

**Appeal against the planning refusal by Bury Metropolitan Borough Council for
a retrospective application for a slurry lagoon at Sheep Hey Farm, Leaches
Road, Shuttleworth, Ramsbottom, Bury, BL0 0EC**

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 71451.
- The development proposed is a slurry lagoon at Sheep Hey Farm, Leaches Road, Shuttleworth, Ramsbottom, Bury BL0 0EC

The site and the proposal

The proposal is for a pond for the storage of slurry on the above farm.

Slurry would be collected from the landholdings of the applicants and their close farming family and would be taken by tanker close to the proposed site where the material would be pumped into the lagoon for storage purposes.

When it would be needed for spreading on the land for fertilisation purposes, it would be pumped out into a tanker for transporting to the land, again in the ownership and control of the applicants and which is used for agricultural purposes.

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

Vehicular access is from an existing hard surface track to the east of the appeal site and leading from Leaches Road, off Whalley Road.

The pond would be 30 metres by 20 metres in extent and 4 metres deep. It would have a hardcore stone base with a 2mm thick black plastic liner to make the pond impermeable and would have 45 degree slopes to each side.

It would be surrounded by 2-metre-high deer fencing with planting around it

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 the living conditions of the occupiers of properties in the immediate area in terms of smell; (iv) the impact upon highway safety; (v) the need for the proposal and (vi) 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 Greater Manchester Places for Everyone Joint Development Plan Document (2024) (PfE) policy JP-G9 reiterates the 5 purposes of the Green Belt as set out in national policy, including checking the unrestricted sprawl of large built up areas, the prevention of towns merging into one another and to assist in safeguarding the countryside from encroachment.

As there is no change of use of the application land, the proposed development would not be contrary to its aims.

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 .

The application proposal would not conflict with the purposes of including land in the Green Belt as it relates to an existing farm complex and it cannot be said to adversely affect openness as it is set down below surrounding land levels, other than the surrounding 2-metre-high deer netting.

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.

While we consider that the proposed development is not inappropriate as it is an engineering operation, the local planning authority (LPA) in its officer report concludes that *'the proposal would fall under exception a of paragraph 254 providing a slurry pond in association with an agricultural use and would therefore be acceptable in principle'*.

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. There would be no conflict with the Green Belt requirements of the National Planning Policy Framework 2025, and it would accord 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, 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 siting of the proposed lagoon is shown on the location plan, in the submitted planning statement, in the ecological and BNG reports. There is no reason why its impact upon landscape character and appearance could not be assessed by a site visit and alongside all the submitted information.

Existing and proposed levels and cross sections are shown and taken from the topographic survey of the site

The character and appearance of the area is one of an open agricultural land, with field boundaries with a preponderance of post and rail wooden fencing but also including stone walling in places, and with a scattering of trees and hedging.

The LPA, in particular considers that it has insufficient information to assess the proposed two meter high post and sheep netting fencing around the lagoon. Such boundary treatment would include tree planting around it and where the bio-diversity net gain assessment requires (BNG) 15 trees to be planted and where the report states that ‘ *the tree canopy must be continuous, so avoiding any damage as a result of over-pruning or other accidental damage*’.

The inclusion of tree planting is unlikely to adversely affect the character and appearance of the area and this will help to hide the post and netting fencing – though the latter, by its limited height and the inobtrusive nature of the netting, would not be visually prominent.

We would be content with a condition requiring the submission of details of the boundary treatment.

The LPA also considers that it has insufficient information in order to assess the impact of the plastic cover to the lagoon in terms of character and appearance. Details of the cover are included in the odour report submitted with the application, as follows: -

‘ *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)' .

The lagoon is not an especially large feature, measuring 30m by 20m, less than the size of a manege, and it would be surrounded by planting.

We would accept a condition that the colour of the cover shall be submitted to and approved by the LP prior to its installation. We would suggest a 'farm green' RAL 6025.

It would assimilate into the character and appearance of the area.

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, 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, all of the above information was before it prior to its decision. The Council's stance is not a reasonable one.

For the above reasons, 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.

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.

Residential amenities

The LPA, in its Decision Notice, considers that *'the application contains insufficient information to assess impacts of odour and other bi-products on the amenity of nearby residential properties and commercial businesses'*.

However, 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 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 report clarifies that it 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.

In our Planning Statement to accompany the planning application we noted that the Environment Agency (EA) requires to be notified before the lagoon is brought into use.

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 from the submitted amended planning statement that it is from cattle. Details of the size of the herds across the landholdings of the applicants is given in the report.

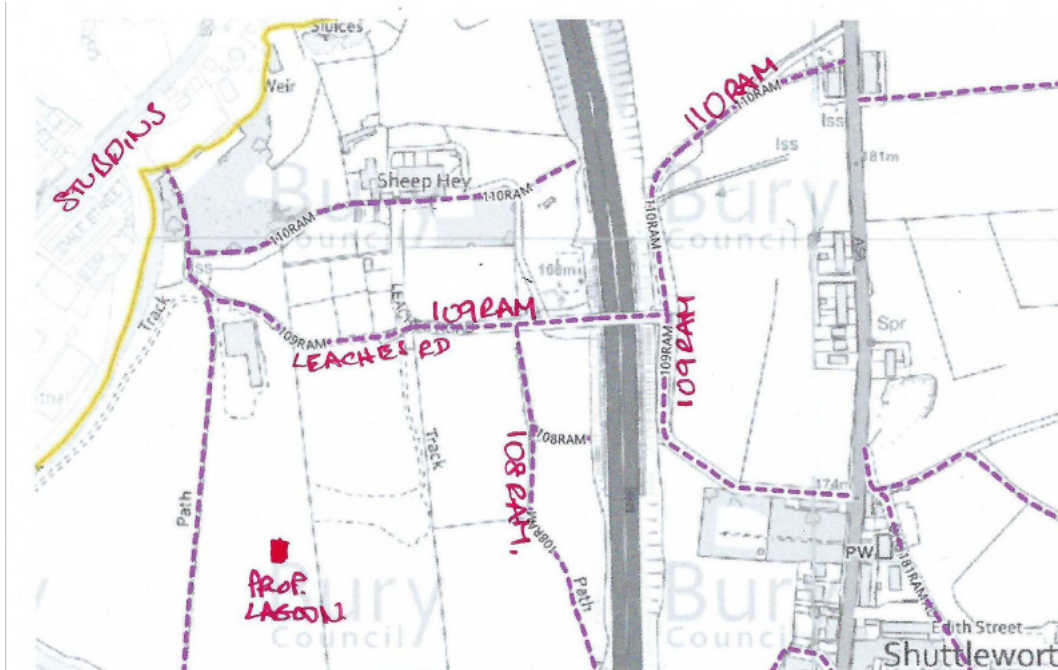
Therefore, for the above reasons, the proposed development - required for the efficient running of the farm – would accord with UDP policy OL4/5 which requires that agricultural development should have no unacceptable impact on the amenities of any neighbouring dwellings and with PfE policy JP-S5 which 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 110RSM,109RAM,108RAM which make up the access to the site'*.

The access is along Leaches Road which links Shuttleworth with Stubbins settlements, though is unadopted. Along its way, it gives access to the camping and leisure site, commercial premises and the fields of Sheep Hey Farm.

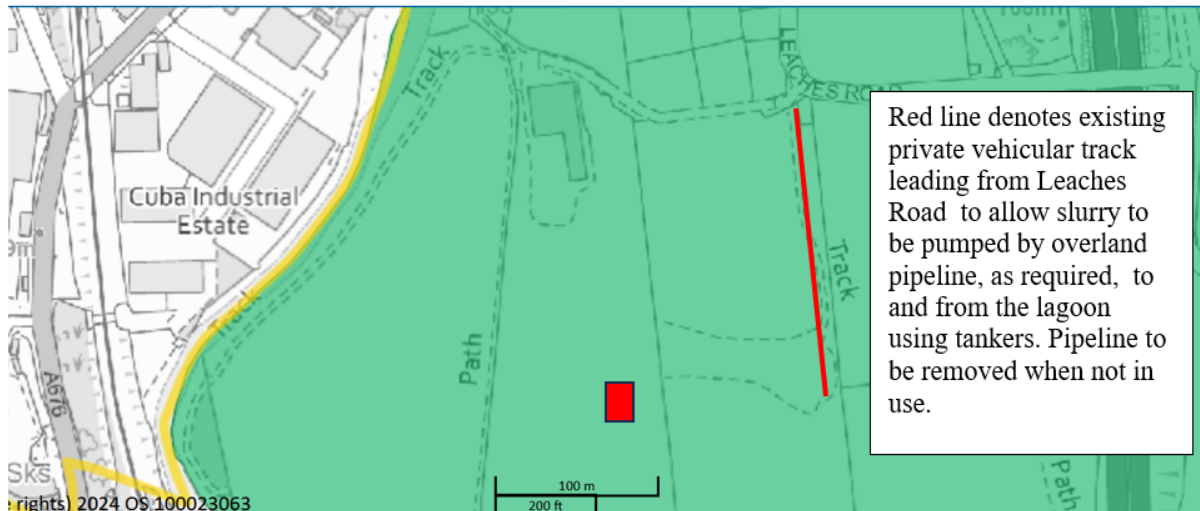


Planning permission has been granted on 22 August 2023 for an agricultural storage building for Sheep Hey Farm, using this access (Reference 69814).

We recognise that the LPA is not objecting to the proposed access and that its reason for refusal is that it considers that it has '*insufficient information in order to adequately assess the potential impact of the proposed additional vehicle movements on the adjacent public right of way*'

Currently, there is no slurry storage facility associated with the appellants' landholdings which means that slurry has to be spread on the land on a very regular basis. By way of confirmation, the officer report includes a comment from an objector and states that '*the applicants have had waste sprayed over the fields opposite the Duckworth Arms late at night /early morning on many occasions*'. The availability of the lagoon would mean that slurry could be brought to site on a weekly basis in a tanker and stored in the lagoon, resulting in less traffic movements.

The slurry would be pumped into the lagoon (or using gravity). Access would be along Leaches Road which currently is used to access the fields and then along an existing track.



It would take approximately a day to empty the lagoon and which could be done in Spring, rather than currently, almost constantly.

Therefore, the provision of the lagoon would reduce the number of vehicular movements and so would not have an unacceptably adverse effect by causing additional or unacceptable *'vehicle movements on the adjacent public right of way network namely 110RSM,109RAM,108RAM which make up the access to the site'*

Therefore, the proposed development would not conflict 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, or 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.

Need for the proposal

In its reason for refusal No. 1, the LPA considers that *'the application submitted plans and supporting information contain insufficient information in relation to the need for the proposed slurry pond'* .

However, our Planning Statement submitted with the application explains that *'the reason for the proposed lagoon is because of the high price of chemically produced fertiliser. In addition, we consider that chemically produced fertiliser may not have the same environmental and soil benefits as does animal slurry'*.

The same report states that on average, the appellant's land holdings can accommodate approximately 400 cows at any one time.

We have also explained above that the land holdings contain no slurry storage facility and so it has to be spread directly onto the land on a very regular basis, which is not the most efficient form of farming in terms of traffic movements , and does not fertilise the land at the most beneficial time of the year.

But in addition, Inspectors have concluded that, with regard to agricultural buildings, there is nothing in the Framework which requires 'need' to be proven. There is no reason to believe that it is otherwise for other agricultural activities. In an appeal decision dated 2 September 2016 on land farmed by the current appellants, the Inspector concluded that *' the Framework sets no limits on the scale of such a building or requires evidence of its necessity'*¹.

Very special circumstances

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

¹ APP/T4210/W/16/3151468

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 would be no 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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