

AGENDA ITEM



Committee and date
Southern Planning Committee
26th May 2026

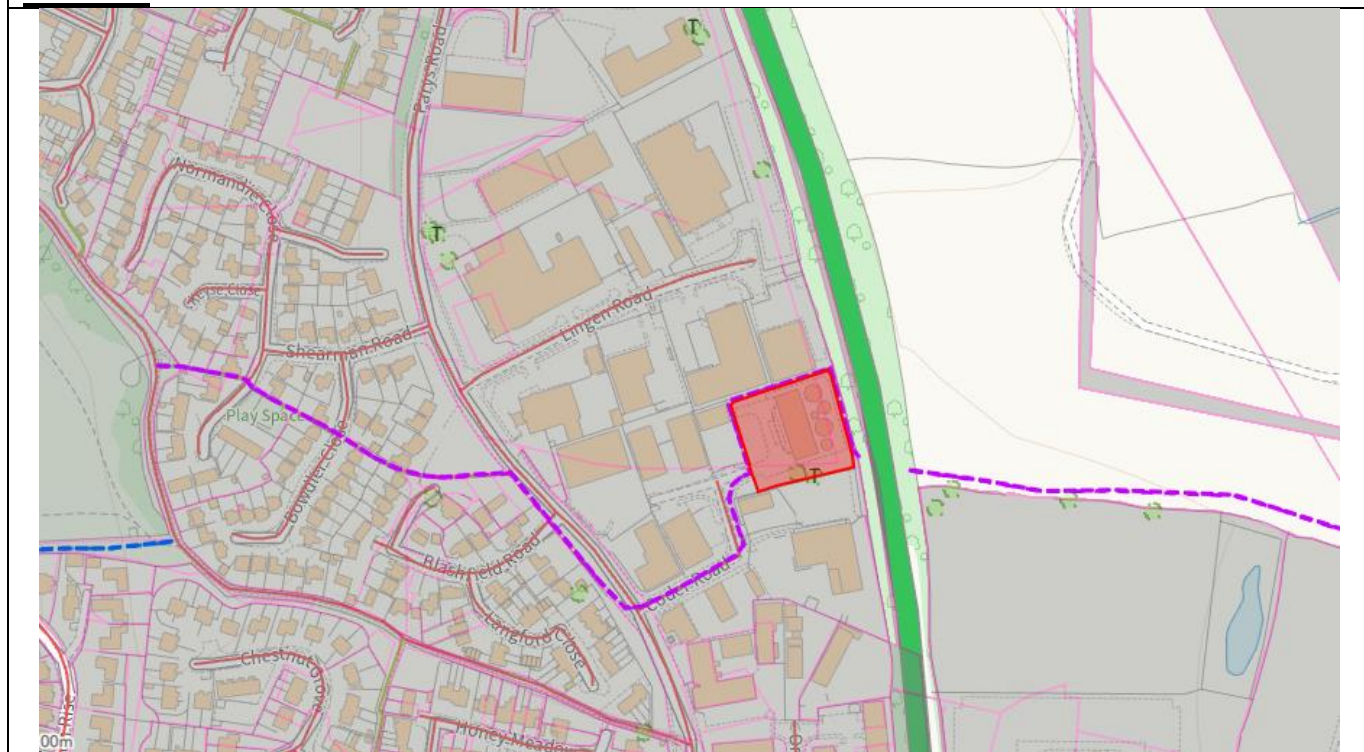
Development Management Report

Responsible Officer: Kassandra Polyzoides, Service Director – Place Shaping

Summary of Application

Application Number: 26/00870/VAR	Parish:	Ludlow Town Council
Proposal: Variation of Condition No. 2 attached to permission 25/00309/FUL dated 27 March 2025		
Site Address: Marches Biogas Limited Biodigester Station Coder Road Ludlow Shropshire		
Applicant: Mr Mark Foxall, Shropshire Council		
Case Officer: Jenny Powell	email: jennifer.powell@shropshire.gov.uk	

Grid Ref: 352717 - 274707



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Recommendation:- Approve, subject to the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

- 1.1 This application is made under Section 73 of the Town and Country Planning Act 1990 to vary Condition 2 (approved plans) attached to planning permission 25/00309/FUL, which was approved by the Southern Planning Committee in March 2025 and was subsequently amended to address operation constraints under 25/02622/AMP in July 2025. The discharge of the general deemed biodiversity condition accompanying the original permission was discharged in December 2025 under 25/00006/DIS.
- 1.2 The proposal involves a minor revision to the siting of the approved building for feedstock and drying, moving it approximately 2 metres further eastwards from that approved under 25/02622/AMP, together with amended internal access arrangements from Shropshire Council-owned land to the south and the removal of a 3m high wall associated with feedstock tip handling. No change is proposed to the approved use, scale, height or operational nature of the development, and the building's orientation and footprint dimensions remain the same.
- 1.3 The applicant advises the revised siting of the building and creation of a southern internal access is required due to unexpected practical and safety constraints identified during the implementation, including difficulties in safely installing wall and roof panels without removing existing infrastructure, and the presence of a main sewer to the east of the approved footprint.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site lies within the Ludlow Business Park at Coder Road and comprises previously developed land with existing operational infrastructure.
- 2.2 The revised siting of the building and internal access remains within the developed portion of the site and does not extend development beyond the established site boundary or into undeveloped land.

3.0 REASON FOR COMMITTEE/DELEGATED DETERMINATION OF APPLICATION

- 3.1 In accordance with the Council's Scheme of Delegation, the application must be determined by Planning Committee as the applicant is Shropshire Council.

4.0 Community Representations

Consultee Comments

SC Ecology – (02/04/26) No objection. The BNG assessment submitted continues to maintain a net gain on site and there are no ecological implications to the proposed variation.

SUDS – (07/04/26) The proposed variation of condition 2 has no impact on flood risk or drainage. No further comments to make.

Public Comments

Ludlow Town Council - (25/03/26) No objection.

5.0 THE MAIN ISSUES

Principle of development
Implications for the approved Biodiversity Gain Plan
Visual, operational and amenity considerations

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 The principle of the development has already been established by Committee under 25/00309/FUL. That decision considered the acceptability of the use, scale and overall form of development. The current Section 73 variation does not revisit or undermine that principle, nor does it introduce any new form of development beyond that already approved.

6.2 Implications for the approved Biodiversity Gain Plan

6.2.1 The key distinction between this application and the earlier non-material amendment application is that the Biodiversity Gain Plan has been discharged in the intervening period. Whilst the scale of the proposed changes to block plan are minor, the amended layout interacts with the approved biodiversity enhancement land to the south of the site. As such, the variation represents a material planning change, requiring consideration under Section 73. The Ecology team are satisfied that the revised layout does not undermine the delivery or integrity of the previously approved Biodiversity Gain Plan (BGP), and a revised BGP and Habitat Management and Monitoring Plan have been submitted with this application. As such, the biodiversity outcomes of the proposal remain acceptable and no further application to discharge the general deemed biodiversity condition is required as a consequence of this variation.

6.3 Visual, operational and amenity concerns

6.3.1 The revised siting of the new building does not alter the scale, height or external

appearance of the approved building, with elevations remaining materially the same as previously approved. The amendments have arisen from practical construction constraints rather than design changes and do not introduce any new or increased impacts on neighbouring land, highways, trees or amenity. The revised plans also omit the previously approved 3 metre high wall associated with feedstock tip handling which results in a modest reduction in built form on site and does not give rise to any material planning impacts. The land to the south of the site is owned and operated by Shropshire Council, where creation of the new vehicular link between them raises no concerns. No new point of access would be created onto the wider highways network.

7.0 CONCLUSION

The principle of development has already been established by Committee, and the proposed Section 73 variation is required solely to allow the practical delivery of the approved scheme. The amendment is modest in extent, justified by operational constraints on site, continues to provide the required 10% biodiversity net gain, and would not result in any undue harm in respect of trees, highways or neighbour amenity. The proposal therefore accords with local and national policy and is accordingly recommended for approval.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

There are two principal risks associated with this recommendation as follows:

- As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.
- The decision may be challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be made a) promptly and b) in any event not later than six weeks after the grounds to make the claim first arose.

Both of these risks need to be balanced against the risk of not proceeding to determine the application. In this scenario there is also a right of appeal against non-determination for application for which costs can also be awarded.

8.2 Human Rights

Article 8 gives the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community.

First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents.

This legislation has been taken into account in arriving at the above recommendation.

8.3 Equalities

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in Planning Committee members' minds under section 70(2) of the Town and Country Planning Act 1990.

9.0 Financial Implications

There are likely financial implications if the decision and / or imposition of conditions is challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependent on the scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – insofar as they are material to the application. The weight given to this issue is a matter for the decision maker.

10. Background

Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework 2024
The Town and Country Planning Act 1990

Core Strategy and SAMDev Policies:
CS1 – Strategic Approach
CS6 – Sustainable Design and Development Principles
CS17 – Environmental Networks
CS18 – Sustainable Water Management
MD2 – Sustainable Design
MD9 – Protecting Employment Areas

AGENDA ITEM

- 26th May 2026

Marches Biogas Limited

MD12 – Natural Environment

RELEVANT PLANNING HISTORY:

SC/ML2005/16570/SS Biowaste digester to recycle household organic waste PERMIT 23rd March 2005

11/00106/AMP Proposed Non-Material amendment to previously approved Planning Permission Ref: 2005/16570 to amend condition 5 - increasing from 20 - 30% the proportion of commercial waste permitted to be imported as a proportion of the total waste treated in any calendar year for the Biowaste digester to recycle household organic waste GRAMP 2nd March 2011

25/00309/FUL Change of Use of a Biowaste Digester to recycle household organic waste building to a Biochar Production Facility, erection of extension and installation of associated infrastructure (sui generis) GRANT 27th March 2025

25/02622/AMP Non-material amendment to planning application number 25/00309/FUL - Removal of defective storage tanks, relocation of extension and reorientation of yard layout GRANT 31st July 2025

25/04324/DIS Discharge of Conditions 3 (Tree Protection) 4 (Landscaping Plan) 5 (Location of bat & bird boxes) 6 (Lighting Plan) 7(Construction Management Plan) and 8 (Noise Management Plan) for planning application number 25/00309/FUL DISAPP 11th December 2025

25/00006/DIS Discharge of Biodiversity Gain Plan relating to Planning Permission 25/00309/FUL APBGP 17th December 2025

26/00870/VAR Variation of Condition No. 2 attached to permission 25/00309/FUL dated 27 March 2025
PCO

11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=TBC7RXTDGU100>

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information): <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=TBC7RXTDGU100>

Cabinet Member (Portfolio Holder) - Councillor David Walker

Local Member - Cllr Vivienne Parry

Appendices

APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

1. The development hereby permitted shall be begun before the expiration of three years from 27th March 2025 (the date of the original permission granted under 25/00309/FUL)

Reason: To comply with Section 91(1) of the Town and Country Planning Act, 1990 (As amended).

2. The development shall be carried out strictly in accordance with the approved plans, drawings and documents as listed in Schedule 1 of the permissions granted under 25/00309/FUL, amended by 25/02622/AMP and now varied by the plans listed in Schedule 1 below.

Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

3. The development shall be carried out in accordance with the tree protection and landscaping details approved under reference 25/04324/DIS. The approved tree protection measures shall be maintained in a satisfactory condition throughout the duration of the development, until all equipment, machinery and surplus materials have been removed from the site.

Reason: To safeguard the amenities of the local area, enhance the site and to protect the natural features that contribute towards this and that are important to the appearance of the development.

4. The development shall be carried out in accordance with the approved wildlife enhancement measures and external lighting plan approved under 25/04324/DIS. Any further changes to the locations of the external lighting shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the provision of roosting and nesting opportunities, in accordance with MD12, CS17 and section 192 of the NPPF and to minimise disturbance to bats, which are European Protected Species.

5. The development shall be carried out in accordance with the Construction Method Statement approved under reference 25/04324/DIS.

Reason: In the interest of highway safety

6. The development shall be carried out in accordance with the noise management plan approved under reference 25/04324/DIS.

AGENDA ITEM

- 26th May 2026

Marches Biogas Limited

Reason: In the interests of protecting residential amenity.

7. The chipping machinery shall not be operated or delivery vehicles permitted on to the premises before 0800 or after 1730 on weekdays nor before 0900 or after 1330 on Saturdays and not at any times on Sundays or Bank holidays.

Reason: In the interests of protecting residential amenity.

8. Notwithstanding that previously approved under 25/00006/DIS, the development shall be carried out in full accordance with the Biodiversity Gain Plan and Habitat Management and Monitoring Plan (HMMP) submitted with this application and hereby approved.

Reason: To ensure the provision of biodiversity net gains as a consequence of the development, and to protect and enhance features of recognised nature conservation importance, in accordance with MD12, CS17 and the NPPF (2024).