



Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

Application No:	DM/23/01275/PA
Full Application Description:	Prior Approval for provision of lagoon for the storage of slurry 60m by 40m with 3.5-metre-high bund
Name of Applicant:	Mr Mark Westgarth
Address:	Land Northwest of South Thorpe Wycliffe DL12 9TU
Electoral Division:	Barnard Castle East
Case Officer:	Jill Conroy Planning Officer 03000 264 955 jill.conroy@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSAL

The Site

1. The application site is located in open countryside, approximately 1 mile to the southwest of the village of Whorlton and 1000m to the north of the A66, to the south west of the county.
2. The site lies some 650 metres to the west of Southorpe Farm, a former working farm now consisting of a small grouping of residential dwellings. The site also lies 680 metres north of a caravan and camping site at Thorpe Farm, and 720 metres to the southwest of Thorpe Hall, a Grade II* listed building.
3. The site forms part of a wider agricultural unit operating out of Newsham Farm, located to the south of the site and the A66 located in the Borough of Darlington. The site itself consists of agricultural fields containing arable crops, enclosed by mature hedgerows.
4. The land is allocated as being within an Area of Higher Landscape Value (AHLV). There is a network of Public Rights of Way adjacent to the site,

including Public Right of Way (Rokeby No.1), which lies 600 metres to the west and Public Right of Way (Rokeby No.2) which also doubles as the Teesdale Way, some 350 metres removed to the north.

5. Vehicular access to the site is by means of an existing agricultural access track taken from the adopted highway (C186) to the south of the site.
6. In terms of planning constraints, the site is within the Teesmouth and Cleveland Nutrient Neutrality Constraint area.

The Proposal

7. This is an application for Prior Approval under Article 3 Schedule 2 Part 6, Class A (b) of the Town and Country (General Permitted Development) Order 2015 (as amended) for the siting of the development.
8. The development relates to the formation of a slurry lagoon, measuring 60m x 40m and includes associated landscaping. The lagoon would have a maximum capacity of 8146 cubic meters.
9. The lagoon would be encompassed by bunding, made up of excavated material and seeded with grass. The bund would measure approximately 3.5 metres in height from the natural ground level. The lagoon would be surrounded by a standard 1.3-metre-high post and rail fence, topped with two strands of barbed wire spaced at intervals of between 100mm and 150mm. The lagoon would be covered by means of a reinforced PVC (polyvinylchloride) slurry resistant material, laid over floats which are positioned underneath the cover to enable it to float on the surface of the slurry. This would be tied into the lagoon embankment to hold the cover in place and to prevent the egress of rainwater into the lagoon.
10. The application is being reported to planning committee due to concerns raised by Councillor Richardson, with regards to the impact on visual amenity, siting and odour nuisance.

PLANNING HISTORY

11. Prior Notification was received, reference DM/23/00813/PNA and it was deemed that Prior Approval was required for the siting of the development to further consider the issues relating to the development.

PLANNING POLICY

National Policy

12. A revised National Planning Policy Framework (NPPF) was published in July 2023. The overriding message continues to be that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways.

13. *NPPF Part 2 Achieving Sustainable Development* - The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
14. *NPPF Part 4 Decision-making* - Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
15. *NPPF Part 6 Building a strong, competitive economy* - The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.
16. *NPPF Part 9 Promoting Sustainable Transport* - Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
17. *NPPF Part 12 Achieving Well-Designed Places* - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
18. *NPPF Part 15 Conserving and Enhancing the Natural Environment* - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from Page 73 pollution and land stability and remediating contaminated or other degraded land where appropriate.

<https://www.gov.uk/guidance/national-planning-policy-framework>

National Planning Practice Guidance:

19. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; air quality; design process and tools; determining a planning application; flood risk; healthy and safe communities;; natural environment; noise; public rights of way and local green space;; use of planning conditions.

Local Plan Policy:

The County Durham Plan (CDP)

20. *Policy 10 (Development in the Countryside)* states that development will not be permitted unless allowed for by specific policies in the Plan or Neighbourhood Plan or unless it relates to exceptions for development necessary to support economic development, infrastructure development or development of existing buildings. The policy further sets out 9 General Design Principles for all development in the Countryside.

Provision for economic development includes: agricultural or rural land based enterprise; undertaking of non-commercial agricultural activity adjacent to applicant's residential curtilage. All development to be of design and scale suitable for intended use and well related to existing development.

21. *Policy 21 (Delivering Sustainable Transport)* requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings. Development should have regard to Parking and Accessibility Supplementary Planning Document.
22. *Policy 29 (Sustainable Design)* requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out 18 elements for development to be considered acceptable, including: making positive contribution to areas character, identity etc.; adaptable buildings; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals. Provision for all new residential development to comply with Nationally Described Space Standards, subject to transition period.
23. *Policy 31 (Amenity and Pollution)* sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that they can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.
24. *Policy 39 (Landscape)* states that proposals for new development will only be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views. Proposals are expected to incorporate appropriate mitigation measures where

adverse impacts occur. Development affecting Areas of Higher landscape Value will only be permitted where it conserves and enhances the special qualities, unless the benefits of the development clearly outweigh its impacts.

25. *Policy 41 (Biodiversity and Geodiversity)* states that proposal for new development will not be permitted if significant harm to biodiversity or geodiversity resulting from the development cannot be avoided, or appropriately mitigated, or as a last resort, compensated for.
26. *Policy 42 (Internally Designated Sites)* states that development that has the potential to have an effect on internationally designated sites, either individually or cumulatively with other plans or projects, will need to be screened in the first instance to determine whether significant effects on the site are likely, and, if so, will be subject to an Appropriate Assessment.
27. *Policy 43 (Protected Species and Nationally and Locally Protected Sites)* development proposals that would adversely impact upon nationally protected sites will only be permitted where the benefits clearly outweigh the impacts whilst adverse impacts upon locally designated sites will only be permitted where the benefits outweigh the adverse impacts. Appropriate mitigation or, as a last resort, compensation must be provided where adverse impacts are expected. In relation to protected species and their habitats, all development likely to have an adverse impact on the species' abilities to survive and maintain their distribution will not be permitted unless appropriate mitigation is provided or the proposal meets licensing criteria in relation to European protected species.

<https://www.durham.gov.uk/cdp>

Neighbourhood Plan:

28. The application site is not located within an area where there is a Neighbourhood Plan to which regard is to be had.

CONSULTATION AND PUBLICITY RESPONSES

Statutory Consultee Responses:

29. *Whorlton and Westwick Parish Council* – Raise concerns based on the size of the lagoon, traffic generation and an overall lack of information in which to determine the Prior Approval. A full planning application should be made in which to consider more details including the environmental impacts of this proposal to neighbours and residents within the Parish.
30. *Highway Authority* – Following confirmation of traffic movements associated with the development, it is considered that the proposal would be acceptable from a highway safety perspective.

Non-Statutory Responses:

31. *Ecology* – It is noted that the proposed site falls within the risk area for the Tees Catchment (NE advice regarding Nutrient Neutrality). As such further

information is required as to whether the proposed lagoon would result in an increase in nitrate loading on the adjacent fields (area where the resulting slurry would be spread).

32. *Landscape Section* –There would be a benefit of tree planting to help soften the lagoon embankment outline and horizontal emphasis, however the visibility of the proposal and its effects are localised and there would not be a wider visual impact. No objections have been raised.
33. *Environmental Health Nuisance* – It is noted the proposed lagoon does have a floating cover and it is assumed it would be used for approved fertilisers in line with current guidance and legislation. In terms of statutory nuisance and associated amenity matters, based on its given location; this would indicate that the development would not lead to an adverse impact providing relevant good practice and guidance is complied with. The information submitted demonstrates that the application complies with the thresholds stated within the TANS. This would indicate that the development would not lead to an adverse impact. It is also advised that the development is unlikely to cause a statutory nuisance.

Public Responses:

34. The application has been advertised by way of a site notice erected by the applicant and individual notification letters sent to neighbouring properties.
35. As a result of this consultation exercise, 12no objections have been received with a further 3no letters from existing objectors, raising concerns over the following issues, as summarised below: -
 - Concerns are raised with respect to insects, odour, and gas emissions from the lagoon, particularly due to the prevailing wind.
 - The lagoon is to be located not far from the river Tees, there are concerns with respect to a discharge of pollution into the water course.
 - The lagoon should be sited close to the applicant's farm where there is a greater proportion of land holding rather than new development in open countryside.
 - The lagoon is larger than an Olympic size swimming pool and would undoubtedly go unnoticed in an Area of Higher Landscape Value.
 - There are concerns that the lid might go unused.
 - It is considered that the development does not comply with the provisions of Part 6, Class A as it would involve a new structure. Also, there may be a requirement for further buildings.
 - The development would increase traffic movements and impact highway safety in the locality.
 - There are no details of the materials to be stored other than the term 'slurry' nor where it emanates from.
 - There are no details regarding the management of foul or rainwater runoff.
 - No odour management reports have been provided, particularly during delivery, storage and emptying of the lagoon.
 - The development will have an impact on local tourism, namely the local caravan and lodge site.
 - The proposal should be considered as a full planning application to permit proper consultation and assessment.

- There is no information regarding the security of the lagoon and how the applicant intends to supervise it, being some 2.3km from their base.
- There are concerns that the lagoon is to be used as a commercial operation, serving other farms in addition to the applicants own requirements.

The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <https://publicaccess.durham.gov.uk/online-applications/>

Applicants Statement:

36. The current proposals relate to the provision of a lagoon for the storage of slurry to be constructed as permitted development under the provisions of Part 6 Class A of the Town & Country Planning (General Permitted Development) (England) Order 2015.
37. The proposals will provide additional slurry storage capacity to meet the requirements of the applicant's large arable landholding to ensure they can maintain storage capacity for slurry to comply with NVZ Regulations and the 6 months slurry storage capacity to comply with the Farming Rules for Water Regulations, while also maintaining the ability to apply slurry during optimal conditions as required by the Farming Rules for Water Regulations.
38. The need for the additional capacity cannot be provided at the existing farmstead, as it is detached from the landbank that the lagoon is intended to serve. The need for the lagoon is driven by the fact that the land is farmed on an arable rotation and there is currently a lack of fertiliser storage facilities in the immediate vicinity of the fields that the slurry is to be applied to. It is best practice to have materials that are recovered to land for agricultural benefit at place of use prior to spreading, as the materials can then be applied to the land when required, during optimal weather and soil conditions. The location of the proposed lagoon has been specifically selected as it offers a central location to the land bank in question thereby meeting the holding's operational requirements.
39. It is noted that objections have been raised from a number of local residents on various matters, however, it is fundamental to acknowledge in assessing the proposals that the permitted development regime does not impose full planning controls over the developments to which they apply and the principle of development or other planning issues (including a number of matters raised by local residents) are not relevant. Nonetheless, additional information submitted during the course of the application process has demonstrated that the proposed lagoon will not give rise to unacceptable impacts in relation to contamination; odour or highways in any event.
40. However, under the provisions of the legislation, the only matter for consideration is the siting of the lagoon and its impact on the landscape and, in this regard, the lagoon basin will be surrounded by a bund seeded with grass to minimise any potential for visual impact of the lagoon. There are also limited publicly available viewpoints of the proposed lagoon in view of its siting within an existing field and, any views that are available from surrounding visual receptors (e.g. public rights of way, residential properties, roads) will be taken across a considerable distance with the topography of the surrounding landform

and intervening vegetation ensuring that the grassed embankments of the proposed lagoon will largely not be visible and will certainly not appear as a visually intrusive or prominent feature within the landscape setting. The proposed lagoon will not therefore give rise to unacceptable impacts on the wider landscape setting and this position has been endorsed by the Council's Landscape Officer.

41. The proposals will therefore provide additional slurry storage capacity centrally located to the fields upon which the material will be spread to meet the needs of this well-established farming operation. The proposals satisfy the requirements of the relevant permitted development legislation and, as such, we would respectfully request that Members resolve to support the proposals.

PLANNING CONSIDERATION AND ASSESSMENT

Background

42. Article 3(1) of The Town and Country Planning (General Permitted Development Order) (England) 2015 (as amended), also known as the GDPO, provides that planning permission is granted for the classes of development in Schedule 2 of the order. In this respect Schedule 2, Part 6, Class A of the GDPO grants planning permission on agricultural land comprised on an agricultural unit of 5 hectares or more in area of any excavation or engineering operation which is reasonably necessary for the purposes of agriculture within that unit.
43. This is subject to a number of limitations and conditions, including the requirement of a submission of a prior notification to the Local Planning Authority as to whether (in this case) Prior Approval is required for the siting of the development. Prior Approval is effectively a process where the LPA can give further security of the matter under consideration. The applicant has complied with this requirement and the LPA has confirmed that prior approval would be required for the siting of the development (under application DM/23/00813/PNA). This has resulted in this application for Prior Approval, development cannot commence until Prior Approval is granted, either by the LPA or the Planning Inspectorate.
44. It is important to note that the grant of planning permission made under the GDPO is made through the operation of Article 3(1) of the GDPO and not through any subsequent procedure or conditions set out in the relevant class. In other words, the Prior Approval process does not grant planning permission, this has already been granted, the Prior Approval process is merely a procedure to follow. The Prior Approval process can be viewed in the similar way as a discharge of condition application and not an application for planning permission.
45. Case law indicates that as part of the Prior Approval process an assessment should be made as to whether the development proposed would be considered permitted development, giving consideration of the nature of the development and adherence/compliance with the limitation of the relevant class of development. Aside from this, the only detailed matter to be considered relates the siting of the development. Whilst there isn't a legislative definition of the term 'siting', it typically refers to the location/position of development and the impact therein. In consideration of this matter, regard can be given to the development

plan but only insofar as it relates to the siting of the development and only as evidence to support the planning judgement.

Consideration of whether the proposal is Permitted Development:

46. As above GDPO grants planning permission for the carrying out on agricultural land comprised in an agricultural unit of 5 hectares or more in area any excavation or engineering operations which are reasonably necessary for the purposes of agriculture within that unit (Schedule 2, Part 6, Class A).
47. In this respect the farm holding comprises a 900ha landholding farmed by the applicant from Newsham Hall Farm, located to the south of the A66. This is an existing and established farming enterprise, the application forms state that the land has been farmed for over 100 years. The applicant states that the development comprises engineering works to facilitate the formation of a slurry lagoon, to allow the spreading of slurry across the applicant's land holding, particularly this element of the holding which is separated from the A66 and detached from the wider holding itself. The slurry lagoon would measure 60m by 40m and would have a capacity of 8146 cubic meters.
48. It is recognised that a number of objections have been raised with regards to the need to site the lagoon in this location instead of the main farming enterprise located at Newsham Hall Farm. Although the siting of the development is a matter of which to be considered, the rationale behind the chosen location is not strictly a matter which can be reasonably considered, as the test is whether the development is reasonably necessary. Nevertheless, the applicant has provided additional information to understand the rationale behind the chosen location of this development.
49. It is set out that the farming operations out of Newsham Hall Farm currently has a livestock capacity of 3,311 sows, 4000 finishers and 10 boars with an approximate volume of slurry produced being c.16,500 cubic metres per annum. The current storage facilities comprise two lagoons with a working capacity of c.3,500 cubic metres each and a slurry tower with a working capacity of c.1,500 cubic metres. According to the supporting detail, the existing facilities are dated and do not provide the requisite 5-month storage capacity to comply Nitrates Vulnerable Zones or the 6-month storage capacity to comply with the Farming Rules for Water Regulations. It is advised that there is limited scope to accommodate the lagoon adjacent to the existing farm as the adjoining land bank is already served by existing slurry storage infrastructure in this location. Furthermore, it is considered best practice to have materials that are recovered to land for agricultural benefit at place of use prior to spreading as the materials can then be applied to the land as and when required, during optimal weather and soil conditions.
50. Overall, it is considered that the development meets the reasonably necessary for the purposes of agriculture within the established unit test and would meet the requirements of the GDPO in this respect.
51. In relation to the other limitations and conditions of Schedule 2, Part 6, Class A the proposed agricultural structure is not consisting of works relating to a dwelling; the works are not within 3 kilometres of an aerodrome; no buildings have been erected on site within the past 2 years within 90 metres from the

application site; the development would not be within 25 metres of a metalled part of a trunk road or classified road; the slurry lagoon is located over 400 metres away from protected dwellings; the slurry lagoon would be designed for agricultural purposes and lastly following submission of the details of the slurry cover, the development would not be regarded as a building.

52. The matters of the application which relate to siting of which to be considered, are as follows:

Visual and Landscape Impact

53. The site to which this application relates is a parcel of arable farmland. As above, it is proposed to excavate a 60-metre x 40-metre section of land to form a slurry lagoon, with a ground coverage of 2,400 square metres. The slurry lagoon would provide a storage capacity of 8,146 cubic metres, within a centralised location, where the material would be spread in order to meet the needs of the existing farming operation.
54. The lagoon would be encompassed by bunding, made up of excavated material and seeded with grass. The bund would measure approximately 3.5 metres in height from the natural ground level. The lagoon would be surrounded by a standard 1.3-metre-high post and rail fence, topped with two strands of barbed wire spaced at intervals of between 100mm and 150mm to fend off livestock. A secure access gate of the same features would be included to deter and prevent unauthorised access. The lagoon would be covered by means of a reinforced PVC (polyvinylchloride) slurry resistant material, laid over floats which are positioned underneath the cover to enable it to float on the surface of the slurry. This would be tied into the lagoon embankment to hold the cover in place and to prevent the egress of rainwater into the lagoon.
55. In terms of landscape designations and visual receptors, the application site is located in an Area of Higher Landscape Value (AHLV). The closest public vantage points being from the adjacent Public Right of Way (Rokeby No.1), which lies 600 metres to the west and Public Right of Way (Rokeby No.2) which also doubles as the Teesdale Way, some 350 metres removed to the north. The nearest adopted highway (the C168) Linking the A66 to Whorlton lies approximately 645m to the west of the site.
56. CDP Policy 10 relates to development in the countryside. Part (l) of Policy 10 seeks to refuse applications that give rise to unacceptable harm to the heritage, biodiversity, geodiversity, intrinsic character, beauty or tranquillity of the countryside either individually or cumulatively, which cannot be adequately mitigated or compensated for.
57. CDP Policy 39 (Landscape) states that proposals for new development will only be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views. Proposals are expected to incorporate appropriate mitigation measures where adverse impacts occur.
58. CDP Policy 29 (Sustainable Design) Part (a), states that development proposals should contribute positively to an area's character, identity, heritage significance, townscape and landscape features, helping to create and reinforce

locally distinctive and sustainable communities. Part (g) states that landscape proposals should respond creatively to topography and to existing features of landscape or heritage interest and wildlife habitats.

59. NPPF Parts 12 and 15 promote good design and set out that the planning system should contribute to and enhance the natural and local environment by (amongst other things) recognising the intrinsic character and beauty of the countryside. Objections have been received with regards to the visual impact of the development on the AHLV.
60. To assist in the assessment of the impacts of the development the Council's Landscape Officer has been consulted on the Prior Approval application. It is advised that the development is a large, engineered structure, which is not associated with existing built form nor is it clustered with the associated farmstead. However, due to the nature of the proposal, the topography and intervening vegetation, it is advised that the development would be largely screened or heavily filtered in wider views. It is noted that there would be increased visibility from higher ground to the south (around Barningham area), however this would be at a distance of around 4km plus.
61. The Landscape Officer also advises that from intervening short sections of the Teesdale Way, the bund around the lagoon is likely to be visible on the skyline, featuring as an engineered structure, visible above the intervening hedgerow. While additional tree planting has been offered as a way of softening the outline and horizontal emphasis, the Landscape Officer has confirmed that it is not necessary as these effects are localised with limited wider visual impact. Views from the C168 would in large be prevented due to the topography of surrounding fields.
62. Overall, having regard to the advice of the Council's Landscape Officer, while taking into account the concerns of the objectors, it is considered that the proposal would not lead to landscape harm though its siting, ensuring that important landscape features and views are protected. The proposal is therefore considered accord with Policies 10, 29 and 39 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework.

Impact on Amenity

63. CDP Policies 29 and 31 outline that developments should provide high standards of amenity and privacy, minimise the impact of development upon the occupants of existing adjacent and nearby properties and not lead to unacceptable levels of pollution. NPPF Parts 12 and 15, require that a good standard of amenity for existing and future users be ensured, whilst seeking to prevent both new and existing development from contributing to, or being put at unacceptable risk from, unacceptable levels of pollution.
64. A number of concerns have been raised with regards to gas and odour emissions and insect infestation as a result of the location of the lagoon. Residents of the surrounding area are deeply concerned with respect to the exacerbation of these emissions due to the prevailing wind. It is also identified that no odour management reports have been provided which considers odour during delivery, storage and emptying of the lagoon nor has specific detail been provided regarding the actual source and type of slurry to be stored. Concerns

have also been raised that the development would have an impact on local tourism, namely the local caravan and lodge site.

65. In terms of distances, the lagoon will be located some 650 metres to the closest sensitive receptors at Southorpe Farm to the east of the site. Other sensitive receptors include Thorpe Farm, which lies at an approximate distance of 680 metres to the south. It should be noted that Thorpe Farm is subject of a current planning application, reference DM/21/03916/FPA, for the extension of the caravan site northwards, towards the application site, however permission has yet to be granted for this. The other closest receptor is Thorpe Hall which lies 720 metres to the northeast of the site.
66. DEFRA defines slurry as run-off from solid manure stores, woodchip, straw bedded corral and stand off pads. The supporting information states that the slurry to be stored is that produced from the livestock associated with the established farming enterprise at Newsham Hall Farm. There is no detail to suggest that slurry other than from this farming operation would be stored within this location. This activity would also require planning permission its own right, as the GPDO only permitted such development that is necessary for the agricultural unit it relates.
67. However, with regards to odour nuisance and gas emissions, the applicant confirms in the supporting statement that the floating cover is a reinforced PVC slurry and biogas resistant material laid over floats positioned underneath the cover. Additional floaters with degassing pipes are fitted in the floating cover. The degassing pipes are a standard design for a covered lagoon to help ensure any gasses under the cover are suitably vented. The supporting statement also confirms that the floating cover minimises the potential for odour from stored material, impacting on receptors as it prevents and disrupts odours from escaping the lagoon, other than through the vent pipes.
68. The Council's Environmental Health Officer has been consulted and has advised that due to the provision of the lagoon cover, the development's location it would not likely lead to an adverse impact on amenity. It is also advised that the development is unlikely to cause a statutory nuisance, to which in the event separate powers are available to the Council's Environmental Health Department to investigate and enforce. It is also noted that the activity of spreading fertiliser or slurry on the surrounding fields is an activity that would be undertaken irrespective of this development.
69. Overall, taking into account the above, whilst recognising the concerns of the objectors in this respect, the siting of the proposal is not considered to result in an unacceptable impact on residential amenity. The proposal would therefore comply with Policies 29 and 31 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework in this respect.

Highway Safety

70. CDP Policy 21 outlines that development should not be prejudicial to highway safety or have a severe cumulative impact on network capacity. In addition, Paragraph 111 of the NPPF states that development should only be refused on transport grounds where the residual cumulative impacts on development are severe.

71. Local concern has been raised with regards to the impact on the local traffic network and general highway safety as a result of this proposal.
72. Supporting information advises that the proposed lagoon would be accessed by means of an existing farm track taken from Whorlton Lane (C168 adopted highway). It is intended that deliveries would be made to the lagoon typically from tankers carrying approximately 27 cubic metres of slurry. On this basis, it would take circa 300 deliveries to fill the lagoon, however this would likely be over a period of time as excess slurry is produced. Material from the lagoon would then be spread by pumping through an umbilical system therefore it is not anticipated that there would be any further vehicle movements in which to collect slurry from the lagoon.
73. The supporting statement advises that the number and nature of vehicle movements can be seen to be an improvement on existing arrangements, given that materials are currently tankered into and spread from a nurse tank as part of an intensive spreading campaign. The lagoon would improve this situation, as deliveries would be made as a steady flow prior to commencement of the spreading campaign.
74. The Highway Authority have been consulted on the application and while acknowledging the initial requirement and number of visits to the lagoon to fill the tank, once the tank is full, the development would generate very little traffic. On this basis, the Highway Authority have raised no objection to the development.
75. Accordingly, it is considered that the siting of the development would not lead to a loss of highway safety in accordance with Policy 21 of the County Durham Plan and Part 9 of the National Planning Policy Framework in this respect.

Ecological Interests

76. The development site is not located with or in the proximity of any protected or designated ecological site and currently consists of undeveloped farmland in arable production. The Council's Ecology Officer raises no concerns in regard to biodiversity interests of the site itself, but it is highlighted that the site lies within the river Tees catchment and therefore concerns are raised regarding the potential for slurry leakage along with the potential for increased nitrogen loading on the surrounding field where slurry would be spread.
77. The construction, operation and storage of slurry and slurry stores is covered by separate legislation, known as SSAFO regulations (the Water Resources (Control of Pollution) (Silage, Slurry and Agricultural Fuel Oil) (England) Regulations 2010 and is enforced by the Environment Agency. As part of these regulations' slurry storey must be constructed to a prescribed standard (BS 5502-50:1993 + A2 2010). The regulations also set out that the capacity of the slurry store should also incorporate an 25% allowance for rainfall, while earth banked slurry stores must have impermeable soil to a thickness of 1m or use a permeable liner. A notification for approval is required to be submitted to the environment agency prior to the commencement of the works.

78. Notwithstanding this, Article 3(1) of the GPDO, grants planning permission for the classes of development described as Permitted Development subject to Regulations 75- 78 of The Conservation of Habitats and Species Regulations 2017 (habs regs).
79. This is effectively a pre commencement condition requiring all permitted development which is likely to have a significant effect on a European site to submit a separate notification to establish whether the development would have an adverse impact on that site. This is known as a Regulation 77 Application.
80. Whilst recognising that the activities of slurry spreading currently take place on the land, given the nature of the development and potential impact on the Teesmouth and Cleveland Coast Special Protection Area (SPA) in relation to nutrient pollution a Regulation 77 Application would be required. This is however a separate process to this current notification which can only look at the siting of the development. An informative is however recommended to be included to outline the necessary requirements.
81. Subject to the inclusion of the informative, advising of the requirements to be undertaken by the application, the proposal would accord with Policies 41 and 42 of the County Durham Plan and Paragraph 180 of the National Planning Policy Framework as the siting of the development would not impact on any ecological interests on the site.

Other Matters

82. Concerns have been raised with regards to a lack of information in respect to foul and surface water drainage and land contamination, particularly due to a recent case publicised in the locale whereby a slurry leak occurred, making its way to a nearby watercourse. Residents are concerned with respect to the close proximity of the development to the River Tees. Although these concerns are duly noted and understood, they are however, outwith the remit of consideration of this Prior Approval. As above the construction, operation and storage of slurry and slurry stores is covered by separate legislation, known as SSAFO regulations (the Water Resources (Control of Pollution) (Silage, Slurry and Agricultural Fuel Oil) (England) Regulations 2010 and is enforced by the Environment Agency. A separate notification process is required to be undertaken before the development commences with the Environment Agency.
83. Further to matters above, concerns have been raised with regards to security and maintenance of the site being located away from the main farmstead. The applicant has confirmed that there would be protective fencing with a secure gate to prevent unauthorised access to the site. The lagoon would be maintained in line with guidance and standards to ensure its operation meets best practices. The lagoon would be fitted with a leak detection system and would include as part of the sites infrastructure monitoring regimes to that proactive monitoring in regularly undertaken. This matter is again considered to fall beyond the scope of control of the Prior Approval Application.
84. Local concern has been raised that the lagoon cover, in which would contain the odour and gasses may go unused. Whilst there is no mechanism to ensure that the cover would be utilised correctly, it is also acknowledged that the farm is a well-established enterprise, with a requirement to adhere to standard

farming and working practices. Should odours and gasses become a matter of nuisance over and above what is reasonable, this would be dealt with under separate legislation enforced by the Environment Agency and the Councils Environmental Health Service.

85. Objectors consider that the development does not meet the provisions of Part 6, Class A as it would involve a new structure. In addition, the development may lead to a further requirement for additional buildings on the site. However as set out above the development is considered permitted development. As to the future requirement for buildings on the site, again this is a matter of speculation and would be considered as and when any future application is submitted.
86. A number of objectors consider that the development should be considered under a full planning application in which to allow full consideration of all necessary detailed matters. The Government allows permitted development rights to help facilitate timely development which is necessary for the benefit of agriculture. The applicant is exercising their right to apply under this procedure, and it is beyond the scope of control of the LPA to consider matters other than the siting of the development.

Conditions

87. The Prior Approval procedure set out in Schedule 2, Part 6 of the GDPO does allow for the imposition of conditions to make the development acceptable, in the same way they can be attached in a planning permission. However, the GDPO does impose conditions, including requiring the development to be carried out in accordance with the information submitted with the Prior Approval application, the commencement of development within 5 years.

CONCLUSION

88. Taking all the above into account, it is considered that the proposed development is reasonably necessary for the purposes of agriculture and would comply with the development criteria as set out in Part 6, Class A (b) of the Town and Country (General Permitted Development) Order 2015 (as amended).
89. The development has been considered in terms of its siting. It is concluded that the siting of the development would not have an adverse impact on the rural landscape and wider special qualities of the Area of Higher Landscape Value. The proposal would not have an unacceptable impact on residential amenity, nor would it result in traffic generation which would be considered severe. The proposal is also acceptable in terms of the site's ecological interests. A separate application process through the Habitats Regulations is required to establish any adverse impact on the Teesmouth and Cleveland Coast Special Protection Area (SPA)
90. Accordingly, the proposal is considered to accord with Policies 10, 21, 29, 31, 39, 41 and 42 of the County Durham Plan and Parts 2, 4, 6, 9, 12 and 15 of the National Planning Policy Framework.
91. The proposal has generated some public interest. All of the objections and concerns raised have been taken into account and addressed within the report.

On balance, the concerns raised were not considered sufficient to justify refusal of this application.

Public Sector Equality Duty

92. Section 149 of the Equality Act 2010 requires public authorities when exercising their functions to have due regard to the need to i) the need to eliminate discrimination, harassment, victimisation and any other prohibited conduct, ii) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and iii) foster good relations between persons who share a relevant protected characteristic and persons who do not share that characteristic.
93. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

RECOMMENDATION

That Prior Approval be **GRANTED**

BACKGROUND PAPERS

Submitted Application Forms, Plans and supporting documents
National Planning Policy Framework
The County Durham Plan (CDP)
Internal and External consultation responses



Planning Services

Proposal: Prior Approval for provision of slurry lagoon

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Comments:
Date: October 2023
