development plan policies
Appendix 4: Planning service presentation