



Mr Edward Thwaite
15 Springmount
Lowton
WA3 2QH

Professor Steven Broomhead
Interim Chief Executive

Andy Farrall
Executive Director
Environment & Regeneration

New Town House
Buttermarket Street
Warrington
WA1 2NH

Your Ref:

Our Ref: EP/163322 and ENF12/0365

Date: 5th September 2013

Dear Mr Thwaite,

COMPLAINT OF ALLEGED NUISANCE – AGRICULTURAL ODOUR ALLEGED BREACH OF PLANNING CONDITIONS - APPLICATION 2011/17821

**DIGGLE GREEN FARM, 8 WILTON LANE, WARRINGTON, CHESHIRE,
WA3 4HT**

Thank you for your patience waiting for a written reply from us about potential issues at Diggle Green Farm. We acknowledge that there has been some delay in getting back to you, mainly because of regular changes in the situation as our investigations have progressed.

Over the last couple of months Warrington Borough Council and Wigan Metropolitan Borough Council have received a significant number of service requests concerning allegations regarding the operation of the above site. These allegations include odour complaints from the operation of the green waste composting process, odour from vehicles moving the product and associated spreading operations.

Additionally residents submitted objections to the planning application to increase the quantity of green waste being recycled on the site along with allegations of breaches of the existing planning conditions.

A meeting was arranged on 23rd August, 2013 to review the issues raised by residents, with the agencies involved with the above site and its activities. I can advise that different areas of complaints can only be investigated and enforced by the correct agency under specific legislation.

The following information reviews the areas each service will investigate.



1. Development Control – alleged planning contraventions

As you are aware, planning permission reference no. 2011/17821 approved consent for a narrow strip of the land and the access track to be used for the receipt and processing of green waste from around the region. The use of the land for this purpose is controlled by planning conditions and a legal agreement between the applicant and the Council which in combination impose certain restrictions on the land.

We are actively investigating the following alleged breaches of the restrictions and/or issues arising from the operation of the site:

- The number of heavy goods vehicles travelling to/from the site;
- Whether the compartments of vehicles carrying waste are being covered-over;
- The volume of waste in tonnes being brought onto the site for processing;
- Vehicle movements (including tractors and trailers);
- The locations from which waste is being imported on to the site;
- Any odours potentially resulting from the use of the land for green waste processing ;
- Direction of travel and routing for heavy goods vehicles carrying waste to/from the site.

We are not investigating the other issues described below because they are not within our remit; however, we have referred them on to Cheshire Police who are the appropriate organisation and asked them to investigate separately:

- Speeding of vehicles using the public highway;
- Vehicle registration, tax or roadworthiness of vehicles;
- Driver licensing or standards of driving;
- Vehicles exceeding signposted weight limits of vehicles using public highways.

Action

As part of our investigations, we have issued the landowner with two Planning Contravention Notices (PCN's) which require him to disclose certain information about his uses of the land. We have also written to eight waste operators who supply the site, asking them to disclose information too. Once we have all the necessary replies we will consider their responses and decide whether any action can be taken.

At this moment in time, the investigations are on-going and it is not possible to say conclusively what action, if any, can be taken. We ask you to keep in mind that planning law is notorious for being complex and regularly impacted by judges' decisions through the courts alongside new legislation being issued quite often.

If we decide to proceed with enforcement action, our options include issuing an Enforcement Notice, issuing a Breach of Condition Notice or asking a Court to enforce the legal agreement. Deciding what action to take will be a matter for our Officers in consultation with our Legal Team.

If we issue an enforcement notice, there are seven potential grounds of appeal and the requirements of the notice are held in abeyance until the landowners appeal has been determined. You would have the opportunity to comment on such an appeal, but the process invariably slows down the effectiveness of any enforcement action. Additionally, there are limits on the extent of enforcement action which we can take.

If, whilst going about your daily routine and ordinary life, you observe a heavy goods vehicle travelling to/from Diggle Green Farm, we would ask you to make a note of its date, time and location. You should also record how and why you believe it was coming to/from the farm.

We can confirm the planning application reference no. [2013/21897](#) to increase the quantity of green waste processed by the business has been withdrawn. It is possible that the applicant will submit a further application and we would encourage the applicant to resolve and address residents' concerns in any future planning applications. If an application is submitted, you would have a right to comment on the application for a period of 21 days.

2. Odour – at the site.

The Environment Agency (EA) is the primary regulatory authority for the waste management activities taking place on the site. Unlike us, the EA have the power to take enforcement action against the permit holder should they breach their Environmental Permit (which is issued and controlled under the Environmental Permitting Regulations 2010). It is the EA's responsibility to investigate complaints about the site operation and odour management where they are controlled by the permit.

In this respect we met with an EA representative on 23rd August 2013 and together we agreed the parameters and limits to our investigations. We agreed that we would aim to share data and information where possible.

Permit

I can advise the EA have confirmed the site has a permit to operate the green waste composting process.

The process carried out at the site is monitored by the EA. The environmental permit requires odour management to be considered by the site operator, who is required to minimise potential off site impacts through good management and operating systems.

Action

The EA have now been fully informed of all the complaints recently received by both councils. Warrington Borough Council has passed on detailed information collected over the last month by local residents of the incidence of odour. The EA have also identified off site odour from the composting process and propose to review odour management. This will include a detailed review of how odour will be managed on site through an odour management plan.

If you experience odour problems from activities taking place upon Diggle Green Farm then the EA should be your first point of contact. You can contact them by telephone on 0800 807060 (Freephone 24 hour service). You should provide them with your personal contact details and a description of your complaint, explaining the reasons why you believe the problem is being caused by Diggle Green Farm. If you are experiencing the problem regularly, we would encourage you to keep a record of the date, time and the severity by describing the effects it had on you. The EA can use your record to help direct their investigations.

3.Odour – from spreading activities

As Diggle Green Farm processes and spreads a PAS100/CQP product then the local Authority in the area where the spreading is occurring would regulate this activity and investigate any complaints of nuisance.

Action

We will be encouraging the business to notify the Local Authorities of stock piling and spreading activities, locally. This will enable investigation of complaints of odour efficiently. We will look to work with the business to encourage the adoption of an agreed protocol to minimise odour impacts. If you experience odour problems from any spreading activity, please contact your local Authority to investigate the source of complaint as other farms also carry out spreading and we need to confirm the source of any odour. The Officers contact details are detailed at the end of this letter for information.

4. Odour –from alleged unauthorised waste

Allegations had been raised by residents that waste containing untreated food waste was being taken to the site. I can confirm the environmental permit does not allow catering waste or animal by products and officers visiting the site from the both the EA and from the council have not observed any waste not permitted within the permit being accepted on site.

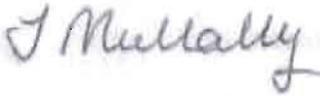
Action

The EA have advised that they will continue to monitor the site. The issue of pre-treated and sterilised waste was raised and we have asked if this material could be a

possible source of odour. The EA have confirmed they will further investigate this matter and provide a response shortly.

Hopefully this letter has covered the significant areas raised by local residents and goes some way to explaining how our investigations will proceed. We will aim to contact you again, to let you know how our investigations have progressed and tell you about any conclusions we have reached. Please find below the contact details for the officers involved with the on-going investigations for information.

Yours sincerely



Mrs Joann Mullally
Environmental Protection (Team Leader)

Tel: 01925 442582

Email: jmullally@warrington.gov.uk

Contact Details

Please contact Environment Agency
**For suspected odours from Diggle
Green Activities**

Direct Dial 0800 807060

Please contact Mr Harry Hayes
**For odours from unknown sources in
Warrington**

Direct Dial 01925 443526

E-Mail Address hhayes@warrington.gov.uk

Please contact Mr Colin Evans
**For odours from unknown sources in
Wigan**

Direct Dial 01942 489357

E-Mail Address c.evans2@wigan.gov.uk

Please contact Mr Dan Matthewman
For planning enforcement queries

Direct Dial 01925 442822

E-Mail Address dmatthewman@warrington.gov.uk