

SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

7 SEPTEMBER 2020

APPLICATION FOR PLANNING PERMISSION

ITEM: **REFERENCE:** 20/00413/FUL

OFFICER: Cameron Kirk
WARD: Mid Berwickshire
PROPOSAL: Construction of earthed bank slurry lagoon
SITE: Legars Farm, Hume
APPLICANT: J B Renwick & Son
AGENT: Agri Design

PLANNING PROCESSING AGREEMENT: 11 September 2020

SITE DESCRIPTION

The application site relates to the western corner of a large agricultural field which is associated with Legars Farm, Hume. The farm yard lies approximately 650 metres to the north-west of the application site. The application site can be accessed from the public road (C81) via an existing field gate to the north-west boundary of the field. The agricultural field slopes in a north west to south east direction. The application site is elevated slightly within the surrounding landscape. There are existing hedgerows to the north-west and south west of the application site.

The nearest dwellinghouse, Goshielaw, lies approximately 500 metres north east, while the settlement of Stichill lies approximately 1.5km south west of the application site.

PROPOSED DEVELOPMENT

Full planning permission is sought for the construction of an earthed bank slurry lagoon. The slurry lagoon would be cut into the slope of the agricultural field. Embankments would be formed to the north east, south east and south west of the slurry lagoon and they would be covered with topsoil and seeded with grass. The internal area of the slurry lagoon would measure approximately 53.5 metres by 25 metres, with a depth of approximately 5 metres. The slurry lagoon would have a capacity of approximately 8,040 cubic metres (max slurry storage depth 4.25m). A 2 metre high safety fence, with gates, would be erected around the perimeter of the slurry lagoon which would be constructed using galvanised posts and v mesh fence panels. Slurry would be transferred from Legars Farm to the slurry lagoon via an umbilical which would involve laying a layflat pipe that would enter at the base of the slurry lagoon via a calmed inlet.

PLANNING HISTORY

There is no planning history for the application site.

REPRESENTATION SUMMARY

A total of 23 representations (22 objections and 1 general comment) have been received. This does not include multiple representations from the same household which equate to 26 letters in total. All issues raised have been considered. The representations are available for Members to view in full on Public Access but the key planning matters have been summarised below as follows:

- The location of the proposed slurry lagoon;
- Scale and design of the proposed slurry lagoon;
- Impact on the visual amenities of the area;
- Impact on amenity of residential properties;
- Odour and impact on air quality;
- Impact on health and welfare;
- Environmental impact derived from the proposed development;
- Road safety.

APPLICANT'S SUPPORTING INFORMATION

- Supporting Statement prepared by Agri Design, dated 5 June 2020.
- Supporting letter from SEPA, dated 28 July 2020.

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Environmental Health: No objections. They advise that the construction and operation of a slurry lagoon can give rise to odour, insect and other pest issues.

The location of the application site is relatively remote, with the nearest dwellinghouse located approximately 500 metres away. As such, the likelihood of amenity impacts arising from the development is low.

Nevertheless, good management and maintenance can mitigate potential amenity impacts. As such, an operation and maintenance plan should be submitted to demonstrate that local amenity should not be affected by this development. The plan should address how the operation and maintenance of the site will deal with potential issues relating to odour, insects and other pests.

Re-consultation: The supporting statement provides information relating to how slurry will be managed on and off site. In terms of mitigating odour arising from the lagoon, the transport of slurry to site, and spreading activities the following points were noted:

- Slurry will be pumped from tanks at Legars steading by a layflat pipe to the lagoon and enter via a calmed inlet at the base of the lagoon. This will avoid odour emitted from the transit of slurry in multiple tanker movements and minimises disrupting the slurry in the lagoon and maintaining the crust.
- The crust of the lagoon will be protected with mixing only undertaken if required. Mixing is anticipated, if required, to only occur prior to spreading and should only last 1-2 days and will be carried out as quickly as possible and during windy conditions where the odour should disperse.
- The spreading of slurry from the lagoon will be carried out by the umbilical & trailing shoe system where possible with the aim of reducing application via splash plate spreading as much as possible.

For clarification, any planning consent does not indemnify the applicant in respect of the Statutory Nuisance provisions of the Environmental Protection Act 1990. Any investigation undertaken by the Council on receipt of an odour complaint arising from the development would consider the contents of the submitted supporting statement when determining if all reasonable steps had been taken to mitigate the emission of odour. On the basis of the information contained within the supporting statement they no longer require an operation or maintenance plan to be conditioned.

Roads Planning: In order to consider the proposal fully and its impact on the minor road network they required a short transport statement detailing all proposed trips associated with this proposal including size and frequency of vehicles and the origin point.

Re-consultation: No objections. The information submitted by the agent removes any concerns they had with the proposal.

Statutory Consultees

SEPA: Provided the points detailed in Annex 2, attached to their correspondence, are carried out, as they relate to the proposal, the proposed development should meet the requirements of The Control of Pollution (Silage, Slurry and Agricultural Fuel Oil) (Scotland) Regulations 2003, as amended.

Ednam, Stichill and Berrymoss Community Council: No response received at the time of writing this report.

DEVELOPMENT PLAN POLICIES:

Scottish Borders Local Development Plan 2016

PMD1: Sustainability

PMD2: Quality Standards

ED7: Business, Tourism and Leisure Development in the Countryside

ED10: Protection of Prime Quality Agricultural Land and Carbon Rich Soils

EP13: Trees, woodlands and hedgerows

HD3: Protection of Residential Amenity

EP16: Air Quality

KEY PLANNING ISSUES:

The key planning issues under consideration for the assessment of the application are:

- The principle of development;
- The layout, design and materials of the proposed development;
- The impact it may have on the landscape character;
- The impact it may have on the residential amenity of neighbouring properties;
- Road safety.

ASSESSMENT OF APPLICATION:

Principle

In order to establish the principle of development it must be established against Policy ED7: Business, Tourism and Leisure Development in the Countryside. Policy ED7

advises that proposals for business development in the countryside will be approved provided that the development is to be used directly for agricultural operations which are appropriate to the rural character of the area.

The slurry lagoon would be used for the storage of slurry produced by the applicant's farm. The main enterprise at Legars Farm is milk production and stock numbers are set to increase to 900 dairy cows milking throughout the year, with a similar number of additional young stock. In addition, the farm also carries a small flock of 40 pedigree ewes. Slurry and silage effluent is currently stored at Legars Farm and Todlaw slurry lagoon which currently meets SEPA's guidelines. The current slurry storage has capacity for 15 weeks at the future increased stock numbers. This would mean as the stock numbers increase at the farm the slurry storage would fall below the 4 month minimum required by SEPA. Therefore, the proposed slurry lagoon is required to meet SEPA's guidelines for the storage of slurry.

The proposed development would provide additional infrastructure which would support the existing and future farming operations of an established rural business. Therefore, the proposed development accords with the general aims of Policy ED7.

Prime Quality Agricultural Land

The application site is identified as an area of prime quality agricultural land. Therefore, the principle of development must also be assessed against Policy ED10: Protection of Prime Quality Agricultural Land and Carbon Rich Soils. Policy ED10 states development, except proposals for renewable energy development, which results in the permanent loss of prime quality agricultural land or significant carbon rich soil reserves, particularly peat, will not be permitted unless:

- a) the site is otherwise allocated within this local plan
- b) the development meets an established need and no other site is available
- c) the development is small in scale and directly related to a rural business.

The development is small in scale and would result in a minor loss of prime quality agricultural land. As aforementioned, the proposed development would provide additional infrastructure which would support the farming operations of an established rural business. The proposed development would not inhibit the use of the remaining portion of agricultural field and it is likely that the development would be reversible once no longer required. The proposed development accords with the general objectives of Policy ED10.

The principle of development is considered to be acceptable in this location subject to further policy consideration below.

Placemaking and Design

Policy PMD2 aims to ensure that all new development is of a high quality and respects the environment in which it is contained.

Concerns have been raised by objectors over the location of the proposed slurry lagoon, its scale and design, as well as the impact it may have on the visual amenities of the area.

The application site is situated to the western corner of a large agricultural field and the agricultural field slopes from the north west to the south east. The proposed slurry lagoon would be cut into the existing slope of the agricultural field to reduce the visual

impact of the development. Embankments would be formed to the north east, south east and south west of the slurry lagoon and they would be covered with topsoil and seeded with grass. A 2 metre high safety fence, with gates, would be erected around the perimeter of the slurry lagoon which would be constructed using galvanised posts and v mesh fence panels.

Although the application site is divorced from the farm yard which lies 650 metres to the north west, the agent advises in their supporting statement that the application site was identified as being the most suitable as it is relatively central to the block of land which would allow an umbilical and trailing shoe system to be adopted.

It would be located approximately 500 metres from the nearest dwellinghouse and would be in line with Prevention of Environmental Pollution from Agricultural Activity (PEPFAA) Code which recommends that there are no dwellinghouses within 400 metres for the storage of slurry.

The agent also advises that the topography of the land allows it to be cut into the slope of the agricultural land which would minimise its visual impact. Furthermore, it would be sited next to existing hedgerows which would provide some screening. The base of the slurry lagoon would be free from ground water all year round and there are no inland waters, coastal waters, springs or permeable drainage within 10 metres of the application site. Thus, minimising its environmental impacts.

The application site is located on the crest of a hill. As the proposed development would be cut into the slope of the agricultural field it would not be readily visible when viewed from a north, north east or north west. The 2 metre high safety fence which would be erected around the perimeter of the slurry lagoon may be visible, although the existing hedgerow would provide some screening when viewed from the north.

The proposed development would appear most conspicuous when viewed from the south, south east and south west as it would appear elevated within the landscape. However, considering the form and construction of the proposed slurry lagoon, embankments covered with topsoil and seeded with grass, it is expected that it would integrate well within the locality and not appear overly conspicuous within the surrounding landscape. The existing hedgerows to the north west and south west of the application site would also help to reduce the visual impact of the proposal.

The 2 metres high safety fence which would be erected around the perimeter of the slurry lagoon and would be constructed using galvanised posts and v mesh fence panels, which would be visible, although it would be a fairly lightweight structure which would allow light to pass through it. The colour of the fence has not been specified on the drawings. Provided it is dark green in colour, it is unlikely to unduly impact on the visual amenities of the area. A condition will be attached to ensure that details of the colour for the fence are submitted to and agreed in writing by the Planning Authority prior to commencement of development.

It is acknowledged that the proposed development would result in a noticeable intervention within the landscape, although it is not anticipated that it would have a significant adverse impact on the visual amenities of the area or the composition or quality of the landscape character. Overall, the siting and design of the proposed slurry lagoon is considered to be acceptable.

Impact on amenity of residential properties

Policy HD3 aims to protect neighbouring residential properties against inappropriate development that would result in the loss of amenity and privacy.

Concerns have been raised by objectors regarding the impact the proposed development may have on amenity of neighbouring residential properties. Their primary concerns relate to potential for odour that may be created by the proposed slurry lagoon, thus resulting in air pollution which may have health and welfare implications.

Due to the nature of the development, the Council's Environmental Health department was consulted as part of the application process. They advise that the construction and operation of a slurry lagoon can give rise to odour, insect and other pest issues. However, considering that the application site is relatively remote and the nearest dwellinghouse is located approximately 500 metres away, they feel that the likelihood of amenity impacts arising from the proposed development is low.

Nevertheless, good management and maintenance can mitigate potential amenity impacts. As such, they recommended that an operation and maintenance plan should be submitted to demonstrate that local amenity should not be affected by this development. They advised that the plan should address how the operation and maintenance of the site will deal with potential issues relating to odour, insects and other pests.

Taking into account the concerns raised in the letters of representation received by the Planning Authority, the agent provided a supporting statement in response to their concerns, which also includes a letter of support from SAC Consulting. They advise that the introduction of a remote slurry lagoon would allow for much of the current tanker spreading to be replaced by the efficient umbilical and trailing shoe system. This method would have a number of additional benefits, including but not limited to the reduction in smell and odour.

Environmental health was re-consulted on the application and considered the supporting statement by the agent. They advise that the supporting statement provides information relating to how slurry will be managed on and off site. In terms of mitigating odour arising from the lagoon, the transport of slurry to site, and spreading activities the following points were noted:

- Slurry will be pumped from tanks at Legars steading by a layflat pipe to the lagoon and enter via a calmed inlet at the base of the lagoon. This will avoid odour emitted from the transit of slurry in multiple tanker movements and minimises disrupting the slurry in the lagoon and maintaining the crust.
- The crust of the lagoon will be protected with mixing only undertaken if required. Mixing is anticipated, if required, to only occur prior to spreading and should only last 1-2 days and will be carried out as quickly as possible and during windy conditions where the odour should disperse.
- The spreading of slurry from the lagoon will be carried out by the umbilical & trailing shoe system where possible with the aim of reducing application via splash plate spreading as much as possible.

On the basis of the information contained within the supporting statement they no longer require an operation or maintenance plan to be conditioned.

Furthermore, the agent has also provided a letter of support from SEPA. The state that they strongly support the application. They advise that the increased storage capacity will allow for greater contingency during wet weather, ensuring that slurry spreading is carried out when both ground conditions are suitable and when nutrient uptake by the growing crop is maximised. This in turn reduces the risk of excess nutrients leaching into the soil and entering the water environment. It also benefits the farm business, by making efficient use of the nutrients within the slurry and reducing the need to buy in other forms of expensive inorganic fertiliser.

They also confirm that they have no concern over the proposed location for the slurry lagoon. In contrast to the farm yard, the application site is remote from any nearby surface water receptors. It is very common for dairy farms to provide slurry storage facilities away from the steading, but close to where spreading operation are going to take place. In conjunction with the umbilical spreading system, this can reduce in-field trafficking, protecting soil structure and preventing surface water runoff. Furthermore, the application of slurry to land in this way can reduce odour and climate change emission when compared to traditional tanker spreading techniques.

From the drawings submitted to support the application, the proposed development should meet the full requirements of The Controlled Activities (Silage, Slurry and Agricultural Fuel Oil) (Scotland) Regulations 2003 (as amended).

Consequently, Environmental Health and SEPA do not raise any concerns regarding the odour, air pollution or health and welfare that could arise from the slurry lagoon in the proposed location.

The application site and the surrounding area is identified as being prime quality agricultural land and it is predominantly in arable use. Slurry spreading is therefore common in this area and the smells associated with this farming practice can be expected during certain times of the year. As previously mentioned, it is expected that the proposed efficient umbilical and trailing shoe system would reduce odour and smell. Therefore, it is unlikely that the proposed development would exacerbate existing levels of smell or odour to the detriment of neighbouring residential properties or those within the settlement of Stichill.

Environmental Health also confirms that any planning consent does not indemnify the applicant in respect of the Statutory Nuisance provisions of the Environmental Protection Act 1990. Any investigation undertaken by the Council on receipt of an odour complaint arising from the development would consider the contents of the submitted supporting statement when determining if all reasonable steps had been taken to mitigate the emission of odour.

Considering the distance of the proposed development from neighbouring residential properties, it would not materially impact upon them in terms of daylight, sunlight or overshadowing.

In light of SEPA and Environmental Health's comments on the application, the proposal is not expected to have a significant adverse impact upon the amenity or privacy of residential properties located within the surrounding locality of the application site.

Impact on traffic and road safety

Policy PMD2 aims to ensure there is no adverse impact on road safety. Concerns have been raised by objectors that the proposed development may result in further traffic movements which could have an adverse impact on road safety.

Roads Planning Service was consulted as part of the application process. In their initial consultation response they advised that further information should be provided for them to fully consider the proposal and assess the impact it may have on the minor road network. They required a short transport statement detailing all proposed trips associated with this proposal including size and frequency of vehicles and the origin point.

In light of their initial response, the agent advised that slurry would be transferred from Legars Farm to the proposed slurry lagoon through agricultural fields via an umbilical transfer which involves a layflat pipe being temporarily laid. Once filled, the layflat pipe would be removed. The slurry would then be spread in the surrounding agricultural fields, during the appropriate times throughout the year, using an umbilical and trailing shoe application system. The proposed methods for transferring slurry from the farm to the proposed slurry lagoon and the spreading of slurry on surrounding agricultural fields would not generate any additional traffic movements.

Roads Planning Service reviewed the information submitted by the agent and they are content that it removes any concerns they had regarding the proposed development. Accordingly, they do not object to the application.

Consequently, the proposed development is not considered to give rise to unacceptable levels of traffic which would could have otherwise unduly impacted upon road safety.

CONCLUSION

Subject to compliance with the schedule of conditions, the development will accord with the relevant provisions of the Local Development Plan 2016 and there are no material considerations that would justify a departure from these provisions.

RECOMMENDATION BY CHIEF PLANNING AND HOUSING OFFICER:

It is recommended that the application be granted, subject to the undernoted conditions.

1. No development shall commence until precise details of the colour(s) (to include BS or RAL numbers) for the fence and gates to be erected has first been submitted to and approved in writing by the Planning Authority. Thereafter, the development shall be carried out in complete accordance with the approved details.

Reason: In the interests of the visual amenities of the area.

DRAWING NUMBERS

Reference	Plan Type
2006-01 Rev A	Location Plan and Existing Site Plan
2006-02 Rev A	Proposed Site Plan
2006-03	Proposed Plan
2006-04	Proposed Section, Elevations and Fence Detail

Approved by

Name	Designation	Signature
Ian Aikman	Chief Planning and Housing Officer	

The original version of this report has been signed by the Chief Planning and Housing Officer and the signed copy has been retained by the Council.

Author

Name	Designation
Cameron Kirk	Assistant Planning Officer



20/00413/FUL

Legars Farm
Hume

