Town and Country Planning Act 1990

PLANNING PERMISSION

Name and address of applicant
Biogen (UK) Limited
Bedford Road
Rushden
Northamptonshire
NN10 0SQ

Name and address of agent

Part I - Particulars of application

Date of Application
24 October 2011

Application No.: 
NCC – 11/00078/WAS
ENC – EN/11/01938/NCC

Particulars and location of development
Variation of condition 2 of planning permission 08/00002/WAS to increase the annual throughputs from 45,000 to 49,000 tonnes per annum and to allow digestate to be applied to farmland up to 5 miles from the plant at the Westwood Anaerobic Digestion Plant, Bedford Road, Rushden, NN10 0SQ

Part II - Particulars of decision:

The Northamptonshire County Council

Hereby give notice in pursuance of the provisions of the Town and Country Planning Act 1990 that permission has been granted for the carrying out of the development referred to in Part I hereof in accordance with the application and plans submitted subject to the following conditions:

This consent supersedes and consolidates planning permissions 08/00002/WAS and 11/00073/WAS. Conditions have been updated since permissions 08/00002/WAS and 11/00073/WAS were granted. Those which have been discharged have been struck through and varied where appropriate.

Commencement of Development

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: Required to be imposed pursuant to section 91 of the Town and Country Planning Act 1990.

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Scope of Planning Permission

2. The development hereby permitted, shall not exceed a total annual throughput of 45,000 tonnes per annum, waste materials to be processed shall not exceed 41,000 tonnes per annum and digestate application shall be limited to the sites host agricultural unit.

The development hereby permitted shall not exceed a total annual throughput of 49,000 tonnes per annum and digestate application shall be limited to a 5 mile radius from the site.

3. The developer shall ensure that systems are in place to ensure that the site accepts and processes only food-chain waste of a non hazardous nature and that systems are in place to deal with any prohibited wastes delivered to site.

4. The applicant shall notify the Waste Planning Authority in writing of the date upon which the proposed anaerobic digestion plant receives its first commercial import of waste for processing.

Reason: To specify the scope of the permission, commencement date of waste operations and in the interests of clarity.

Hours of Working

5. Except as may otherwise be agreed in writing by the Waste Planning Authority the operations involving the importation of waste, removal of non compostable waste and outside movement of wastes on site hereby permitted, shall be restricted to between the hours of 07.00 and 19.00 on Mondays to Fridays and 07.00 to 13.00 on Saturdays, with no operations on Sundays, Public, Statutory or Bank Holidays.

Except as may otherwise be agreed in writing by the Waste Planning Authority, operations involving the importation of waste, removal of non compostable waste and outside movement of wastes on site hereby permitted, shall be restricted to between the hours of 07.00 and 19.00 on Mondays to Fridays, 07.00 and 13.00 on Saturdays and 08.00 and 16.00 on Public and Bank Holidays (excluding Christmas day).

Reason: To ensure that the working on site is carried out within reasonable hours so as to avoid disturbance to land users nearby having regard to Policy CS14 of the Northamptonshire MWDF Core Strategy (May 2010).

Documentation

6. From the date of the commencement and throughout development, a copy of this permission including all documents hereby approved and any other documents subsequently approved in accordance with this permission, shall always be on display at the site office for inspection during normal working hours.

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Reason: To ensure this planning permission and associated documents are available on site for reference and inspection.

Odour and Noise

7. Prior to the commencement of the development, the applicant shall establish existing baseline odour and noise values. The assessment methodology shall be submitted to the Waste Planning Authority for approval in writing. The assessment methodology for odour shall consider the use of olfactometry.

8. The noise level and odour baseline assessments shall both include consideration for measurement at the following sites:
   - The site boundary once the facility is built, but before waste is accepted on to the site
   - Bencroft Grange
   - Residential properties on the A6
   - Knotting
   - Knotting Green
   - Higham Park

   In addition odour baseline assessments shall also include consideration to measurement at:
   - Souldrop
   - Newton Bromswold

9. All noise and odour sampling locations shall be chosen so that they are representative and are accessible.

10. Noise level monitoring shall include the following indices for day and night times:
    a. **Daytime (7am-11pm):** $L_{Aeq}$ (1 hour); $L_{A90}$ (1 hour) & $L_A$ (Max)
    b. **Night time (11pm – 7am):** $L_{Aeq}$ (5 min); $L_{A90}$ (5 min) & $L_A$ (Max)

11. Once sampling has taken place baseline levels shall be supplied to the Waste Planning Authority for approval in writing, prior to the operation of the anaerobic digestion operation.

12. Odour levels shall be sampled at the site boundary every six months throughout the operational life of the anaerobic facility, unless otherwise agreed by the planning authority.

13. Odour monitoring records shall be kept by the operator and be available to the Waste Planning Authority, Local Environmental Protection Authorities and the Environment Agency upon written request.

14. Noise shall be controlled in general accordance with the scheme of control measures identified in the submitted application (Environmental Report paragraphs 1.30 to 1.35) and all plant and machinery shall be noise attenuated.

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15. Noise generated from operations on the site shall be controlled in accordance with a scheme to be agreed in writing by the Waste Planning Authority in relation to the baseline levels established by the noise assessment required by Conditions 7-17, as taken free field at the nearest noise sensitive properties to the site, and in any event LAeq shall not exceed the LA90 (background) by more than 3 dBA or more than 5 LA (Max) above 82 dBA in any one hour at night time.

16. Odour shall be controlled in accordance with the scheme of control measures identified in the submitted planning application (Environmental Report - Chapter 7) as assessed in the report entitled “Assessment of Odour Abatement: Biogen (UK) Ltd Proposed AD Facility at West Wood” by Enviros Consulting Ltd, unless otherwise agreed in writing by the Waste Planning Authority.

17. In the event that complaints regarding, odour, dust, or noise are received by the Waste Planning Authority from any sensitive receptor, and thereafter notified to the operator, an immediate assessment of the complaint shall be undertaken. A report on the findings, with proposals for removing, reducing or mitigating identified adverse effects resulting from the operation, and a programme for the implementation of remedial measures to be undertaken shall be submitted to the Waste Planning Authority no later than 5 working days from the receipt of the complaint.

Reason for conditions 10 to 17: To protect the interests of the area as a whole and in particular nearby residential occupiers having regard to Policy CS14 of the Northamptonshire MWDF Core Strategy (May 2010).

Lighting

18. Prior to the commencement of construction, a lighting scheme shall be submitted to the Waste Planning Authority for approval in writing. The scheme shall:

   a. Take into account lighting needs during operational hours
   b. Reduce lighting to a minimum outside of operational hours
   c. Minimise the risk of light spillage beyond the operational areas and into the sky
   d. Utilise movement sensors to ensure lighting is off when the site is not occupied
   e. Minimise potential effects on bat flight paths through the use of low brightness lighting (such as low-pressure sodium) and restriction of lighting hedgerows; and

Upon approval in writing, the details shall be implemented and thereafter the development shall be operated in accordance with the approved details.

Except as may otherwise be agreed in writing by the Waste Planning Authority, external lighting shall be in accordance with the scheme submitted by Rolton.

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Group, dated 11th June 2008 in connection with Planning Permission 08/00002/WAS, and thereafter maintained.

**Reason:** In the interests of visual and local amenity having regard to Policy CS14 of the Northamptonshire MWDF Core Strategy (May 2010).

**Highway Safety and Access**

19. The Heavy Goods Vehicle access to and from the site shall only be gained via the access point onto the A6 (Bedford Road) shown on Drawing No. 07-0296/INF/10P1. This access shall be maintained in accordance with the highway improvement scheme subject to an Agreement under Section 278 of the Highways Act 1980, dated 22nd May 2009 in connection with Planning Permission 08/00002/WAS. No construction development other than preparatory earthworks and ground works shall take place until an access and associated infrastructure scheme has been submitted to and approved in writing by the Waste Planning Authority. Unless otherwise agreed in writing with the Waste Planning Authority, new buildings and plant construction shall not commence until this scheme has been laid out and constructed. The scheme shall include the following details:

   a. Hard surface details
   b. Means of drainage to prevent the unregulated discharge of surface water onto the highway
   c. Maximum gradient from the highway boundary
   d. Permanent access warning signs either side of the proposed works
   e. The access road shall be of a minimum width of 7m for a distance of 70.0m from the edge of the existing carriageway
   f. The junction of the proposed access road with the public highway shall be laid out with 15.0 radius kerbs
   g. Visibility splays shall be provided on either side of the junction of the proposed access with the public highway. The minimum dimensions to provide the required splay lines shall be 4.5m measured along the centre line of the access road from its junction with the channel line of the public highway, and 215.0m measured along the channel line of the public highway from the centre line of the access road
   h. Any vegetation above 600mm in height within the visibility splay area shall be removed
   i. The access road shall be metalled for a minimum distance of 60m
   j. The site entrance and internal road shall be maintained in a condition free from potholes while in use

The development shall be constructed on strict accordance with the approved details and approved vision splays and thereafter maintained.

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Wheel Cleaning and Vehicle Sheeting

20. All operational vehicles leaving the site shall be cleansed of mud and other debris to ensure that there is no nuisance dust and no mud or debris is deposited on the public highway.

21. All operational vehicles arriving at and leaving the site shall be appropriately sealed so as to prevent material spillage, wind blow and odour nuisance.

**Reason for condition 19 to 21:** To ensure satisfactory means of access to the highway, safeguard the interest of users of the public highway and highway safety having regard to Policy CS14 of the Northamptonshire MWDF Core Strategy (May 2010).

Vehicle Routing

22. No lorries or other heavy commercial vehicles based at or visiting the site shall travel along the minor roads off the A6 leading to Newton Bromswold, Knotting or SouIdrop unless collecting food waste from these villages.

**Reason:** To safeguard the interests of users of the public highway and highway safety having regard to Policy CS14 of the Northamptonshire MWDF Core Strategy (May 2010).

Rights of Way

23. Prior to any development likely to affect any right of way, details of the works shall be submitted to the Waste Planning Authority in writing, and implemented in accordance with that approval. The details shall also include Signs warning lorry drivers of the presence of the public right of way as submitted under Planning Permission 08/00002MJAS shall be erected and maintained throughout the development.

**Reason:** To safeguard the interests of users of the public rights of way and safety having regard to Policy CS14 of the Northamptonshire MWDF Core Strategy (May 2010).

Consignment Note Records

24. Consignment note records and waste transfer note records relating to materials imported to, stored on or taken away from the site shall be made available to the Waste Planning Authority upon request.

**Reason:** In the interests of waste management and quality accountability having regard to Policy CS14 of the Northamptonshire MWDF Core Strategy (May 2010).

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Proximity Principle

25. All waste materials to be processed on the site shall originate from locations within a radius of 30 miles of the application site, unless expressly approved in writing by the Waste Planning Authority.

Reason: To ensure that the development will contribute to a sustainable waste management system for Northamptonshire and minimise the transportation of waste from its source and the movement of waste across waste planning authority boundaries having regard to Policy CS1 of the Northamptonshire MWDF Core Strategy (May 2010) and Policy CMD1 of the Northamptonshire MWDF Control of Management of Development DPD (June 2011).

Visual Amenity

26. Prior to the construction of any new buildings on site, full details of the design, external appearance, and materials to be used in the construction of any new building permitted by this planning permission shall be submitted to the Waste Planning Authority for approval in writing. Upon approval, the development shall be constructed and maintained in accordance with the approved plans, details and colours as submitted in connection with Planning Permission 08/00002/NAS. The relevant plans are:

- 07-0296/A/01PL2 – Proposed Site General Arrangement
- 07-0296/A/02PL2 – Proposed Site Location Plan
- 07-0296/A/03PL2 – Proposed Site Location Plan
- 07-0296/A/10PL1 – Proposed Ground and First Floor General Arrangements
- 07-0296/A/11PL1 – Proposed Roof Plan
- 07-0296/A/70PL1 – Proposed Elevations Sheet 1 (Colour Option 3)
- 07-0296/A/71PL1 – Proposed Elevations Sheet 2 (Colour Option 3)
- 07-0296/A/72PL2 – Proposed Elevations Sheet 3 (Colour Option 3)

27. Prior to the construction of the proposed flarestack, full details of the design, height and external appearance shall be as approved by the Waste Planning Authority in connection with Planning Permission 08/00002/NAS. Upon approval, the flarestack development shall be constructed and maintained in accordance with the approved details.

Reason for conditions 26 to 27: To protect the interests of local amenity having regard to Policy CS14 of the Northamptonshire MWDF Core Strategy (May 2010).

Habitat Creation and Enhancement, Restoration and Landscaping

28. Prior to commencement of the development an Environmental Management Plan shall be submitted to the Waste Planning Authority for its approval in writing. The plan shall be in general accordance with the application material including the development shall be controlled in accordance with Chapters 4 and 5 respectively (“Landscape and visual effects” and “Ecology”) of the

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Environmental Report submitted with the planning application 08/00002f/NAS and: and incorporating additional hedgerow and screening planting between the A6 and the site. In addition:

a. Details shall be provided of the location, numbers, types and species of trees and shrubs proposed to be planted.

b. Hedgerow planting shall take place in the first planting season following the approval of the scheme.

c. Planting associated with the development site perimeter shall take place in the first planting season following construction of the development.

a. All plant species shall be indigenous to the local area, be appropriately maintained for a period of 10 years following planting and any plants which die or become diseased within this period shall be replaced in the following planting season.

b. Operations that involve the destruction and removal of vegetation shall not be undertaken during the months of March to October inclusive, except when approved in writing by the Waste Planning Authority, once a survey report has been submitted to establish that breeding birds will not be adversely affected by lost habitat or lost fruiting vegetation.

Reason: To protect the interests of design, landscape character, biodiversity and local amenity having regard to Policy CS14 of the Northamptonshire MWDF Core Strategy (May 2010) and Policy CMD7 of the Northamptonshire MWDF Control and Management of Development DPD (June 2011).

Reinstatement

29. In the event of the anaerobic digestion operations ceasing for a period in excess of 18 months, the site shall be reinstated to an agricultural standard in accordance with a scheme to be submitted to the Waste Planning Authority and agreed in writing.

Reason: To safeguard the landscape character should the development be temporary having regard to Policy CS14 of the Core Strategy DPD (May 2010) and Policy CMD8 of the Control and Management of Development DPD (June 2011).

Archaeology and Heritage

30. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.

Reason: In the interests of heritage and historic environment preservation and local amenity having regard to Policy CMD9 of the Control and Management of Development DPD (June 2011).

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Monitoring

31. The operators of the site shall at a minimum of 12 monthly intervals provide in writing to, and upon request by, the Waste Planning Authority detailed information on the quantities and types of all waste materials brought on to the site for re-use, recovery, and disposal, together with an assessment of used and remaining capacity. Such information will only be used in aggregated format as part of an Annual Monitoring Report produced by the Waste Planning Authority.

32. The operating company shall keep records of the quantity of waste received by weight and its source and these records shall be provided to the Waste Planning Authority within seven days of a written request. All such information supplied will be treated on a confidential basis.

Reason for conditions 31 to 32: To enable the Waste Planning Authority to monitor progress towards achieving the principles in Policy CS1 of the Northamptonshire MWDF Core Strategy (May 2010) and the objectives of the National Waste Strategy for England 2007.

33. Prior to the commencement of construction, a signage scheme shall be as submitted to the Waste Planning Authority for approval in writing in connection with Planning Permission 08/00002IWAS. The scheme shall be implemented within three months of built construction and thereafter maintained.
   a. Be appropriate for users of the rights of way to view
   b. Detail signage dimensions
   c. Identify at least two sign locations to be used, including:
      i. One location for users of the Three Shires Bridleway and adjacent to the development site
      ii. One location shall be adjacent to the permissive right of way proposed to connect the Three Shires Bridleway with the footpath starting at the kissing gate adjacent to the site access
   d. The signs shall explain the anaerobic digestion process and the sustainability context of anaerobic digestion
   e. Be designed in sympathy with the surrounding landscape

Upon approval in writing, the details shall be implemented within three months of built construction commencing and thereafter maintained.

Reason: Provision of waste awareness in the local community in the context of anaerobic digestion and the need to divert food waste from landfill and in the interests of visual and local amenity having regard to Policy CS14 of the Core Strategy DPD (May 2010).

INFORMATIVES

1. The applicant must gain any necessary permits in order to dispose of excess liquid onto nearby land.

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2. It is the responsibility of the applicant to ensure that the development will not affect any water features (i.e. wells, boreholes, springs, streams or ponds) in the area, including licensed and unlicensed abstractions.

REASONS FOR APPROVAL

Applications 11/00078/WAS and 11/00073/WAS respectively are for: the increase in annual throughputs from 45,000 to 49,000 tonnes per annum, while removing the 4,000 tonne allocation for energy crops; allowing digestate spreading for a radius of 5 miles from the site; and allowing the acceptance of waste to the site on Bank and Public Holidays between the hours of 7.00am and 4.00pm. Objections have been received from East Northamptonshire Council and a number of local residents regarding the applications, in particular concerning odour and traffic. Overall it is considered that the proposed variations, in conjunction with the existing conditions of permission 08/00002/WAS and the Environment Agency controls under the environmental permitting regime, will not give rise to any significant impacts to justify refusal of the applications. It should be noted that the Environment Agency, Highways Agency and Highways Authority did not object to the applications.

The proposals have also been assessed against the local development plan, in particular policies CS1, CS2, CS9 and CS14 of the Northamptonshire Core Strategy DPD (May 2010) and policy CMD1 of the Northamptonshire Control and Management of Development DPD (July 2011). It is considered that the development is acceptable in principle having regard to the local development plan policies and that there are no amenity or traffic and access grounds for the County Council to refuse these applications, subject to waste deliveries being commenced at 8.00am rather than 7.00am on Bank and Public Holidays.

Date: 23rd January 2012
Signed: [signature]

For Assistant Director Environment and Planning

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1. If the applicant is aggrieved by the decision of the local planning authority to refuse permission or approval for the proposed development, or the grant permission or approval subject to conditions, he may appeal to the Secretary of State for the Environment in accordance with Sections 78 and 79 of the Town and Country Planning Act 1990 within six months of receipt of this notice. (Appeals must be made on a form which is obtainable from the Planning Inspectorate, 3/08a Kite Wing, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN). The Secretary of State has power to allow a longer period for the giving of a notice of appeal but he will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State is not required to entertain an appeal if it appears to him that permission for the proposed development could not have been granted by the local planning authority, or could not have been so granted otherwise than subject to the conditions imposed by them having regard to the statutory requirements (a), to the provisions of the development order, and to any direction given under the order. He does not in practice refuse to entertain appeals solely because the decision of the local planning authority was based on a direction given by him.

2. If permission to develop land is refused or granted subject to conditions, whether by the local planning authority or by the Secretary of State for the Environment and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by carrying out of any development which has been or would be permitted he may serve on the Council of the district in which the land is situated a purchase notice requiring that council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

3. In certain circumstances, a claim may be made against the local planning authority for compensation, where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in Section 114 of the Town and Country Planning Act 1990.

(a) The statutory requirements are those set out in Section 79(6) of the Town and Country Planning Act 1990, namely sections 70 and 72(1) of the Act.


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