

Thorndon (Mid Suffolk DC/20/02052)
and
Shadingfeld (East Suffolk DC/19/2195/FUL)
Call in supplementary submission 16th July 2020

- Important case law evidence supports calling in the applications

NOTE: The initial Submission made 14th July 2020 Annex 4: contained a Planning Statement which referenced the full Transport Statement rather than the full statement. The Transport Statement is attached as Appendix 3 to this supplementary submission.

1. This supplementary response follows the East Suffolk District Council planning hearing for Shadingfield. It expands on the points already raised with proof of the unsound transport report methodology.
2. It makes an additional point about the vires of granting a planning permission absent proper EIA assessment of waste, which has been screened out in both cases.
3. The case law fills in the gap between the planning system and the EA permitting system and places a planning burden on the Planning Authority to satisfy itself that waste off site is properly managed.
4. These points support a the view that these applications raise issues of national significance in relation to highways impact but also in terms of EIA scoping and reporting. These two matters are intricately interconnected.

Vehicle movements

5. The true number of vehicle movements has been under reported in both applications. Therefore the true impact of the movements has not been properly assessed.
6. The attached case establishes an evidential precedent waste generated which can be used to calculate accurately actual waste vehicle movements on and off site
7. The Cranswick business model is a franchise and operations are standardised. The Court of Appeal decision involving the Cranswick model in Shropshire has established quantum of waste produced by a set number of broilers.
8. In **R. (on the application of Squire) v Shropshire Council and Matthew Bower**
24 May 2019
1,575,000 broiler chickens would be reared per annum, and some 2,322 tonnes of manure produced (see Appendix 1 Para 3).
9. In that case the manure was to be spread on unknown land off site. The unknown destination of that waste was the core of the case for Judicial Review
10. Shadingfield and Thorndon apply the same business model as in Shropshire.
11. The Barley Brigg bio digester application identified that waste is moved on 16 tonne tractors not 44 tonne trucks. Suffolk County Council, planning reference MS/3892/15 refers.

12. The same consultant has provided the three transport statements. Mr Berriman is an experienced chartered highway engineer.
13. There is no evidence in either Thorndon or Shadingfield statements of disposal of waste on site.
14. The Thorndon design and access statement makes clear it will all be taken away in “covered trailers”. Parker Services Planning Statement notes:
 - Page 20 para. 6.21 Waste
A subterranean water storage tank is used for clean surface water arising from yard and roof area drainage, which discharges into the local drain/ditch system at a controlled rate. At the end of each 6 – 8 week growing period, broilers will be removed from the houses with used litter taken away from the farm in covered trailers and the empty houses will then be power washed, disinfected and fumigated ready for the arrival of the next crop. At this point outflow from the subterranean water storage tank will be stopped (via an inbuilt diverter) and the wastewater subsequently exported from the farm in a sealed tanker lorry.
15. The Shadingfield Design & Access Statement notes:
 - Pg 2 Transport Chart - Litter 9 vehicles per crop, 65 vehicles per year; Dirty water 3 vehicles per crop, 22 vehicles per year.
 - Pg 3 Waste Management - “The dry manure is removed from the building and taken away in a lorry for spreading on local land or to the power station to be burnt.”
16. Waste for spreading on land is not normally taken away in a lorry it is taken away in a covered trailer as at Thorndon.
17. Berriman establishes the weight of a covered waste trailer in his report for Barley Brigg. This is 16 tonnes (see Annex 4 – HTTC Statement (Barley Brigg) of initial submission).
18. Applying the case precedent and the Berriman methodology in proportion to the number of birds per annum we find as follows (bpa = birds per annum):
19. Thorndon: 1,316,000 bpa is 84% of the precedent figure. 84% of 2322 tonnes is 1950 tonnes of manure per annum. That requires approximately 120 movements of 16 tonne tractors per annum to remove poultry waste, thus a minimum of 240 waste vehicle movements per annum, not the 168 vehicle per year as the applicant states.
20. Shadingfield: 987,000 bpa is 63% of the precedent figure. 63% of 2322 tonnes is 1463 tonnes. That requires approximately 90 movements of 16 tonne tractors per annum to remove poultry waste, thus a minimum of 180 vehicle movements per annum, not the 65 vehicle per year as noted on page 117 (see point 21 below) of the District Council Planning Committee papers for 14th July 2020 meeting.

Full papers available to view at:

<https://eastsoffolk.cmis.uk.com/EastSuffolk/Document.ashx?czJKcaeAi5tUFL1DTL2UE4zNRBcoShgo=tDdqytMUiJbHvzaL5dJX3XRdeenL05h5SySccFDG1bCgxWP7tUJFrA%3d%3d&rUzwRPf%2bZ3zd4E7lkn8Lyw%3d%3d=pwRE6AGJFLDNih225F5QMaQWctPHwdhUfCZ%2fLUQzgA2uL5jNRG4jdQ%3d%3d&mCTIbCubSfFXsDGW9IXnl%3d%3d=hFflUdN3100%3d&kCx1AnS9%2fpWZQ40DXFvdEw%3d%3d=hFflUdN3100%3d&uJovDxwdjMPoYv%2bAjvYtyA%3d%3d=ctNJff55vVA%3d&FgPIIEJYlotS%2bYGoBi5oIA%3d%3d=NHdURQburHA%3d&d9QjjOag1Pd993jsyOJqFvmyB7X0CSQK=ctNJff55vVA%3d&WGewmoAfeNR9xqBux0r1Q8Za60lavYmz=ctNJff55vVA%3d&WGewmoAfeNQ16B2MHuCPMRKZMwaG1PaO=ctNJff55vVA%3d>

21. The East Suffolk District Council Planning Committee was informed and spoke about a total number of 414 movements for the Shadingfield application when the application was discussed at the Committee meeting on 14th July 2020. See extract of committee papers below:

7.112. The chart below highlights the level of traffic generated by this proposal in vehicle numbers:

	Vehicles Per Crop	Vehicles per year
Gas & Shavings	4	35
Feed	14	96
Chicks	2	15
Birds	20	145
Litter	9	65
Carcass	5	36
Dirty Water	3	22
Total	57	414

(see note to point 19 above for link to full document)

22. Taking away 180 traffic movements per year for waste leaves 234 vehicle movements per year to service all the additional requirements of a farm of 987,000 birds per annum.
23. These include incoming and outgoing vehicle movements for the following site needs:
- Gas & Shavings
 - Feed in
 - Chicks in
 - Birds out
 - Litter out
 - Fallen stock out
 - Staff
 - External management
 - Routine and cyclical emergency maintenance
24. Factory ready birds are carried on HGV's. An HGV can load an average of 6000 chickens taking account of nationally recognized space needs for 6 week old broilers (see Appendix 2). That will require 160 trips per annum to transporting the birds to Eye from Shadingfield.
25. This represents at least 320 vehicle movements per annum.
26. In a representation made to East Suffolk District Council, a resident of Shadingfield notes:
 The planning application made, suggests feed deliveries will number 96 vehicles per year. Assuming 7 crops per year and 140,000 birds consuming an average of 125gms of feed per day, that amounts to around 735,000kgs of feed per 42-day cycle. [7 cycles per year, less 10 days down time each cycle leaves 295 days with feed being required] or 17,500kgs of feed per day in cycle. This would mean that the 5 x 20 tonne feed bins will need re-stocking every week and assuming an artic haulage vehicle can transport around 27,000kg in feed and we then see that 4 large vehicles are needed to fill the bins around weekly, which equates to approximately 168 artic vehicles per year on cycle. Working more roughly, 295 days at 17,500kgs is 5,162,500kgs of feed annually, or 191 artic trucks, if we're to give some leeway... That's using data freely available, but the transport moving chart as per the application suggests 96 vehicles per year in terms of feed, so I view this as a significant 'downplaying' of the impact that traffic will be.
 This represents 382 traffic movements per annum (191 HGVs in and out).
27. **Shadingfield numbers provided to committee are evidentially wrong and even misleading.**

28. Therefore the evidence provided to SCC initially and latterly to Committee is unsound. Shadingfield transport movements have been misrepresented the modelling is flawed producing a huge under reporting of movements.
29. That is self-evidently also true of Thorndon, noting it is a larger site and the error factor proportionately greater.

New National Policy Issue: soundness of EIA scoping - proper waste assessment is key to sound decision making in planning

30. The case precedent shows in detail the importance of proper assessment. The Court of Appeal caselaw is clear this applies specifically in relation to waste.
31. Paragraph 4 of the Court of appeal judgement sets out the case and why JR was granted: *“first, because the council had failed to consider the likely effects of the development on the environment in accordance with the legislative regime for EIA; and secondly, because it had failed to take into account those effects, and the position of the Environment Agency, as material considerations in the decision on the application. “*
32. The case law clarifies a proper planning assessment must consider the impact of the waste once it leaves site. This cannot be left to the Environment Agency permitting regime.
33. The key point is that in both cases a large quantity of manure will leave site for unspecified destinations. In Thorndon there is no mention of the destination. In Shadingfield the waste is to be spread on unidentified land and burned in an unspecified power station. The Court of Appeal found the Shropshire EIA process deficient in that it did not address the waste destination issue adequately.
34. There is an exact parallel with both these proposals. Waste is leaving site and the outcome of its journey is not stated or examined. The EIA process in both cases is thus legally deficient and at risk of Judicial Review with strong precedent.
35. An example of lack of accurate stated information is the now withdrawn scoping request for a four shed poultry breeder unit. The scoping request stated that the manure from the site would go to a local bio digester (Mid Suffolk reference DC/19/01664 refers).
36. Stradbroke Parish Council followed up the FOI about waste and the biodigester manager on the local site denied any capacity to take waste. (see Annex 8 of initial submission)
37. This example proves the importance of the Court of Appeal judgment in holding the planning system to proper account and denies applicants the opportunity to exploits gaps between the two regulatory systems, to the detriment of the environment and the communities living in the region.

Conclusion

38. **The call in is of national significance as evidenced by the Court of Appeal judgement both for highways issues and EIA issues. This is an opportunity for the Secretary of State to align the planning and permitting system with emerging high level court precedent.**