

**Appeal against the planning refusal by Bury Metropolitan Borough Council for
a part retrospective application for a slurry lagoon at Twine Valley Farm,
Church Road, Shuttleworth, Ramsbottom, Bury, BL0 0HH
(GR 380191;417645)**

Appeal Statement

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mssrs. J. and C. Brown against the decision of Bury Metropolitan Borough Council.
- The application is reference 71446.
- The development proposed is the part retrospective application for a slurry lagoon at Twine Valley Farm, Church Road, Shuttleworth, Bury (GR 380191;417645)



The site and the proposal

The proposal is for a pond for the storage of slurry at Twine Valley Farm which is principally a cattle farm.

Slurry would be collected from the adjoining agricultural buildings for use on the landholdings of the applicant and his close family and would be taken by tanker for fertilising the owners' and family's land.

The reason for the proposed development is to counter the increasing costs of buying in chemical fertiliser.

While the pond has mainly been constructed, it is not yet in use for slurry storage. It has an oval, conical shape approximately 4 metres deep, with 2 metre high post and deer netting around its rim. It has a hardcore stone base with a 2mm thick black plastic liner to make the pond impermeable and with approximately 45 degree slopes.

Most of the farm buildings are at a lower level than the proposed lagoon though there is a modern agricultural building adjoining it and which has planning approval for agricultural storage. Its use for housing cattle has recently been refused but will be the subject of a separate appeal in the near future.

On 7 July 2017 a planning appeal was allowed for an agricultural building on the current appeal site for the storage of silage, including a slurry tank but has not been completed¹. A copy of the appeal decision and associated documents are submitted with the current appeal.

While the local planning authority (LPA) considers that the approval has now lapsed, that is not the case as a legal start had been made to the development by the construction of one of the concrete footings for the portal frame of the building.

The site is within the Green Belt

The Main Issues

The main issues are (i) whether or not the proposal is inappropriate development in the Green Belt; (ii) the effect upon the character and appearance of the area; (iii) the impact upon changes to land levels in terms of land stability and pollution; (iii) the impact upon the amenities of the occupiers of properties in the immediate area in

¹ Appeal reference APP/T4210/W/17/3172551 and LPA reference 60962

terms of noise, smell, disturbance and general activities; (iv) the impact upon highway safety and (v) if the proposal is inappropriate development in the Green Belt, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances to justify development.

Inappropriate development in the Green Belt

The PLACES FOR EVERYONE JOINT DEVELOPMENT PLAN DOCUMENT FOR BOLTON, BURY, MANCHESTER, OLDHAM, ROCHDALE, SALFORD, TAMESIDE, TRAFFORD AND WIGAN (P f E) (2024) is largely silent on uses which might be appropriate in the Green Belt, merely stating at policy JP-G9 that *‘the beneficial use of the Green Belt will be enhanced where this can be achieved without harm to its openness, permanence or ability to serve its five purposes’*.

The adoption of the P f E supersedes Green Belt policy OL1 of the Council’s Unitary Development Plan 1997 (UDP).

The National Planning Policy Framework 2025 (the Framework) notes at paragraph 142 that *‘the Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence’*.

Paragraphs 154 and 155 state that development in the Green Belt is inappropriate unless one of a number of exceptions applies including ‘engineering operations’ provided they preserve its openness and do not conflict with the purposes of including land within it.

While the structure may or may not be classed as a building, Paragraph 154 states that buildings for agriculture and forestry are not inappropriate.

The proposed development would be set down no higher than the existing land levels and so cannot be said to affect openness. The only exception would be the two meter high surrounding post and wire netting fencing.

This compares to the silage building for the same site, allowed on appeal, for a building of 40 metres by 13 metres and with a ridge height of 5.35 metres. It also sits alongside the existing agricultural building .

In its officer report, the LPA acknowledges that *'the proposal would fall under exception 'a' of paragraph 154 providing a slurry pond in association with an agricultural use and would therefore be acceptable in principle subject to the consideration of the issues set out below'*.

Those issues generally relate to issues of character and appearance rather than the appropriateness of the development in Green Belt terms.

However, the LPA asserts that land levels have been deliberately increased, with the implication that this could impact upon openness. However, there has been no such increase, as a comparison between the topographical plans of 2016 and 2025 show.(Produced by different surveying companies). Enlarged extracts from them are submitted with the appeal.

The 2016 topographical plan was produced for the application for the proposed silage building (there were two such applications, the second of which was allowed on appeal). It shows a level of 177.29 to the east of the existing agricultural building and also levels of between 175.5 to 176.5 above the steep embankment to the South.

Moreover, the approved site plan, granted on appeal, shows a finished floor level for the building of 177.

The 2025 topographical plan shows a land level of 177.23 to the east of the existing agricultural building and also a level of 175.31 at the edge of the lagoon.

These topographic plans indicate that there has been no importation of material to raise land levels. The plans and information were available to the LPA .

But even if there had been any such change, Schedule 2, Part 6, Class A, para A(b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) permits such engineering operations for any excavation or engineering operations which are reasonably necessary for the purposes of agriculture within that unit.

We appreciate that the courts have held that openness can have both a visual and a volumetric component, but in this case, and as the lagoon would be below existing ground levels, openness would not be adversely affected. The only change to the existing position regarding openness would be the surrounding post and netting fencing, and which would be permitted under Schedule 2 , Part 2, Class A of the GPDO relating to fences, walls or other means of enclosure.

The Council's officer report also states that '*no details of this cover (ie the proposed plastic sheet for the top of the lagoon) have been submitted for consideration. No elevation details have been provided to show the impact of the proposed lagoon in relation to the existing agricultural buildings to the south (at a lower level) and to the east. Given the highly visible nature of the site it is considered that details of the changes in levels, adjacent buildings and boundaries, proposed fencing and proposed floating cover would be required to adequately assess the proposal in terms of the potential impact on Green Belt in relation to siting and design*'.

It is not clear if these comments refer to Green Belt policy or to the impact upon the character and appearance of the area. So far as Green belt policy is concerned, we have commented upon land levels above. The submitted application does include cross sections of the site, but in any event , as the application is part retrospective, its impact in Green Belt terms is clear to see.

Details of the cover are included in the odour report, submitted with the planning application and which states ' *the proposed cover will be as per recommendations from the Department for Environment, Food & Rural Affairs' (Defra's) guidance on the Code of Good Agricultural Practice (COGAP) for Reducing Ammonia Emissions (Defra, 2024) and The Industrial Emissions Directive 2010/75/EU Integrated Pollution Prevention and Control on the Best Available Techniques (BAT) Reference Document for the Intensive Rearing of Poultry or Pigs (European Union, 2017)* '.

So far as the plastic cover to the lagoon is concerned (comparable to a swimming pool cover) it would have no effect upon openness.

Surely we don't need to show an elevation of a 2 metre high post and wire netting fence? Its appearance can surely be envisaged , especially as the posts are in place.

If required, we consider that this is a matter capable of being determined by a condition.

The appeal site forms part of the agricultural unit and the proposed development would not entail any change of use. For this reason, together with its sub-surface construction, it would not adversely affect the purposes of the Green Belt as stated in the Framework as: -

- a) to check the unrestricted sprawl of large built-up areas;
- b) to prevent neighbouring towns merging into one another;
- c) to assist in safeguarding the countryside from encroachment;
- d) to preserve the setting and special character of historic towns; and
- e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

We accept that the LPA is not saying that the proposed development is inappropriate in the Green Belt in its Decision Notice and that its stance is that ' *the application, submitted plans and supporting information contain insufficient information in relation to siting of the proposed slurry pond, changes in levels, fencing and the impermeable*

UV-stabilised plastic floating cover to enable them to be adequately assessed in relation toimpact on the Green Belt'

However, all of the above information was available to it, while in addition this is a retrospective application where the LPA could see the pond and its surrounding posts in relation to other buildings and the landform around it. Its position of not having sufficient information to determine the impact upon the Green Belt is not tenable

Therefore, the proposed development would not amount to inappropriate development in the Green Belt. No harm would be caused to openness or to any of the purposes of the Green Belt and so would accord with the Framework, nor would there be any conflict with policy JP-G9 of the PfE.

Character and appearance

In its decision notice, the LPA asserts that '*the application, submitted plans and supporting information contain insufficient information in relation to siting of the proposed slurry pond, changes in levels, fencing and the impermeable UV-stabilised plastic floating cover to enable them to be adequately assessed in relation to visual amenity, and landscape character*'.

However, the LPA would have been aware that this matter was considered as a main issue with regard to the allowed appeal for the silage building on the site and referred to above. The inspector concluded as follows: -

'Character and Appearance

5. The appeal site is located in a field on a steeply sloping hillside. A modern agricultural building lies to the west of the site, and to the south, at a lower level, are a number of other agricultural buildings. The wider area, which is designated a Special Landscape Area, consists of steep hills scattered with farmsteads with some small areas of housing.

6. *The proposed building would be a large structure, constructed from concrete block work and Yorkshire boarding, and a corrugated sheet roof. The only opening would be on the eastern elevation, facing the other barn at this level, and so blank elevations would be presented to both the road to the south, and the footpath to the north. In addition an area of hardstanding would be created between the proposed and the existing barn as well as an access track down to the lower level barns.*
7. *The scale, mass and bulk of the proposed building, together with its elevated position on the hillside mean it would be a significant feature in the local landscape. However, despite its siting, I observed that in most views from the surrounding roads and footpaths it would be seen in the context of at least one, if not all, the other large agricultural buildings that form part of the farmstead. As a result it would not be seen as an isolated stand-alone building, nor would it appear as an incongruous feature in the landscape.*
8. *Moreover, the majority of houses in the immediate vicinity do not directly face the site, and from many of those that do, such as along Church Road, the topography and intervening vegetation would largely screen the building from view. It would be visible from the limited number of houses that face onto Bamford Road, but from these it would be seen in the context of all the other farm buildings.*
9. *Although the proposed and the existing buildings cannot be described as attractive, they are typical of a farmstead, and what one might expect to find in open countryside and / or in the Green Belt. As such, the proposal would not detract from the rural character of the area.*
10. *Therefore, I am satisfied that the proposal would not have an unacceptable detrimental impact on the character and appearance of the surrounding Special Landscape Area. As a result there would be no conflict with Policies EN1/1, EN9/1 or OL4/5 of the BUDP (ie Bury Unitary Development Plan) which seek to ensure that developments have a high standard of design, do not have a detrimental impact on visual amenity and relate well to existing buildings’.*

The current appeal proposal is for a sub-surface level lagoon surrounded by 2 metre high post and netting fencing, compared to the above building measuring some 40 metres by 13 metres and 5.35 metres high. If the latter building is considered to be acceptable in terms of the character and appearance of the area there seems no

reason why the LPA could not arrive at the same conclusion for the current appeal proposal.

The LPA refers to the plastic cover to the lagoon and considered that it has insufficient information to assess its impact (actually, in terms of its impact upon openness). So far as its impact upon the character and appearance of the area is concerned, by its location and siting it would not be seen significantly from the public domain.

If it is thought necessary, we would accept a condition requiring its colour to be agreed in writing by the LPA prior to its inclusion.

We accept that the LPA is not saying that the proposed development would have an unacceptably adverse effect upon character and appearance. Its position is that *'the application, submitted plans and supporting information contain insufficient information in relation to siting of the proposed slurry pond, changes in levels, fencing and the impermeable UV-stabilised plastic floating cover to enable them to be adequately assessed in relation to visual amenity, and landscape character'*.

However, as with its same stance regarding the impact upon the Green Belt, all of the above information was before it prior to its decision, meaning that it could see the development for itself, other than the proposed plastic cover and some boundary netting. The Council's stance is not a reasonable one.

Therefore, the proposed development would accord with saved Bury Unitary Development Plan 1997 (UDP) policy OL4/5 which requires buildings and structures to minimise their visual impact upon the landscape, and with policy EN1/2 which also requires proposals to preserve the character and townscapes of the Borough's settlements. It would comply with PfE policy JP-G1 which requires development to reflect the landscape character of its location. It would confirm to paragraph 135 of the Framework which requires development to be sympathetic to the local character of the area.

The Councils 'New Buildings and Associated Development in the Green Belt Supplementary Planning Document No. 8(2007) (SPD) is relevant in so far as it advises that '*consideration must be given to the best way of integrating a new building with its immediate surroundings and landscape*', and while the proposal is not a building, it would not conflict with its objective.

In terms of character and appearance, the LPA's quoted UDP policy OL1/2 and PFE policy JP-G9 are not pertinent, dealing as they do with the appropriateness of development in the Green Belt and with its enhancement for public access and habitation restoration.

Land stability and pollution

The lagoon is sited on a level plateau, set back from the slope to the south. There is an existing agricultural building alongside it and a silage building has been allowed on appeal in 2018. The issue of land stability has not been raised in relation to these approvals and there is no good reason for so doing now. In fact, the LPA has not raised any such issue with the applicant/appellant until this time.

Moreover, the lagoon has been constructed for some time and in the intervening period has been used for the storage of water for the cows.

The level ground, the set back from the edge of the slope to the south, the presence of the adjoining agricultural building and the filling of the lagoon with rain water all indicate that there is no reasonable basis for a concern regarding structural stability of the site.

The LPA also raises the prospect of possible pollution in the event of a spillage from the lagoon.

Slurry is a valuable agricultural asset. The reason for the proposal is to counter the high cost of imported, purchased chemical fertiliser. In such circumstances, the appellant will wish to ensure that there will be no spillages.

If there were to be any such spillage it would be onto the appellant's own land.

The Councils Environment Health contamination and pollution control sections raise no objections, nor does the Environment Agency (EA), the latter which has submitted guidance, noting that '*it is a requirement for the storage of slurry for compliance with other, specific legislation to that of the town and Country Planning Act, notably ' the Water Resources (Control of Pollution) (Slurry and Agricultural Fuel Oil) (England) Regulations 2010, commonly known as the SSAFO regs, and the storage requirements of The Nitrate Pollution Prevention Regulations 2015, commonly known as the NVZ regs'.*

It is acknowledged that the planning process should not override more specific legislation in such circumstances.

Paragraph 187(e) of the Framework states that planning policy should contribute to and enhance the natural and local environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Paragraph 197 states that where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

Neither the Council's Environmental Health contamination or pollution sections object to the proposed development, and neither does the EA. The LPA refers to no other reasoned basis to counter such professional views.

For the reasons explained above there are no grounds for considering that the proposed development would lead to the instability of the land. In any event, paragraph 197 places the responsibility for securing a safe development upon the developer/land owner.

Therefore, the proposed development would accord with paragraphs 197 and 187(E) of the Framework

Residential amenities

The LPA, in its Decision Notice, considers that ‘ *the development would be seriously detrimental to the residential amenities of nearby occupiers, by reason of the noise, smell, disturbance and general activity associated with the proposed use*’.

However, in its accompanying officer report it concludes with regard to noise that ‘*In terms of noise, the odour and noise assessment ref JB.130225.1A considers that, as the proposed slurry pond is for storage purposes there is unlikely to be any significant noise generated by it. The applicant considers that noise is likely to be from a pump but there is no reason to believe that any noise from it would be significant, given the distances from dwellings and with intervening farm buildings to the East and South*’.

Nevertheless, it considers that there would be noise from additional vehicular movements associated with the tankers required to move the slurry. It is considered that the siting of the proposed pond, its proximity to residential uses and its associated use and the type of traffic it would generate would cause potential noise and disturbance to nearby occupiers.

Currently, there is no slurry storage facility associated with cow barns sited at the level below the proposed lagoon, which means that slurry has to be taken and spread on the land on an almost daily basis. The availability of the lagoon would mean that the barns could be cleared out on a weekly basis, resulting in less traffic movements. Moreover, slurry would not be pumped into the lagoon; gravity from the tanker to the lagoon would suffice. It would take approximately a day to empty the lagoon and which could be done in Spring, rather than currently, almost every day.

Therefore, the provision of the lagoon would reduce the number of vehicular movements and so would not have an unacceptably adverse effect upon the living conditions of residents in terms of noise. The Council’s Environmental Health officers clearly do not think that an objection can be supported for this reason.

So far as odour is concerned, the LPA required us to commission a report by an independent, specialist company. The conclusion of Royal Haskoning, and as submitted with the application, is that :-

'With the proposed mitigation of an impermeable UV-stabilised plastic floating cover implemented, the potential for effects at all nearby receptors is predicted to be not significant. It is recommended that the cover will be as per recommendations from Defra's guidance on the Code of Good Agricultural Practice (COGAP) for Reducing Ammonia Emissions (Defra, 2024) and The Industrial Emissions Directive 2010/75/EU Integrated Pollution Prevention and Control on the Best Available Techniques (BAT) Reference Document for the Intensive Rearing of Poultry or Pigs (European Union, 2017)'.

It would seem that that was not the conclusion that the LPA wanted. However, its officer colleagues in the Environmental Health department whose role is much more aligned to this matter have concluded that *'the survey indicates there will be minimal adverse impacts so with no knowledge on this subject we would have to support the findings of the report'*.

The LPA has no professional assessment of its own to suggest that the findings of Royal Haskoning cannot be relied upon. The consultants are known to be experts in their field (no pun intended).

The LPA, clearly not wanting to accept the findings of the report, is casting around to find faults and ambiguities where it can, such as that the content of the slurry is not known, even though it will know that Twine Valley is a cattle farm. The consultants refer to this in its report. Moreover, they state that their report takes into account that *'the Environment Agency published the H4 Odour Management guidance document providing technical support for processes operating under an Environmental Permit was published by the Environment Agency in 2011 (Environment Agency, 2011). It offers a detailed guide to the assessment, quantification, control and management of odours emitted from permitted processes'*.

The Environment Agency is not objecting to the proposed development, nor are the Council's Environmental Health officers

Therefore, for the above reasons, the proposed development - required for the efficient running of the farm – would accord with UDP policy ENV7/2 which aims to limit noise pollution to nearby occupiers and users and with PfE policy JP-S5 which requires, where pollutants are possible, that data is submitted so that only acceptable development is thereby permitted, and with policy JP-P1 in so far as it requires development to have a high level of amenity which avoids exposure to pollution.

UDP policy EN1/2, quoted by the LPA as a reason for refusal, is not pertinent and is concerned with townscape and built design.

Highway Safety

In its Decision Notice the LPA considers that *'the application and submitted plans contain insufficient information in order to adequately assess the potential impact of the proposed additional vehicle movements on the adjacent public right of way network namely 183RAM BYWAY (BOAT) and 184RAM FOOTPATH which make up the access to the site'*.

At the time of writing this appeal statement the Council's website mapping service showing the location of the named byways and footpath is not working. However, we have explained above that the lagoon will reduce the number of vehicular movements along the highway network.

Therefore the proposed development would accord with PfE policies JP-C5, JP-C6 and JP-C8, all of which are supportive of development which encourages high levels of walking and cycling, and with UDP policies RT3/3 and RT 3/4 where the LPA is seeking to improve access to the countryside by pedestrians, cyclists and pedestrians.

Very special circumstances

As the proposed development would not be inappropriate in the Green Belt there is no need to show very special circumstances.

Conclusion

For the above reasons, the proposed development would not be inappropriate in the Green Belt, nor would it have an adverse impact upon the character and appearance of the area. There are no reasonable grounds for considering that the land is unstable, or that it would be made so by the lagoon. There would be no significantly adverse impact upon the living conditions of surrounding occupiers, while traffic movements on the surrounding highway network, including footpaths and byways currently also used by vehicular traffic, would be reduced.

Therefore, we ask that the appeal is allowed.

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HP and DA Ltd

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