

## **COUNCIL – 21 MARCH 2017**

### **ITEM 6 – QUESTIONS FROM COUNCILLORS**

#### **QUESTION FROM COUNCILLOR J GEARY TO COUNCILLOR A V SMITH**

##### Anaerobic Digested Material Lagoons, Piper Lane Ravenstone

“At the meeting of this Council held on 24 February 2015 I asked you a question regarding the strong smells and odours coming from these lagoons on land at Piper Lane, Ravenstone and pointed out the complaints received from residents in the Snibston, Hugglescote, Ravenstone/Packington and Valley wards. As an affected resident, I asked you what this Council was doing to insist the land owner took steps to mitigate and eradicate the smell from these lagoons.

In your reply you said the Council was aware of the problem and had received complaints of odour nuisance and had been in regular liaison with the Environment Agency. You went on to say “The District Council cannot exercise its power in relation to statutory nuisance without the approval of the Secretary of State”.

Two years and one month on, with the problem not going away, but getting worse as already this year there have been 12 days when we have needed to keep both doors and windows closed, can you please inform the Council just what has been done in the past two years to try and control this nuisance and why, to date the problem has not been addressed”.

#### **RESPONSE FROM COUNCILLOR A V SMITH**

“Further to the question raised on this matter on 24 February 2015 I can update members as follows.

During 2015 the spreading of the anaerobic digestate material was authorised under permission obtained from the Environment Agency and as such they were the primary authority for taking any formal action to prevent odour.

However, since 2016 the anaerobic digestate being brought to site for storage and then spreading was PAS110 certified which falls outside of the scope of permitting from the Environment Agency. As a consequence the responsibility for the investigation of odour complaints now lies with the District Council to investigate under its powers of Statutory Nuisance. This also relates to farm slurry which on occasion has also been spread on the same land.

The Environmental Protection Team have received evidence to confirm the anaerobic digestate being used is PAS110 certified. Attainment of this standard requires the product to be independently tested and certified by accredited laboratories, officers have received the contractors certification of the product and also samples of transfer station weighbridge tickets.

The Environmental Protection Team held a meeting in January 2016 with the farmer and contractor which resulted in the following points being noted/agreed for the spreading of digestate from the lagoons.

- The farmer plans for three phases of spreading per annum, phase one in March, phase two in April/May and phase three in late August (all subject to weather conditions).

- The farmer will create a 400m no spreading zone along the A447 from Hoo Ash Island to the junction of Church Lane, Ravenstone to reduce the odour impact for residents in this area and around Claremont Drive.
- To reduce tractor and tanker movements within the village when spreading near the A511 (northern end of site) by pumping the material through a network of pipes.
- That there will be no working/spreading on weekends or bank holidays.
- That only PAS110 material will be tankered into the lagoons and then only the amount required for each phase/spreading application will be stored until use.
- The lagoons will never be filled to the top and there will be at least 1m of free wall at the top so as to reduce odour through wind whip.
- If necessary, the lagoons will be covered with chopped straw to reduce any odour escape.
- To use a simple weather sock or flag to indicate the wind direction when deciding when to spread. This allows the operatives the opportunity to not spread if they feel that offensive odour is likely to be detected at the nearest residential property.
- The contractor would meet the parish council and deliver a presentation covering all aspects of the operation.
- Finally, to notify the District Council before any operations take place and at what location any spreading will be undertaken.

In early 2016, the Environmental Protection Team undertook a total of 37 visits to either the site or the vicinity in response to complaints received to determine the levels of odour being experienced. These visits were conducted between 10 February 2016 and 6 May 2016 and covered the first two phases of the annual spreading regime. No statutory nuisance was determined by officers through these visits.

The visits also confirmed that the operations were being carried out in accordance with best practice as defined in the DEFRA document "Protecting our Water, Soil and Air – A Code of Good Agricultural Practice for farmers, growers and land managers". It was confirmed by the Environmental Protection Team on 6 May 2016 that the lagoons were empty and that no further storage of digestate material would take place until late summer when the third and final phase of the annual spreading programme would take place.

Between May and August 2016 only 1 complaint of odour was received, during the third and final phase of spreading in August only 3 complaints were received. The number of complaints was reduced significantly due to information being shared in advance with the parish council, ward members and complainants regarding when and where the spreading was being undertaken and that the odour would be relatively short i.e. just throughout the duration of the activity.

Since late November 2016 the contractor has been filling the lagoons in preparation for the 2017 spreading operation (Phases 1 and 2 of the annual programme) which started on 13 March 2017. During this time observational visits have been undertaken by the Environmental Protection Team to ensure that the filling operation is carried out in an appropriate manner and that where necessary a straw covering is applied to reduce issues with any odour that may come from wind whip. The visits concluded that filling operations were carried out in an appropriate manner, however, a small number of complaints of odour were received. In investigating these complaints officers did detect odour but at low levels, carried on the prevailing wind. It was the officers assessment that when taking into account

weather conditions for the days in question the odour was deemed to be acceptable and at levels that could not be assessed as a statutory nuisance.

In assessing odour for statutory nuisance the councils Environmental Protection Team have to take into account factors such as frequency, nature and severity of the odour. The law of statutory nuisance has a defence built into it called "Best Practical Means". In this instance if the council considered a statutory nuisance to be in existence, the evidence gathered thus far would suggest that the contractor for the spreading operation would have a legitimate defence of best practical means as they are strictly following the DEFRA code of best practice.

On the 13 March 2017 the Council received 2 complaints of offensive odour and an officer visited the vicinity of the complaints immediately which confirmed that the first phase of spreading operation had begun and odour from that was being dispersed in the area where the wind was blowing. It was also confirmed during this time that the operations were being carried out in accordance with the guidance referred to above, noting wind directions are changeable.

The Environmental Protection Team are continuing to liaise with the contractor so that information can be obtained and relayed to the parish council, ward members and residents as early as possible for the two future phases in 2017 (April/May and late August). The team will also continue to monitor the area proactively for odours especially when spreading activity is being undertaken and to ensure good practice is being followed".