

TEWKESBURY BOROUGH COUNCIL – DEVELOPMENT CONTROL

Committee:	Planning
Date:	15 December 2020
Site Location:	Part Parcel 0706 Old Pamington Road Pamington Tewkesbury Gloucestershire
Application No:	20/00028/FUL
Ward:	Isbourne
Parish:	Oxenton
Proposal:	Formation of Biofertiliser Lagoon with fenced enclosure and formation of access road with turning area.
Report by:	Paul Instone
Appendices:	Site Location Plan LMM/032/03 Rev A Site Plan Proposed Lagoon and Access Road LMM/032/02 Proposed Landscape Layout LMM/032/04 Rev A
Recommendation:	Permit

1.0 SITE DESCRIPTION AND PROPOSAL

- 1.1. The application site is a circa 0.8 hectare parcel of agricultural land comprising of the western part of field which is used for arable crops. The site also includes an existing access to the south of the field onto the B4079, which also serve a highways depot. The site is relatively flat and includes existing hedgerow on the western edge of the site which adjoins the B4079.
- 1.2. The west of the site is bounded by the B4079, the north and east of the site is bounded by the remainder of the field beyond which are hedgerows and further agricultural land, and to the south of the site is a highways depot which is laid to hardstanding and access to this facility is currently closed off.
- 1.3. The site is in Flood Zone 1 and is not subject to any landscape designations in the development plan; however the Special Landscape Area as designated in the Local Plan Proposal Map lies approximately 100 metres to the east of the site beyond the A435 and the Cotswolds Area of Outstanding Natural Beauty (AONB) is approximately 320 metres to the east. There are no Public Rights of Way on the application site or within the adjoining field and the nearest public footpath is to the south of the existing access to the site off the B4079.
- 1.4. The application is submitted in full and seeks the installation of a lined and covered biofertiliser storage lagoon, bunds, fencing, associated means of access and landscaping including the removal of existing hedgerows.

- 1.5. The lagoon would be used for the storage of biofertiliser produced by anaerobic digestion, including from the applicant's anaerobic digestion plant in Toddington. The lagoon would enable biofertiliser to be stored during the closed period (typically October to January inclusive) for spreading nitrate organic manures under Nitrate Vulnerable Zones rules. The application advises that the lagoon will be used by local agricultural enterprises to meet growing crops needs and during the open spreading season the fertiliser will be transferred to the adjoining land via an umbilical spreading system.
- 1.6. A letter has been submitted with the application from an agricultural enterprise who farm 700 acres between Teddington Hands and Oxenton and over 2,000 acres in the surrounding area. The applicant has agreed to supply the agricultural enterprise with 4,000 tonnes of digestate per annum for the next 10 years which it is advised would bring financial savings and reduce the carbon footprint of the agricultural enterprises farming programme.
- 1.7. The layout of the design of the lagoon must fully comply with the terms of The Water Resources (Control of Pollution) (Silage, Slurry and Agricultural Fuel Oil) (England) (SSAFO) Regulations 2010 and as amended 2013. Any design must also be compliant with any Health & Safety requirements including appropriate perimeter security.
- 1.8. The lagoon would be formed by excavating 4000m³ of ground material and using this to form earth banks. However, taking into account contouring to blend with the natural gradient of the land, approximately 4,500m³ of spoil material would be needed to construct the lagoon and an additional 500m³ of spoil required for construction would be delivered to the site.
- 1.9. Taken from the top of the perimeter banks the lagoon would extend to circa 50 metres by 37 metres and would be circa 4 metres deep relative to existing ground levels. The lagoon would be lined with an impermeable liner and a floating black coloured cover would lie above the biofertiliser. The cover prevents rainwater ingress to maximise storage capacity as well as minimising ammonia emissions and potential odour.
- 1.10. The perimeter bank surrounding the lagoon would be approximately 1.2 metres high and the outward facing gradient would range between 1:3 and 1:5. Beyond the embankment the application proposes the installation of a 2.4 metre high perimeter fence/gate which would enclose the site.
- 1.11. The application also proposes the construction of an access and turning area via a new 'spur' off the existing access which serves the highway depot from the B4079. The application necessitates the removal of hedgerow and vegetation in proximity to the junction of the B4079 on order to achieve the required visibility splay and construct the spur. The application also proposes new planting to the west of the lagoon/access road as well as in the southern section of the site.

2.0 RELEVANT PLANNING HISTORY

- 2.1 None

3.0 RELEVANT POLICY

- 3.1. The following planning guidance and policies are relevant to the consideration of this application:

National guidance

- 3.2. National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG)

Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (JCS) - Adopted 11 December 2017

- 3.3. Policies: SD6, SD7, SD9, SD14, INF1, INF2

Tewkesbury Borough Local Plan to 2011 - March 2006 (TBLP)

- 3.4. Policies: LND2

Tewkesbury Borough Plan 2011-2031 – Pre-Submission Version (October 2019)

- 3.5. Policies: LAN1, NAT1, NAT2, ENV3

- 3.6. **Human Rights Act 1998 - Article 8 (Right to Respect for Private and Family Life)**

- 3.7. **The First Protocol, Article 1 (Protection of Property)**

4.0 CONSULTATIONS

- 4.1. **Oxenton Parish Council** objection for the following reasons:

- 4.2. The site is far too close to one of the most dangerous road junctions in the locality. As a result of the latter, the proposed access could not be worse, especially given the possibility of considerable HGV movements. If HGVs are approaching the site from the South A435 junction they would be required turn right on to the site and cross the carriage way on one of the most dangerous bends on that road. Also, if turning right from the A435 into Seven bends from Teddington Hands direction that is also a very unsafe junction. If approaching from the North that puts more pressure on an already congested A46 and adds to heavy traffic past the quiet village of Pamington.
- 4.3. The odour problem is a distinct possibility and should be considered alongside the existing chicken farms in the vicinity. The impact of odours during charging and discharging should be considered alongside when the biofertiliser is contained.
- 4.4. No odour environmental management or environmental impact assessment has been submitted as part of the application.
- 4.5. Further information is required on the nature of the cover, and its proven effectiveness in other locations.
- 4.6. Tirlbrook is located approximately 100 metres from the site and surface water ground water seepage could contaminate water courses.
- 4.7. Great Crested Newts, which are protected species, are in this vicinity and the application could affect their habitat if it was contaminated.
- 4.8. Concerns are raised about the ownership of the site (officer note- a revised site location plan has subsequently been submitted confirming the applicant owns the field).
- 4.9. When the contents of the lagoon are spread at some stage, if this is near the village it would lead to more odours for Oxenton.
- 4.10. **Teddington and Alstone Parish Council** - As a neighbouring parish, are concerned about the possibility of unpleasant odours emanating from this site and therefore wish to fully support the objections from Oxenton Parish Council.

- 4.11. **Environment Agency** - The site of the proposed lagoon is located on the Charmouth Mudstone Formation which is considered to be 'unproductive'. We can provide the following advice to assist:
- 4.12. 1. The design of containment lagoons is a matter for the applicant's design engineer. The design should be based on the geology, hydrogeology and geotechnical aspects of the individual site. The proposed development must fully comply with the terms of The Water Resources (Control of Pollution) (Silage, Slurry and Agricultural Fuel Oil) (England) (SSAFO) Regulations 2010 and as amended 2013.
- 4.13. 2. The appropriate best practice guidance for lagoon structures is CIRIA report 759. This guidance states for earth banked lagoons where the banks are raised above ground level, where an embankment slope that is steeper than 1 in 2.5 is being considered then a Structural Engineer must be consulted regarding the design. Confirmation of the stability of the proposed structure design by the Structural Engineer at an early stage will inform the process. We would recommend that a comprehensive Construction Quality Assurance Plan (CQA) including supervision procedures and verification of slope gradient and compaction of material, is submitted for agreement by the Local Authority based on the design considerations presented by the Structural Engineer. Ultimately a CQA validation report with as-built drawings will be required to demonstrate that the biofertiliser storage lagoon has been properly constructed.
- 4.14. 3. All geomembrane liners are susceptible to leakage, which may allow biologically degradable material under the lagoon liner. Anaerobic conditions evolve gas which inflates the liner and allows more liquid to leak, generating more gas and further inflation of the liner until failure occurs. Therefore, we recommend that lagoons containing biologically degradable material will require an under drainage layer and sump to allow collection of any leaked liquid and a system to vent any small quantities of gas evolved.
- 4.15. 4. Any design must also be compliant with any Health & Safety requirements (e.g. perimeter security); and, we would recommend that consideration is given to provision of effective escape routes in the event a person falls into the lagoon.
- 4.16. Additionally, the developer must inform the Environment Agency of a new, reconstructed or enlarged slurry store, silage clamp or fuel stores. The developer should send a completed WQE3 notification form to the Environment Agency before using the facility.
- 4.17. **Environmental Health** – No objection. The proposed method of transferring digestate into the proposed lagoon is in line with best practice. This, together with the proposed lagoon covering membrane should ensure that any odours from the lagoon will be minimised. This is not to say that there will be no odour emissions from the lagoon but given the distances to the nearest sensitive receptors and the nearest receptors in the path of the prevailing wind at Teddington I am of the opinion that any odour emissions should not adversely impact these receptors. In terms of potential odour from the periodic spreading activity, this is an established agricultural activity and not something that WRS would normally comment on. However, the applicants proposed umbilical trailing hose system again demonstrates best practice.
- 4.18. **County Highways Authority** – Further to the submission of additional information, no objection subject to conditions
- 4.19. **Local Lead Flood Authority** – No objection

- 4.20. **Landscape Advisor** – The extent of planting removal and proposed replacement on balance is probably acceptable. However, there is not sufficient information to approve a landscaping scheme at this point so we would need to have further detail for approval prior to construction including a full planting plan and planting schedule submitted with a careful selection of suitable native species. Concerns regarding the visual impact of the bund with a 2.4m fence on top, particularly the views from the west and the details of the fencing should be controlled by planning condition (Officer Note: The fencing would not be located on top of the bund). The Landscape Officer has also raised concerns about rainwater run off, whether permanent pumps would need to be located at site, and whether there is any chance of cross contamination from the digestate into the rainwater runoff, which could potentially impact on the surrounding landscape.
- 4.21. **Tree Officer** – No objection providing there is a condition that improves the retained hedgerows and replanting new ones as necessary
- 4.22. **Ecology Advisors** - No objection. The hedgerow to be removed is species poor and the mitigation is sufficient. The Ecology Advisors recommend the removal of hedgerow would need to adhere to the timings of nesting birds and recommend that any ongoing management is done outside of bird nesting season and if this is not practical then an ecologist must be consulted to carry out a check for nesting birds or supervise the works if the check cannot be completed thoroughly. Where possible recommend the improvement of the retaining hedgerows to enhance the area for foraging wildlife
- 4.23. **County Minerals and Waste** – No comments to make.

5.0 PUBLICITY AND REPRESENTATIONS

- 5.1. The application has been publicised through the posting of a site notice for a period of 28 days. 12 letters of objection have been received in response. The comments are summarised below
- The odour will impact on the residential amenity of residents particularly due to the direction of the prevailing wind towards Oxenton, Woolstone and Teddington.
 - The proposal would impact on future residents of Ashchurch Garden Town.
 - No evidence is presented how the proposed cover would mitigate against odour impact and how odours would be managed.
 - The proposal would release toxic odour gases.
 - The proposal would impact on the air quality of the area and may increase flies.
 - The proposal would release ammonia, hydrogen sulphide, carbon dioxide and methane which would cause health impacts, ecological damage and increase greenhouse gases.
 - The increased traffic and HGV's vehicles at the site entrance and on the surrounding road network would increase accidents on this dangerous stretch of road.
 - The cumulative impact of traffic, odour and health associated with the chicken farm at Starveall should be considered.
 - A similar vehicle routing plan should be implemented at the proposal as the chicken farm at Starveall.

- The slurry lagoon may contaminate Tirlbrook watercourse.
- The proposal may damage wildlife.
- The proposal may impact on health.
- The slurry lagoon is a safety hazard.
- The land should be reserved for a possible future relief road.
- The proposal will impact on house prices.
- Surrounding Parishes should have been directly informed of the proposal and the application more widely publicised.
- The site could flood.

6.0 POLICY CONTEXT

- 6.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. Section 70 (2) of the Town and Country Planning Act 1990 provides that the Local Planning Authority shall have regard to the provisions of the Development Plan, so far as material to the application, and to any other material considerations.
- 6.2. The Development Plan currently comprises the Joint Core Strategy (JCS) (2017), saved policies of the Tewkesbury Borough Local Plan to 2011 (March 2006) (TBLP), and a number of 'made' Neighbourhood Development Plans.
- 6.3. The Pre-Submission Tewkesbury Borough Plan was submitted to the Secretary of State for Housing, Communities and Local Government on 18 May 2020 for examination. On the basis of the stage of preparation it has reached it is considered that the plan can be afforded at least moderate weight. However, the weight to be attributed to individual policies will be subject to the extent to which there are unresolved objections (the less significant the unresolved objections, the greater the weight that may be given) and their degree of consistency with the NPPF (the closer the policies to those in the NPPF the greater the weight that may be given).
- 6.4. The relevant policies are set out in the appropriate sections of this report.

7.0 ANALYSIS

Town and Country Planning (Environmental Impact Assessment) Regulations 2017

- 7.1. The proposal is not Schedule 1 development requiring mandatory EIA.
- 7.2. The proposal is to store PAS 110 fertiliser which is not classified as waste (it having been treated to standard that it is a useable product) however it could arguably still be described as 'sludge' in terms of interpreting Schedule 2 of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017.
- 7.3. Column 1 (11(d)) Schedule 2 of the EIA Regulations states that when the area of deposit or storage of sludge exceeds the applicable threshold of 0.5 hectares or a deposit is to be made within 100 metres of any controlled waters the development is classified as a 'Schedule 2 Development'.

- 7.4. The area of storage extends to approximately 1,850 sq m and Tirl Brook is located approximately 250 metres to the east and therefore the proposal is not Schedule 2 development.
- 7.5. Thus it is considered that the development proposals do not require an Environmental Statement.

Principle of Development

- 7.6. Paragraph 80 of the NPPF states that planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. In respect to the rural economy paragraph 83 of the NPPF states that planning decisions should, inter alia, enable the development and diversification of agricultural and other land-based rural businesses.
- 7.7. The broad principle of the proposals is therefore considered to be acceptable subject to the overall planning balance taking into account the material planning considerations.

Landscape Impact and Loss of Hedgerows

- 7.8. Paragraph 170 of the NPPF states that planning decisions should contribute to and enhance the natural and local environment by, inter alia:
- protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan)
- 7.9. - recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services - including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland.
- 7.10. The application site is not identified as a 'valued' landscape in the development plan.
- 7.11. Policy SD6 of the JCS states that development will seek to protect landscape character for its own intrinsic beauty and for its benefit to economic, environmental and social well-being. Proposals will have regard to local distinctiveness and historic character of different landscapes and proposals are required to demonstrate how the development will protect landscape character and avoid detrimental effects on types, patterns and features which make a significant contribution to the character, history and setting of a settlement area.
- 7.12. In terms of the existing landscape, the application site is located within a flat arable landscape, with hedgerows and thickets of trees. However, the site itself, is viewed in the context of the highway depot and its associated access to the south, which diminishes the rural character of the site particularly when viewed from the B4079.
- 7.13. Valued landscapes including both the AONB and the designated Special Landscape Area lie approximately 100 metres and 320 metres to the east of the site respectively on rising ground. However more distant views of the site are screened and filtered by hedgerows and vegetation.
- 7.14. The application proposes the excavation of the lagoon, the creation of circa 1.2 metre high bunds, security fencing and the associated access. The cover on the lagoon would be black and it is recommended that a planning condition is imposed retaining the colour of the cover as black in perpetuity. The application does not propose any other external plant and all the pumps to suck up the materials are on the vehicles (lorry or tractor).

- 7.15. In order to facilitate the access road visibility splays it would be necessary to remove approximately 97sqm of hedgerow and cut back some of the existing hedgerows in perpetuity to maintain visibility splays. Notably, some of this hedgerow management should already be in place in association with the use of the highway's depot. The application proposes the planting of 434 sqm of new vegetation to the west and east of the new access road between the lagoon and the B4079 as well as planting within existing gaps within the retained hedgerow adjacent to the B4079. It is recommended that a planning condition is imposed on the planning permission to control the species, density and location of the proposed landscaping plan.
- 7.16. Officers have carefully considered the landscape impact of the proposed development and consider that whilst the access road, fencing and bunds would encroach into the open countryside and cause some harm to the rural character of the area, the proposed development would be viewed in the context of the existing highways depot which would mitigate the harm. In addition the application proposes sufficient additional planting which would screen the proposed development from public vantage points particularly from the B4079 which would further mitigate the impact of the proposed development on the character of the landscape. The impact of the lagoon cover from more distant viewpoints within valued landscape areas would also be mitigated by the dark colour of the cover which would reduce the prominence.
- 7.17. In regard to the loss of the hedgerow, the Tree Officer has confirmed that the hedgerow which is proposed to be removed is classed as having low conservation value and that there is no objection providing there is a condition that improves the retained hedgerows and replanting new ones as necessary.
- 7.18. Overall, it is concluded that there would be some harm to the landscape arising from the proposal through development of the access road, fencing and bunds. However, it is considered that the proposed planting would provide effective mitigation given the low-lying nature of the site and the site context.
- 7.19. The harm to the landscape is a factor that weighs against the proposal in the overall planning balance, but the landscape impact is tempered by the landscaping scheme mitigation and by virtue that the application site is not identified as a 'valued' landscape in the development plan.

Pollution Control, Residential Amenity and Local Amenity Considerations

- 7.20. The effect of a development upon the vitality and social inclusivity of a local community has been shown to be a material planning consideration that is rooted in planning policy guidance. Paragraph 8 of the NPPF states that the planning system performs a social role; supporting strong, vibrant and healthy communities. More specifically, paragraph 91 states that the planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Further to this, the PPG advises that local planning authorities should ensure that health and wellbeing, and health infrastructure are considered in local and neighbourhood plans and in planning decision making.
- 7.21. The NPPF states at paragraph 180 that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to the impacts that could arise from the development.

- 7.22. It also makes clear at paragraph 183 that when determining applications, local planning authorities should focus on whether the development itself is an acceptable use of the land, and the impact of the use, rather than the control of processes or emissions themselves where these are subject to approval under pollution control regimes. Local planning authorities should assume that these regimes will operate effectively.
- 7.23. Policy SD14 of the JCS states that development must cause no unacceptable harm to local amenity including the amenity of neighbouring residents and result in no unacceptable levels of air, noise, water, light or soil pollution or odour either alone, or cumulatively, with respect to relevant national and EU limit values.
- 7.24. Article 8 of the Human Rights Act 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 Country in the interests of the Community. First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents.
- 7.25. The proposed development must fully comply with the terms of The Water Resources (Control of Pollution) (Silage, Slurry and Agricultural Fuel Oil) (England) (SSAFO) Regulations 2010 and as amended 2013. Additionally, the developer must inform the Environment Agency before starting any construction work.
- 7.26. The Environment Agency has been consulted on the application and raise no objection and Environmental Health advise that the proposed method of transferring digestate into the proposed lagoon is in line with best practice. This, together with the proposed lagoon covering membrane should ensure that any odours from the lagoon will be minimised. This is not to say that there will be no odour emissions from the lagoon but given the distances to the nearest sensitive receptors and the nearest receptors in the path of the prevailing wind at Teddington, the Environmental Health Officer is of the opinion that any odour emissions should not adversely impact these receptors. In terms of potential odour from the periodic spreading activity, the Environmental Health Officer advises that this is an established agricultural activity and not something that would normally be commented on. However, the applicant's proposed umbilical trailing hose system again demonstrates best practice
- 7.27. There have been a number of objections to the proposal on the grounds of potential smell, odour and gas emissions. The application site is located in a relatively remote rural location with the nearest dwellings being located in Oxenton located approximately 650 metres to the south east, whilst the nearest dwellings in Pamington are located 1.2 km to the north west and the nearest dwellings in Teddington are circa 1.4 km to north east. There is also one isolated dwelling to the east of the of the B4079 located approximately 750 metres to the north west.
- 7.28. Having regard to the consultation responses from Environmental Health and the Environment Agency, and taking into account the separation distance between the application site and residential receptors, it is considered that the proposed development would not give rise to an unacceptable impact on residential amenity by reason of odour and other emissions. In addition, due to the separation distance, it is not considered that sources of noise arising from vehicle movements and other operations would give rise to an unacceptable impact on residential amenity.
- 7.29. Any complaints arising from the spreading of the bio-fertiliser would be dealt with under the provisions of the Environmental Protection Act 1990, Statutory Nuisance.

- 7.30. In conclusion taking into account the relative remoteness of the application site, it is considered that the impact on amenity would be acceptable and the proposed development does not conflict with the NPPF and policy SD14 of the JCS.

Access and Highways

- 7.31. Paragraph 109 of the NPPF requires that safe and suitable access be achieved but states that development should only be refused on transport grounds where the cumulative impact is severe. This advice is echoed in Policy INF1 of the JCS.
- 7.32. Access to the lagoon is proposed via the B4079 and a new 'spur' off the adjacent highway depot access road. A turning circle is proposed to allow HGVs to manoeuvre and turn and exit the site in forward gear.
- 7.33. Once construction is completed, the applicant will begin filling the lagoon. Typical deliveries will be made using HGV artic tankers with 50m³ holding capacity. To fill the lagoon to working capacity will take approximately 80 HGV loads. Over a six-month period, this will equate to approximately 3 deliveries of digestate per week. Given the nature of the operations, it is estimated that one delivery will be made once every two days; Monday – Saturday. The applicant advises that there will be no HGV movements to and from the site between 1st March and 1st October.
- 7.34. The County Highways Authority has been consulted on the application and advise that a robust assessment of the planning application has been undertaken. Based on the analysis of the information submitted the Highway Authority concludes that there would not be an unacceptable impact on Highway Safety or a severe impact on congestion, subject to the imposition of conditions on the planning permission.
- 7.35. In regard to the visibility splays, the Highways Authority advise that the planning application illustrates emerging visibility splays onto the B4079 are commensurate with vehicle speeds. However, there is observed existing boundary hedgerow planting within the visibility splays which is required to be cut back between the splays and the B4079 and maintained by the land owner.
- 7.36. In respect to junction design it is advised that the proposed site access give-way line is set back north of the existing kerb edge of Old Pamington Road between the B4079 and the highway yard. This will require construction details of alterations to Old Pamington Road connecting the site access junction with the B4079, such as including widened road surfacing and changes to kerb lines. These details would need to be set out on plans submitted and agreed by the planning authority in consultation with the County Highways Authority.
- 7.37. In conclusion, whilst the concerns of objectors are noted, it is considered that the proposal would not have a 'severe' impact on the safety or satisfactory operation of the highway network, and subject to conditions would accord with the NPPF and policy INF1 of the JCS.

Flood Risk and Drainage

- 7.38. The site boundary comprises an area of approximately 0.8 hectares and is located within Environment Agency Flood Zone 1. Flood Zone 1 is defined by the Environment Agency as being land having a low probability of flooding of less than 1 in 1,000 annual probability of river or sea flooding.
- 7.39. The NPPF states that a site-specific flood risk assessment is required for proposals of 1 hectare or greater in Flood Zone 1 and when determining planning applications local planning authorities should ensure that flood risk is not increased elsewhere. A site site-specific flood risk assessment is therefore not required for the proposed development.

- 7.40. Policy INF3 of the JCS requires new development to, where possible, contribute to a reduction in existing flood risk and proposals must not increase the level of risk to the safety of occupiers of a site, the local community or the wider environment either on the site or elsewhere.
- 7.41. Upon completion of the earthworks a 2.0mm impermeable liner would be installed. The application proposes to use water harvested on the surface of the lagoon, which would be pumped off and used for irrigation of surrounding fields. The LLFA advise that capacity between the cover of the lagoon and the bank full level will be adequate to attenuate rainfall volumes for any foreseeable storm event.
- 7.42. The LLFA have been consulted on the application and in light of the above, there is no objection to the application on flood risk/drainage grounds and it is considered that the proposal would accord with the NPPF and Policy INF2 of the Joint Core Strategy.

Ecology

- 7.43. Paragraph 170 of the NPPF states that planning decisions should contribute to and enhance the natural and local environment by, inter alia:
- protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan); report
 - minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;
 - 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. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans.
- 7.44. Policy SD9 of the JCS seeks to protect and enhance biodiversity in considering development proposals.
- 7.45. As part of the application an Ecological Assessment was submitted. The Assessment advises that the majority of habitats to be affected on the site are comprised of arable habitats which due to their temporary nature cannot be classed as a priority habitat and are of low conservation value due to the lack of permanent cover for wildlife they provide.
- 7.46. The most important habitats on site are the overgrown native species rich hedgerows to the north and south of the field which are proposed to be retained as part of the development with only a short section being removed at the corner of the site.
- 7.47. The Council's Ecological Advisors have been consulted on the application and advise that the hedgerow to be removed is species poor and the mitigation is sufficient, although removal works would need to adhere to the timings of nesting birds.
- 7.48. It is also a relevant consideration, that although the application proposed the loss of 96.9 sq metres of hedgerows/vegetation plus 151.3 sqm of trimming along the B4079 to achieve visibility splays, the application proposes 424 sqm of new vegetation to the west and east of the new access road, and between the lagoon and the B4079, as well as planting within existing gaps within the retained hedgerow adjacent to the B4079.

- 7.49. The concerns of objectors are noted regarding the possibly of contamination from the lagoon into surrounding watercourses, however the development must fully comply with the terms of The Water Resources (Control of Pollution) (Silage, Slurry and Agricultural Fuel Oil) (England) (SSAFO) Regulations 2010 and as amended 2013. The local planning authority should assume that this regulatory regime operates effectively. The Environment Agency has also not raised any objection in relation to groundwater protection.
- 7.50. Overall, taking account of all of the above it is considered that the proposal accords with the NPPF and Policy SD9 of the Joint Core Strategy.

8.0 CONCLUSION AND RECOMMENDATION

- 8.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. Section 70 (2) of the Town and Country Planning Act 1990 provides that the Local Planning Authority shall have regard to the provisions of the Development Plan, so far as material to the application, and to any other material considerations.

Benefits

- 8.2. The NPPF states that planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. In respect to the rural economy paragraph 83 of the NPPF states that planning decisions should, inter alia, enable the development and diversification of agricultural and other land-based rural businesses. This lends weight in favour of the economic dimensions of sustainability as defined in the NPPF.

Harms

- 8.3. There would be some harm to the landscape arising from the proposal and this is a factor that weighs against the proposal in the overall planning balance, but the landscape impact is tempered by the site context, design approach, landscape mitigation and by virtue that the application site is not identified as a 'valued' landscape in the development plan.

Neutral

- 8.4. Subject to imposition of suitable conditions there would be an acceptable impact relating to residential amenity, highway safety, flood risk and drainage, ecology and loss of hedgerows/vegetation.

Conclusion

- 8.5. It is concluded that the proposed development is generally supported in principle by the NPPF. Whilst there would be some impacts on the area as identified above, it is considered that the benefits of the proposal outweigh the harm in this case and the proposal is recommended for permission.

CONDITIONS:

1. The works hereby permitted shall be begun before the expiration of five years from the date of this consent.

Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved documents:

- LMM/032/02 Site Plan Proposed Lagoon and Access Road
- LMM/032/04 Rev A Proposed Landscape Layout
- SK02 Rev B Site Access Visibility Assessment
- SK01 Rev B B4079 Junction Visibility Assessment
- Design and Access Statement prepared Land and Mineral Management dated 6th January 2020

Except where these may be modified by any other conditions attached to this permission.

Reason: To ensure that the development is carried out in accordance with the approved plans.

3. No works shall commence on site on the development hereby permitted until details of the permanent alterations works required to Old Pamington Road carriageway width, surfacing and alignment connecting the site access junction with it and onto the B4079 have been submitted in writing to the Local Planning Authority and no operational use of the site shall commence until the access has been provided in accordance with the approved details.

Reason: In the interest of highway safety and to ensure that all road works associated with the proposed development are: planned; approved in good time (including any statutory processes); undertaken to a standard approved by the Local Planning Authority and are completed before operational use.

4. The use hereby permitted shall not be commenced until the vehicular parking and turning and access road have been provided in accordance with the submitted plan LMM/032/02 and those facilities shall be maintained available for those purposes thereafter.

Reason: In the interest of highway and pedestrian safety.

5. Prior to commencement of the development hereby permitted details of a construction management plan or construction method statement shall be submitted to and approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the demolition/construction period. The plan/statement shall include but not be restricted to:
- Parking of vehicle of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);
 - Routes for construction traffic;
 - Any temporary access to the site;
 - Locations for loading/unloading and storage of plant, waste and construction materials;
 - Method of preventing mud and dust being carried onto the highway;
 - Arrangements for turning vehicles;
 - Arrangements to receive abnormal loads or unusually large vehicles; and
 - Methods of communicating the Construction Management Plan to staff, visitors and neighbouring residents and businesses.

Reason: In the interests of safe operation of the adopted highway in the lead into development both during the demolition and construction phase of the development.

6. Prior to the erection of the fencing hereby permitted, details of the fencing including the positions, design, materials, height, and type of fencing to be erected on site, including gates and warning signs, shall be submitted to and approved in writing by the local planning authority. All details shall be fully implemented and thereafter maintained as approved unless the Local Planning Authority gives prior written permission for any variation.

Reason: In the interests of visual amenity

7. Prior to commencement of excavation of the lagoon hereby permitted a detailed landscaping and planting plan, in accordance with approved Proposed Landscape Layout LMM/032/04 Rev A, shall be submitted to and approved in writing by the local planning authority. The submitted design shall include the proposed new landscaping scheme on scaled drawings accompanied by a written specification clearly describing the locations, species, sizes, densities and planting numbers. The submitted drawings shall also include accurate details of all existing trees and hedgerows with their location, species, size, condition, any proposed tree surgery for trees and hedgerows which are to be removed, and how those to be retained are to be protected during the course of development.

Reason: To ensure a satisfactory and well planned development in the interest of visual amenity and biodiversity.

8. All planting, seeding or turfing in the approved detailed landscaping and planting plan as approved by condition 7, shall be carried out in the first planting and seeding season following the completion of the access road and bunds, or completion of the development, whichever is the sooner. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure a satisfactory and well planned development in the interest of visual amenity and biodiversity

9. A permanent cover, as specified in the application supporting documentation, shall remain over the lagoon at all times, except for the purposes of allowing access for routine and emergency maintenance.

Reason: To protect local amenity

10. The permanent cover shall be coloured black unless otherwise agreed in writing by the local planning authority.

Reason: To ensure a satisfactory and well planned development in the interest of visual amenity

11. No materials, goods, plant and machinery shall be stored on the application site at any time for the lifetime of the development

Reason: In the interests of visual amenity

12. No lighting shall be installed on the site unless the details have first been approved in writing by the Local Planning Authority

Reason: In the interests of visual amenity

13. Except where modified by any other conditions attached to this permission including conditions 7 and 8, the development shall be carried out in accordance with the Conclusion, Mitigation and Enhancements contained in Ecological Assessment Reference 6G/Eco AST.doc prepared by Wilder Ecology dated 6th August 2019

Reason: In the interests of biodiversity

INFORMATIVES:

1. In accordance with the requirements of the NPPF the Local Planning Authority has sought to determine the application in a positive and proactive manner by offering pre-application advice, publishing guidance to assist the applicant, and publishing to the council's website relevant information received during the consideration of the application thus enabling the applicant to be kept informed as to how the case was proceeding.

2. Works on the Public Highway

The development hereby approved includes the carrying out of work on the adopted highway. You are advised that before undertaking work on the adopted highway you must enter into a highway agreement under Section 278 of the Highways Act 1980 with the County Council, which would specify the works and the terms and conditions under which they are to be carried out. Contact the Highway Authority's Legal Agreements Development Management Team at highwaylegalagreements@gloucestershire.gov.uk allowing sufficient time for the preparation and signing of the Agreement. You will be required to pay fees to cover the Council's costs in undertaking the following actions:

- i. Drafting the Agreement
- ii. A Monitoring Fee
- iii. Approving the highway details
- iv. Inspecting the highway works

Planning permission is not permission to work in the highway. A Highway Agreement under Section 278 of the Highways Act 1980 must be completed, the bond secured and the Highway Authority's technical approval and inspection fees paid before any drawings will be considered and approved.

3. Impact on the highway network during construction

The development hereby approved and any associated highway works required, is likely to impact on the operation of the highway network during its construction (and any demolition required). You are advised to contact the Highway Authorities Network Management Team at Network&TrafficManagement@gloucestershire.gov.uk before undertaking any work, to discuss any temporary traffic management measures required, such as footway, Public Right of Way, carriageway closures or temporary parking restrictions a minimum of eight weeks prior to any activity on site to enable Temporary Traffic Regulation Orders to be prepared and a programme of Temporary Traffic Management measures to be agreed.

4. Construction Environmental Management Plan (CEMP)

It is expected that contractors are registered with the Considerate Constructors scheme and comply with the code of conduct in full, but particularly reference is made to “respecting the community” this says: Constructors should give utmost consideration to their impact on neighbours and the public

- Informing, respecting and showing courtesy to those affected by the work;
- Minimising the impact of deliveries, parking and work on the public highway;
- Contributing to and supporting the local community and economy; and
- Working to create a positive and enduring impression, and promoting the Code.

The CEMP should clearly identify how the principle contractor will engage with the local community; this should be tailored to local circumstances. Contractors should also confirm how they will manage any local concerns and complaints and provide an agreed Service Level Agreement for responding to said issues.

Contractors should ensure that courtesy boards are provided and information shared with the local community relating to the timing of operations and contact details for the site coordinator in the event of any difficulties. This does not offer any relief to obligations under existing Legislation.

CEMP can include but is not limited to:

- A construction programme including phasing of works;
- 24 hour emergency contact number;
- Hours of operation;
- Expected number and type of vehicles accessing the site;
 - Deliveries, waste, cranes, equipment, plant, works, visitors;
 - Size of construction vehicles;
 - The use of a consolidation operation or scheme for the delivery of materials and goods;
 - Phasing of works;
- Means by which a reduction in the number of movements and parking on nearby streets can be achieved (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction):
 - Programming;
 - Waste management;
 - Construction methodology;
 - Shared deliveries;
 - Car sharing;
 - Travel planning;
 - Local workforce;
 - Parking facilities for staff and visitors;
 - On-site facilities;
 - A scheme to encourage the use of public transport and cycling;
- Routes for construction traffic, avoiding weight and size restrictions to reduce unsuitable traffic on residual roads;
- Locations for loading/unloading, waiting/holding areas and means of communication for delivery vehicles if space is unavailable within or near the site;
- Location for storage of plant/waste/construction materials;
- Arrangements for the turning of vehicles, to be within the site unless completely unavoidable;
- Arrangements to receive abnormal loads or unusually large vehicles;
- Swept paths showing access for the largest vehicles regularly accessing the site and measures to ensure adequate space is available;

- Any necessary temporary traffic management measures;
 - Measures to protect vulnerable road users (cyclists and pedestrians);
 - Arrangements for temporary facilities for any bus stops or routes;
 - Highway Condition survey;
 - Method of preventing mud being carried onto the highway; and Methods of communicating the Construction Management Plan to staff, visitors and neighbouring residents and businesses.
5. The developer must inform the Environment Agency, verbally (Tel: 03708 506 506) or in writing, of a new, reconstructed or enlarged slurry store, silage clamp or fuel stores at least 14 days before starting any construction work. The notification must include the type of structure, the proposed design and construction, and once an agreed proposal has been constructed, the developer should send a completed WQE3 notification form to the Environment Agency before using the facility.