
Formation of slurry lagoon and earth bund

Report Item No
A5

Springwood Farm Melbourne Road Staunton Harold Derby
Leicestershire DE73 8BJ

Application Reference
16/00287/FUL

Applicant:
R And W Gidlow

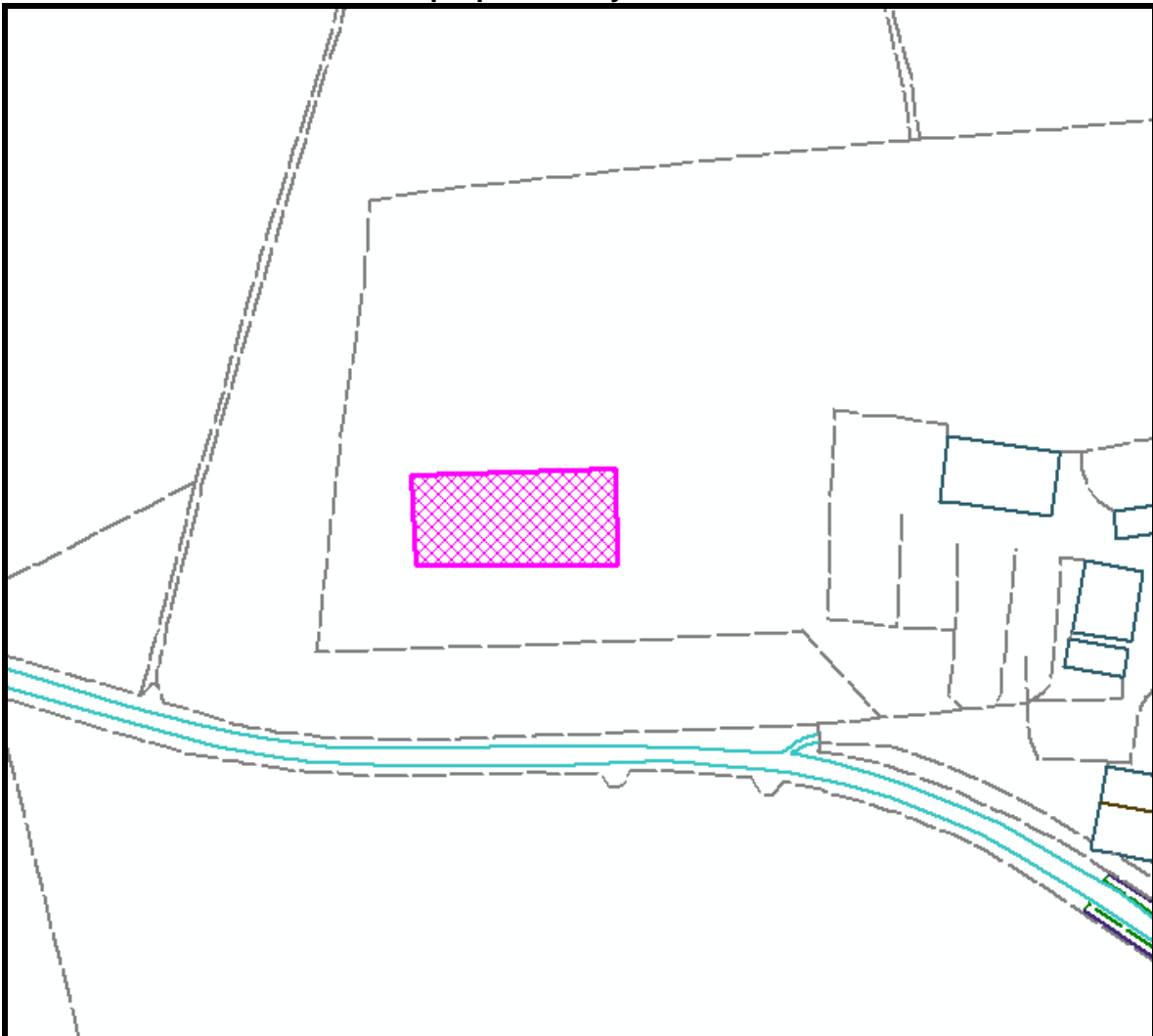
Date Registered
15 March 2016

Case Officer:
Ebony Mattley

Target Decision Date
10 May 2016

Recommendation:
REFUSE

Site Location - Plan for indicative purposes only



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Executive Summary of Proposals and Reasons for Approval

Reason for Call In

The application is reported to the Planning Committee, at the request of Councillor Stevenson so that Members can consider the impact of the proposal on nearby Sites of Special Scientific Interest (SSSI's).

Proposal

Full planning permission is sought for the formation of a slurry lagoon and associated infrastructure at Springwood Farm, Melbourne Road, Staunton Harold.

Consultations

No objections are raised by Severn Trent or the County Ecologist and one letter of support has been received, however an objection has been raised by Natural England.

Planning Policy

The application site is located outside the Limits to Development, as defined in the adopted North West Leicestershire Local Plan.

Conclusion

In conclusion, there is no-in principle objection to the formation of a slurry lagoon, and it is not considered to give rise to any significant adverse impacts upon visual appearance, impact upon the setting of the Listed Building, impact upon protected species, occupiers of neighbouring properties or highway safety.

In the opinion of the Local Planning Authority, however the applicant has failed to demonstrate that the proposed slurry lagoon would not have a negative air quality impact, either alone or in combination with other sources of air pollution upon Dimminsdale SSSI and other SSSI's within a 5km radius of the site.

It is considered that any potential benefits of the scheme as proposed would be insufficient to outweigh the conflict with the development plan and the National Planning Policy Framework 2012 (as amended) (NPPF) resulting from the harm as identified in the main body of the report below.

The application is therefore recommended to be refused.

RECOMMENDATION:- Refuse

Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies, the Officer's assessment and recommendations, and Members are advised that this summary should be read in conjunction with the detailed report.

MAIN REPORT

1. Proposals and Background

Full planning permission is sought for the formation of a slurry lagoon at Springwood Farm, Melbourne Road, Staunton Harold.

Precise measurements of the proposal are available to view on the submitted plans.

The site is located outside Limits to Development, as defined by the North West Leicestershire Local Plan Proposals Map 2002.

Recent Planning History:-

09/00501/FUL - Formation of an earth banked slurry lagoon - Approved - 03.09.2009

2. Publicity

6 neighbours have been notified (Date of last notification 5 April 2016)

Site Notice displayed 11 April 2016

Press Notice published 13 April 2016

3. Consultations

Staunton Harold Parish Meeting consulted 5 April 2016

Environment Agency

Severn Trent Water Limited

Head of Environmental Protection

Natural England-

LCC ecology

NWLDC Conservation Officer

4. Summary of Representations Received

The following summary of representations is provided.

Severn Trent raise no objection, subject to the imposition of a condition.

Natural England raise an objection.

LCC Ecology raise no objections, subject to the submission and assessment of a badger survey or 20 metre buffer from the adjacent Spring Wood.

Third Party Representations

1 letter of support has been received stating that:-

The proposed slurry lagoon would reduce the amount of traffic on the main road as it would allow the farm to store more slurry and allow them to apply slurry at more appropriate times using an ambilical pumping system and it will be better for the environment.

5. Relevant Planning Policy

National Policies

National Planning Policy Framework

The NPPF (paragraph 215) indicates that due weight should be given to relevant policies in existing development plans adopted before 2004 according to their degree of consistency with the framework. The closer the policies in the development plan to the policies in the framework, the greater weight they may be given.

Save where stated otherwise, the policies of the adopted Local Plan as listed in the relevant section below are consistent with the policies in the NPPF and, save where indicated otherwise within the assessment below, should be afforded weight in the determination of this application.

The following sections of the NPPF are considered relevant to the determination of this application:

Paragraph 14 (Presumption in favour of sustainable development)
Paragraph 118 (Conserving and enhancing the natural environment)

Adopted North West Leicestershire Local Plan (2002)

The application site is outside Limits to Development as defined in the adopted Local Plan. The following Local Plan policies are relevant to this application:

Policy S3 - Countryside
Policy E3 - Residential Amenities
Policy E4 - Design
Policy T3 - Highway Standards
Policy T8 - Parking

Consultation Draft Local Plan

On 15 September 2015 the District Council's Full Council considered a draft Local Plan and resolved to approve the draft Local Plan for consultation. The draft policies listed below are considered relevant to this application. However, as the proposed publication version of the Local Plan is to be considered by Council on 28th June with a view to its submission for examination in September, more weight can now be attributed to its policies at this stage.

S4 - Countryside
S5 - Design of new development
IF7 - Parking provision and new development
En1 - Nature Conservation
En6 - Land and Air Quality
He1 - Conservation and enhancement of North West Leicestershire's historic environment

Other Guidance

National Planning Practice Guidance - March 2014.
The Planning (Listed Buildings and Conservation Area) Act 1990
The Protection of Badgers Act 1992

The Wildlife and Country Act 1981.

The Conservation of Habitats and Species Regulations 2010 (the 'Habitats Regulations').

Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System).

6Cs Design Guide (Leicestershire County Council)

The 6Cs Design Guide sets out the County Highway Authority's requirements in respect of the design and layout of new development.

6. Assessment

The main issues for consideration in the determination of this application relate to the principle of development, scale and design, impact upon the setting of a Listed Building, impact upon SSSI's; ecology, and impact upon residential amenity and highway considerations.

Principle of Development

The overarching principle of the NPPF is to protect the countryside but to allow sustainable development where appropriate. The NPPF states that there are three dimensions to sustainable development:- economic, social; and environmental.

Paragraph 28 within the NPPF states that planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy, local and neighbourhood plans should:

- o Promote the development and diversification of agricultural and other land-based rural business.

The accompanying Design and Access Statement confirms that the farm must be able to hold 5 months worth of slurry and at present there is a deficit, and the new lagoon would provide sufficient storage whilst also allowing for the farm to continue to expand.

As the proposed slurry lagoon has been considered to be necessary for the long term operation of the agricultural holding, the proposal would accord with the aims of Policy S3 of the adopted Local Plan. Furthermore, it is considered that the slurry lagoon would strengthen the viability of the agricultural holding, and promote the development of agricultural business which consequently contributes to the rural economy, in accordance with the overarching intentions of the NPPF.

Scale and Design

The lagoon would measure 95 x 45 metres and will be dug into the ground with a maximum depth of 4.5 metres with a bund to 1.4 metres above ground level.

Given that the lagoon is to be underground, it will only be the 1.4 metre earth bund and the proposed fencing that would be visible above ground level.

The applicant has confirmed that the fencing will be the same as that previously discharged under condition 3 attached to application ref: 09/00501/FUL. The previously approved fencing was 1.85 metre high, using tanalised timber posts single horizontal rail at 1.82 metres above ground level with strands of barbed wire, galvanized netting to a height of 1.8 metres and wire

mesh to 0.9 metres. On the basis that this fencing has been previously approved no objections are raised to using the same fencing.

It is not considered that the earth bund or fencing would be visually prominent from outside of the site, given the existing hedgerows, agricultural buildings and the established planting of Spring Wood.

Overall the design of the proposal would be in accordance with Saved Policy E4 of the adopted Local Plan.

Impact upon the Setting of a Listed Building

The farmhouse of Springwood Farm is a Grade II listed building. The proposed development must be considered against section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires that when considering a planning application for development that affects a listed building or its setting, the decision maker "shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possess".

Paragraph 131 of the NPPF states that planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. It further indicates (at paragraph 132) that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

Although the proposed lagoon would be situated outside the defined area of the listed building, due consideration has been given to the impact the proposed lagoon and fencing may have on the setting of the listed building.

The scheme has been considered by the Council's Conservation Officer who has no observations regarding this submission and therefore is not considered to give rise to any harm.

Overall, given the distance from the lagoon to the listed building, and other than the earth bund and fencing, the development would not be visible about ground level. It is considered that the proposed lagoon would not significantly detract from the setting of the listed building and the scheme is therefore considered to be in accordance with the NPPF.

Impact upon SSSIs

The Environment Agency has raised no objections to the proposal, subject to a note to applicant.

Natural England confirm that the application, as submitted, is likely to harm Dimminsdale - a Site of Special Scientific Interest (SSSI) and other nearby SSSI's.

Natural England state that for a slurry storage area of between 4,000 and 8,000 square metres, the air quality assessment should assess the potential impact of the development on any designated sites within 5km of the slurry lagoon where the slurry is unlikely to be disturbed, and will therefore form a crust or 10km where the slurry is likely to be disturbed and will not form a crust.

Within a 5km radius of the site, there are the following SSSI's - Calke Park, Donington Park,

Lount Meadows, Ticknall Quarries, Breedon Cloud Wood & Quarry, Pasture and Asplin Woods and Breedon Hill, in addition to Dimminsdale SSSI, which would be the most immediately affected, located due west and south-west of the site.

Natural England confirm that the proposed slurry lagoon at Springwood Farm is not more than 500 metres from Dimminsdale SSSI which contains ancient semi-natural woodland of a type uncommon in lowland Britain, and one of the largest unimproved acidic grasslands remaining in Leicestershire which could be damaged or destroyed by significant ammonia emissions or depositions of acid or nitrogen.

In the absence of any air quality information, the size (in terms of capacity and surface area) and proximity of the proposed slurry lagoon to Dimminsdale and other SSSI's means that Natural England are unable to rule out potential negative air quality impacts from the development proposal either alone, or in combination with other sources of air pollution.

Natural England state that the information provided by the applicant's agent does not include any assessment of air quality or information on how any identified negative air quality impacts would be ameliorated and therefore, requests that an air quality assessment of the proposal on nearby designated sites is undertaken.

During the course of the application, following the concerns raised by Natural England, the applicant has provided a rebuttal to the comments. In response, Natural England have stated that the additional information provided does not address the concerns raised in their consultation response and the fact that the new lagoon will be a little further from the SSSI that the old one (ref: 09/00501/FUL) does not provide evidence that air quality impacts are insignificant.

Natural England have also confirmed that the new lagoon would not be accessed by vehicles and when required to be emptied or filled, slurry will be pumped to and from the lagoon into and from the smaller existing slurry lagoon, the subject of application ref: 09/00501/FUL (which is approved), using a removable pipe. Natural England state that since the existing lagoon is going to be retained, this suggests that there will be no reduction in current ammonia emissions and depositions of acid and nitrogen to offset the increase in emissions and depositions, from the new slurry lagoon.

Natural England accept that the new lagoon should result in a more efficient use of the slurry produced on the farm, but that they need to be satisfied that increase storage would not increase ammonia emissions and deposition of acid and nitrogen over Dimminsdale SSSI and other nearby SSSI's.

In the opinion of the Local Planning Authority the applicant has failed to demonstrate that the proposed slurry lagoon would not have a negative air quality impact, either alone or in combination with other sources of air pollution upon Dimminsdale SSSI and other SSSI's within a 5km radius of the site.

Ecology

The scheme has been considered by the County Ecologist who has confirmed that the proposed lagoon would be sited to the east of Spring Wood, which is semi-natural ancient woodland and a 20 metre buffer would be required from badger setts in the woodland to the limits of the construction.

Originally the lagoon was proposed to be sited within 20 metres of Spring Wood, which therefore triggered the requirement for a badger survey, however during the course of the application, amended plans have been received which have re-positioned the slurry to be situated 20 metres from the Wood, which therefore negates the need for a survey.

Impact upon Residential Amenity

All neighbouring properties within 1 km of the site has been consulted upon. One letter has been received in support of the application.

Apart from the application dwelling - the farmhouse of Springwood Farm, the nearest residential dwelling to the proposed lagoon would be Springwood Cottage, located approximately 380 metres away and the most significant impact on the residential amenities of the occupants of Springwood Cottage would be from smells associated with the storage of slurry.

The scheme has been considered by the Council's Environmental Protection Team who have raised no objections. Following the concerns raised by Natural England, officers have liaised directly with the Environmental Protection Team to ascertain if they have any further comments, and the Environmental Protection Team have confirmed they have no issues with regards to odour.

Although the proposed slurry lagoon would create smell implications, it is considered that these would not be significantly detrimental to the residential amenities of the occupants of Springwood Cottage to warrant a refusal of the planning permission given the smells already associated with the operation of the agricultural enterprise and existing slurry.

Highway Considerations

The proposed lagoon would not be accessed by vehicle and therefore there will be no changes to the current access and parking arrangements. There is no further consideration required in respect of highway safety.

Overall, it is considered that the development would not have any significant impact upon highway safety or parking provision and the proposal is considered to be acceptable in relation to Saved Policies T3 and T8 of the adopted Local Plan.

Conclusion

In conclusion, there is no objection in principle to the formation of a slurry lagoon, and it is not considered to give rise to any significant adverse impacts upon visual appearance, impact upon the setting of the Listed Building, impact upon protected species, occupiers of neighbouring properties or highway safety.

However, in the opinion of the Local Planning Authority the applicant has failed to demonstrate that the proposed slurry lagoon would not have a negative air quality impact, either alone or in combination with other sources of air pollution upon Dimminsdale SSSI and other SSSI's within a 5km radius of the site.

It is considered that any potential benefits of the scheme as proposed would be insufficient to outweigh the conflict with the development plan and the NPPF resulting from the harm as identified in the main body of the report. For the reason discussed above it is recommended that the application be refused.

RECOMMENDATION:- Refuse for the following reason:-

- 1 In the opinion of the Local Planning Authority the applicant has failed to demonstrate that the proposed slurry lagoon would not have a negative air quality impact, either alone or in combination with other sources of air pollution upon features of special scientific interest of the Dimminsdale SSSI's and other identified SSSI's within a 5 km radius of the site, contrary to paragraph 118 of the National Planning Policy Framework, Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System) and the Wildlife and Country Act 1981.