

<b>Otterhead (LUPPITT)</b>	<b>17/1381/MFUL</b>	<b>Target Date: 20.10.2017</b>
<b>Applicant:</b>	<b>Messrs DJ &amp; JG Hooper</b>	
<b>Location:</b>	<b>Higher Wick Farm Wick</b>	
<b>Proposal:</b>	<b>Construction of manure slurry store lagoon and associated earthworks and landscaping for existing dairy unit complex</b>	

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**RECOMMENDATION: Refusal**

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## **CONSULTATIONS**

### **Local Consultations**

Parish/Town Council  
04/08/17 - LUPPITT PARISH COUNCIL

Dear Mr Freeman

PLANNING APPLICATION 17/1381/MFUL  
HIGHER WICK FARM, WICK, HONITON, EX14 4TY

This application concerns the construction of a manure slurry store lagoon and associated earthworks and landscaping for an existing dairy unit complex and was discussed at our Planning meeting last night. The planning application was sent out by email on Friday, 28 July with comments required by 18 August (the normal 21-day allowance).

We have been unable to establish which planning officer is dealing with this application but we believe he is one of four planning officers away on holiday at the moment. We also understand that the public notification was only erected at Higher Wick Farm yesterday (Wednesday, 2 August) so are we correct in assuming that the 21-day period starts from that date?

We have many serious concerns about this application. Earlier this year, as a result of excessive lorry traffic which was bringing enormous amounts of dirt and spoils to Higher Wick Farm supposedly for the construction of the slurry lagoon, the Planning Department at East Devon, the Enforcement Officer, the Environmental Agency and Highways were all inundated with calls and complaints from the public so it is a well known fact that this is an extremely sensitive issue. As such, we feel that this application should be dealt with by you as Chief Planning Officer and that far more

than the statutory 21 days should be allowed for comments. We believe that the procedure is being carried out with undue haste and would seek your assurance that sufficient time will be devoted to considering every aspect of this application including the distinct possibility of another serious pollution incident occurring at this farm.

I am attaching a list of our concerns which have been posted on the website but would ask for your personal assurance that these concerns will be considered and dealt with as soon as possible.

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Luppitt Parish Council has a history of supporting planning applications that promote sustainable and viable agricultural businesses. However, in the case of this application, the Parish Council Planning Committee recommends refusal because of the following serious concerns.

1. There is no indication of the scale of the proposed operation and, in particular, there is no indication of the volume of imported material needed. As a result, the number of lorry trips is not calculated and, therefore, the impact on local traffic and the single-track roads around Luppitt cannot be estimated. Without knowledge of the scale of the operation, it is also impossible to calculate the timespan involved. All we can conclude from the current planning application is that the scale of the proposal will be far greater than in the previous 2010 application (10/1056/FUL) because the applicant now proposes to construct the slurry lagoon on top of the landscape using imported materials, rather than the 2010 application which involved cutting into the landscape and in part using these excavated materials. Because the site is on the side of a slope, we can only conclude that the current proposal will, therefore, result in a significant increase in imported materials to construct the slurry lagoon.

2. Structural and engineering assessments and reports are essential to establish whether (i) there is sufficient clay of suitable quality on site to line the lagoon and (ii) whether it is feasible, from an engineering perspective, to build a clay-lined slurry lagoon on the side of a hill using imported materials of unknown structural stability.

On page 6 of the Promar report it states, "... the use of local clay soils on this site to line the lagoon (assuming these soils can be demonstrated to be suitably impervious). Advice will need to be taken from a suitably qualified person regarding construction techniques on this site." No such advice or reports are provided in the planning application. In the event that the clay soils on site are unsuitable, we can only conclude that further materials will need to be imported to site, further increasing our serious concerns regarding the scale of the operation outlined in point 1. above.

On page 8 of the Promar report under Summary of Recommendations, point 4 states "Seek advice from a properly qualified person regarding lagoon construction on the slope." Building a slurry lagoon on a hill side and with made up ground using imported materials is a challenging engineering project and we strongly believe that a full engineering assessment regarding construction techniques and viability must be part of the planning application. Furthermore, we would expect such works to be undertaken by properly qualified and specialist contractors rather than the local

farmer himself. This is because, should the engineering works fail, the environmental consequences would be extremely serious with thousands of tons of mud and slurry sliding down the hill and polluting the River Love and River Otter for many years to come.

Luppitt Parish Council considers that the above information, which is completely missing from the planning documents, is essential before consideration can be given to the scale and feasibility of this operation. Based on the materials submitted, Luppitt Parish Council Planning Committee is unanimous in recommending refusal for this planning application.

15/12/17 -ADDITIONAL MATERIAL FOR PLANNING APPLICATION  
17/1381/MFUL' HIGHER WICK FARM

Luppitt Parish Council would like to reply with the following additional observations:

1)It was generally agreed that the new plans were much more detailed and thorough and the standard of information provided was much improved. However, a discrepancy was noted in that drawing 1715-07 states that the slurry lagoon will be clay lined with clay 1 m thick being extracted from within the site, whereas drawing 1715-08 states that the lagoon will be lined with an EA approved liner with a minimum 20-year design life. Luppitt Parish Council would like to know which method will be used to line the slurry lagoon.

2)Luppitt Parish Council has read the report and revised comments submitted by the PEHO and Contaminated Land Officer, Janet Wallace. The Parish Council believes that the vehicle movements limited to 12 loads (24 vehicle movements) per day between the hours of 9 am and 4 pm on weekdays is an acceptable compromise. However, the Parish Council would seek assurance that proper logs of vehicle movements are kept, on the strict understanding that the conditions imposed are adhered to at all times.

3)Luppitt Parish Council remains extremely concerned that no Structural Engineer's report has been provided. On drawing 1715-08 it states that a structural engineer is to carry out soil investigation tests to ascertain ground bearing capacities prior to any works commencing on site. This is no more than standard procedure for any site in the UK and only serves to reinforce the Parish Council's insistence that it is essential that a full Structural Engineer's report should be carried out on this particular site before any approval can be given to this planning application. As outlined in detail in our previous comments, the Parish Council is adamant that a full report is needed to demonstrate the structural feasibility or otherwise of this project prior to any grant of planning permission.

We have already highlighted our concerns in our previous comments that building a slurry lagoon on a hill side and with made up ground using imported materials is a challenging engineering project. Should the engineering works fail, the environmental consequences would be extremely serious with thousands of tons of mud and slurry sliding down the hill and polluting the River Love and River Otter for many years to come.

4)The additional materials provided allow a more detailed understanding of the scale of the proposed project. With this in mind, the Parish Council would like to know what the applicant plans to do with the slurry collected in the lagoon. The planning application does not provide any details on this. Is it going to be spread on land belonging to Higher Wick Farm or spread on outside sites? In the latter case, this may have a significant impact on future vehicle movements around Luppitt, Wick and Beacon and should therefore form part of this planning application.

5)Finally, significant construction works have already occurred on site. The Parish Council would like written confirmation from the applicant that the general guideline notes referred to in drawing 1715-08 have been followed on all such works to date.

In summary, Luppitt Parish Council recommends refusal of the planning application in its current form.

21.03.2018 - ADDITIONAL MATERIAL FOR PLANNING APPLICATION  
17/1381/MFUL - HIGHER WICK FARM - MARCH 2018

Luppitt Parish Council would like to reply with the following additional observations:

i. We have read the supplemental statement produced by David Mair, an agricultural engineering consultant, of Agri Design. There is still no qualified Structural Engineer's report which we have consistently insisted is essential to demonstrate that this project is feasible.

ii. We note the comments regarding the sale of stock.

iii. We note the comments regarding the sale of robotic milking equipment.

iv. Luppitt Parish Council has a history of supporting planning applications that promote sustainable and viable agricultural businesses. However, in the case of this application, the Parish Council has serious concerns about the viability of the operation and the damage that will ensue should the engineering works fail.

v. We remain extremely concerned that, in the event of a failure of the engineering works, the environmental consequences would be catastrophic with thousands of tons of mud and slurry sliding down the hill and polluting the River Love and River Otter for many years to come. We realise that the applicant is trying to address an existing pollution problem, but we have yet to be shown any clear evidence that the planned slurry lagoon, built on the side of a hill, is a feasible solution.

Luppitt Parish Council stands by the observations it made in December 2017. The additional material has not addressed those concerns raised. In summary, Luppitt Parish Council recommends refusal of the planning application in its current form.

## Adjoining Parish - Combe Raleigh

20/12/17 - On behalf of Combe Raleigh Parish Meeting please see below our remaining concerns referring to the further plans and information submitted by the applicants in December.

1. An independent engineer's report is vital to ensuring that the work planned does not end in an ecological disaster.

The proposed works are, in our opinion, a specialist matter to establish whether the plans for preparatory work are appropriate and adequate for the amount of material being placed on site - over 38,000 tonnes - not least because plans suggest no footings will be incorporated and that, instead the work suggests the ground is disc'ed. There is still no engineers report clarifying that the site and specifically the sub-soil has a ground bearing capacity suitable for this project.

2. What steps will be taken by the EA to ensure compliance with SSAFO regulations in order to protect local water courses?

3. Reference is made to both a 1m clay lining and also to an EA approved liner with a minimum 20 year design life - are these one and the same? Will these/this be referred to an independent engineer for approval?

4. The clay lining is proposed to be obtained from a borrow pit of some 2,420 m<sup>3</sup>. This, in our estimation, is approximately the size of an Olympic swimming pool. This will inevitably change the character of the AONB in the Blackdown Hills. Reassurance is required "that a number of unsightly clay craters will not remain on the site after the construction has been completed and that measures will be undertaken to establish whether these works have the potential to incur any detrimental effects on the local wildlife, not least those protected species that are known to inhabit the area.

5. There is conflict between the amended Hydrock report and the agents letter dated 29th November 2017 concerning the hours of operation for delivery of soil. The latters proposal to restrict deliveries to 12 per day within the hours of 9am and 4.00pm week days only (ie no weekends or Bank holidays) is a significant improvement. This should be made a condition of any consent. However, given the previous actions relating to the transport of soil to this site when such planning conditions appeared to be blatantly ignored, the local community ask that significant penalty clauses be applied for any future deviations by the applicant.

6. There is no reference to the period over which the deliveries will be made. The applicant's agent clarifies that 23,960 m<sup>3</sup> of soil/material is still required, and the lorries have a maximum weight capacity of 14 tonnes. It should be possible to calculate approximately the number of additional trips required and therefore to determine a maximum period over which the deliveries can take place. This should be controlled by a planning condition.

7. As these quarry lorries are approximately the same width as the lanes, their heavy load is transferred onto the edge of the lanes thereby by increasing the prospect of

damage to the weakest part of the road. Furthermore, past experience of these lorries visiting the area has shown that they have continued to spill significant amounts of materials along the lanes AFTER delivering soil to the site. It is suggested that the applicant's offer of a Schedule of Condition is taken up and a method of reparations agreed with the Highway Authority in consultation with all local Parish Councils in the affected area.

8. The route for the delivery vehicles should be agreed in detail with the Parish Council to ensure the least impact upon the community. Safety of pedestrians, cyclists and others traversing the lanes is seriously compromised by the lack of any speed restriction in the local lanes given the unusually heavy traffic involved in transporting the soil to site. The very narrow and winding lanes do not allow suitable space, or time, to escape from traffic and braking capabilities of the laden and unladen lorries involved in these operations is not suited to the blind bends should they travel at speeds that are un-suitable for conditions. It is understood that resources may not allow for policing the route. However, we ask that the Highways Authority explore the possibility of introducing a monitoring system to measure speeds of traffic travelling the lanes.

#### 02.01.2018 -AMENDED PLANS

On behalf of Combe Raleigh Parish Meeting please see below our remaining concerns referring to the further plans and information submitted by the applicants in December.

1. An independent engineer's report is vital to ensuring that the work planned does not end in an ecological disaster.

The proposed works are, in our opinion, a specialist matter to establish whether the plans for preparatory work are appropriate and adequate for the amount of material being placed on site - over 38,000 tonnes - not least because plans suggest no footings will be incorporated and that, instead the work suggests the ground is disc'ed. There is still no engineers report clarifying that the site and specifically the sub-soil has a ground bearing capacity suitable for this project.

2. What steps will be taken by the EA to ensure compliance with SSAFO regulations in order to protect local water courses?

3. Reference is made to both a 1m clay lining and also to an EA approved liner with a minimum 20 year design life - are these one and the same? Will these/this be referred to an independent engineer for approval?

4. The clay lining is proposed to be obtained from a borrow pit of some 2,420 m<sup>3</sup>. This, in our estimation, is approximately the size of an Olympic swimming pool. This will inevitably change the character of the AONB in the Blackdown Hills. Reassurance is required that a number of unsightly clay craters will not remain on the site after the construction has been completed and that measures will be undertaken to establish whether these works have the potential to incur any detrimental effects on the local wildlife, not least those protected species that are known to inhabit the area.

5. There is conflict between the amended Hydrock report and the agents letter dated 29th November 2017 concerning the hours of operation for delivery of soil. The latters proposal to restrict deliveries to 12 per day within the hours of 9am and 4.00pm week days only (ie no weekends or Bank holidays) is a significant improvement. This should be made a condition of any consent. However, given the previous actions relating to the transport of soil to this site when such planning conditions appeared to be blatantly ignored, the local community ask that significant penalty clauses be applied for any future deviations by the applicant.

6. There is no reference to the period over which the deliveries will be made. The applicant's agent clarifies that 23,960 m<sup>3</sup> of soil/material is still required, and the lorries have a maximum weight capacity of 14 tonnes. It should be possible to calculate approximately the number of additional trips required and therefore to determine a maximum period over which the deliveries can take place. This should be controlled by a planning condition.

7. As these quarry lorries are approximately the same width as the lanes, their heavy load is transferred onto the edge of the lanes thereby by increasing the prospect of damage to the weakest part of the road. Furthermore, past experience of these lorries visiting the area has shown that they have continued to spill significant amounts of materials along the lanes AFTER delivering soil to the site. It is suggested that the applicant's offer of a Schedule of Condition is taken up and a method of reparations agreed with the Highway Authority in consultation with all local Parish Councils in the affected area.

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Ward Member

10.01.2018 - Cllr. David Key. (Otterhead)

With regard to the above application I have some reservations in

1. The policing of the number of vehicle movements as stated by the environment.
2. At 1m thick to line the lagoon is going to take an awful lot of clay which is to be extracted on the holding would a membrane be more advisable and also more Secure.
3. I have asked on several occasions for a structural engineers report that the Existing base is in a stable condition to take further soil to make the sides firm and able to take the pressure.

4. The final point is should this lagoon slip and cause pollution do the EDDC have any responsibility for granting the permission if not who would be liable to the pollution caused by any accident.

Until I have positive answers I am unable to support.

### **Technical Consultations**

Devon County Archaeologist

08/08/17 - The supporting information for this development includes a Project Design for archaeological monitoring and recording during groundworks for these works. I would therefore advise that any consent your Authority may be minded to grant should be conditional upon the following worded condition:

'The development shall be undertaken in accordance with the Heritage Statement and Project Design for Archaeological Monitoring and Recording, prepared by AC Archaeology (ref: ACD1609/1/2, dated 3rd July 2017) and submitted in support of this planning application.'

The development shall be carried out at all times in strict accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.

Reason

To ensure, in accordance with Policy EN6 (Nationally and Locally Important Archaeological Sites) of the East Devon Local Plan and paragraph 141 of the National Planning Policy Framework (2012), that an appropriate record is made of archaeological evidence that may be affected by the development.

I will be happy to discuss this further with you, the applicant or their agent. The Historic Environment Team can also provide the applicant with advice of the scope of the works required, as well as contact details for archaeological contractors who would be able to undertake this work. Provision of detailed advice to non householder developers may incur a charge. For further information on the historic environment and planning, and our charging schedule please refer the applicant to: <https://new.devon.gov.uk/historicenvironment/development-management/>.

National Trust

17/08/17 - The National Trust owns Dumpdon Hill to east of Wick and Higher Wick Farm. Dumpdon Hill is a prehistoric hillfort and as a Scheduled Monument it is a designated heritage asset.

The Trust is concerned about the adequacy of information with this planning application and whether it is sufficient to understand the potential impacts on the significance of Dumpdon Hill, and what its setting contributes to that significance, as required under paragraph 128 of the NPPF (March 2012).

The Trust acknowledges that consent was granted in 2010 for a slurry lagoon, but a fresh application has now been required and the policy context, both nationally and locally, has changed since 2010.

It is unclear how much imported soil is required to make the base of the slurry lagoon, and as a result the total number and duration of vehicle movements remains undetermined (Construction Management Plan, May 2017, para 3.2.2). Given the claimed "optimal route" from the A30 to the farm, as shown on Figure 4.1 in the Construction Management Plan, is around the north and east sides of the base of the Dumpdon Hill, on which the hillfort sits, without knowing the likely duration of vehicle movements it is simply not possible to understand the potential impact on the setting of the Scheduled Monument, as required by paragraph 128 of the NPPF. The Trust has concerns over the potential for harm to the setting of the designated heritage asset, and would highlight that under paragraph 132 of the NPPF great weight should be given to the asset's conservation. Neither the level of harm nor the justification for that harm is yet sufficiently clear.

The Trust would urge the Council to require the information that is necessary to determine the application in accordance with national and local policy, and to consider closely the potential impacts on the setting of Dumpdon Hill.  
Blackdown Hills AONB Project Partnership

16/08/17 - The Blackdown Hills AONB Management Plan 2014-19 is the agreed policy framework for conserving and enhancing the AONB and seeks to ensure that all development affecting the AONB is of the highest quality. It contains the following policy of particular relevance,, , to this proposal:

PD 1/8 Seek to ensure that any necessary new developments or conversions within the AONB or affecting its setting conserve and enhance natural beauty and special qualities, particularly by respecting the area's landscape character and the local character of the built environment, reinforce local distinctiveness and seek to enhance biodiversity.

While the AONB Partnership recognises the demands of farm businesses operating in the Blackdown Hills, particularly in taking steps to ensure good welfare and environmental conditions, there is a need to balance this with the need to conserve and enhance the special character of the Blackdown Hills particularly in remote and sensitive locations such as this.

There are therefore some concerns about the landscape impact arising as a result of the works, namely the significant re-profiling of the field and features such as the proposed hedge around the borrow pit, which appears not to tie in with the surrounding network. The field patterned landscape is one of the reasons for the AONB designation, and Dumpdon Hill is an important site of cultural, historic and ecological value within the AONB.

The 2010 permission, as described in the Officer's Delegated Report at the time, included a condition to provide more precise details regarding how the slurry lagoon is to be constructed, including phasing and details of engineering works, to ensure that it is carried out in a reasonable manner without detriment to the **AONB**. It

appears that there is still significant information that is missing from this current application to allow for full and proper consideration, and the concerns of the parish council and local residents are shared.

The application does not include construction and engineering information that would indicate the volume of soil required for this major engineering project or provide reassurance as to the method of construction being appropriate to the site.

The traffic and highway are a major aspect of concern in relation to impact on the AONB. There is no real detail; no precise or planned indication of where the material will be sourced and where lorry journeys will originate, of lorry movements per day, or an overall timescale. HGV traffic, coupled with the nature of the AONB road network - narrow windy single carriageway roads, steep hills and sharp bends - is already identified as a problem in both the AONB Management Plan and the Blackdown Hills Community Plan in respect of causing noise, danger to other road users, and damage to banks and verges, and as such affecting the quiet enjoyment of the AONB and causing environmental damage. The additional traffic that this development would generate over an unknown and unquantified period would cause an additional burden on the local road network.

I trust that these comments are helpful to your consideration of this application.

20/12/17 - Thank you for advising the Blackdown Hills AONB Partnership of amended plans in respect of the above application.

The primary concern of the AONB Partnership is to conserve and enhance the natural beauty of the Blackdown Hills AONB. The AONB Partnership believes that any development proposal in an isolated and remote location in particular requires very careful consideration as to necessity and potential impact on the environment and character of the protected landscape, so that natural beauty can be conserved and enhanced.

While the additional plans and submitted information go some way to respond to concerns raised, fundamentally this is a major engineering project and waste disposal activity in a very visible, sensitive location in the AONB. There is still a lack of clarity on the timescale for dumping of waste, management of waste, and construction. Furthermore, I share the concerns of the parish council and residents about the lack of an engineering report on ground conditions and stability to support the proposed works.

Environmental Health

19/10/17 - Updated comments 8th December 2017:

I have considered the additional information including the amended transport plan prepared by Hydrock. There were some elements within this which contradict the covering letter dated 29th November 2017 sent by the agent with the updated information. I have contacted the agent for clarification and he has confirmed that the times and vehicle movements stated in his letter are what they are now

proposing. The applicant understands the concerns of the community with respect to vehicle movements in the lanes but considered that the condition I suggested was slightly too restricting. They therefore propose delivery hours of 9am to 4pm with no more than 12 loads (24 movements) per day. This will represent a considerable improvement on the uncontrolled movements experienced earlier in the year. As material is to be brought in as and when it is sourced from construction sites, and as construction sites are themselves hours restricted, I do not consider it necessary for any loads to be imported on Saturdays. The condition should then read:

Importation of materials to the site shall only be permitted between 9am and 4pm on Mondays to Fridays, and not at all at weekends or on bank holidays. No more than 12 loads, 24 vehicle movements, shall be permitted on any day during these times. Reason: to restrict impact on local residents during the construction phase of the development.

In order to answer concerns regarding the regulation of inert construction waste being imported into the site I have also confirmed with the Environment Agency that a Waste Recovery Plan is in place which forms part of the standard rules Environmental Permit. Although the permit covers quantities up to 60,000 tonnes, the WRP refers specifically to this site which is permitted to import the 38,000 tonnes referred to in the planning application. The agent has confirmed that 12,000 tonnes have been imported to date, with 26,000 more to come; this represents approximately 1800 loads in 14tonne lorries (the largest able to negotiate the access lanes safely). The agent was unable to confirm how long this might take because the rate of delivery depends on the availability and timing of contracts.

A construction and environment management plan will be required in order to regulate working on the site itself to ensure that it does not unreasonably impact on the local community. I recommend that this must comply in full with the requirements set out within the East Devon DC Code of Practice on the Control of Construction Sites which requires that working hours are restricted to 8am - 6pm Monday to Friday and 8am -1pm on Saturdays. No site vehicle shall be fitted with high frequency audible reversing alarms as these can be audible a considerable distance away, particularly in a rural area such as this. A condition requiring the CEMP should be included in any approval.

#### Original comments:

I am aware that a substantial quantity of inert material has been, and is intended to be, imported in order to achieve the required levels on the land subject to this application. The activity earlier this year caused considerable disruption to local residents during the transportation of material. We consider it essential that this degree of disruption does not recur, even on a temporary basis, and I therefore recommend that working hours and traffic movements require restriction by condition. I recommend the following as reasonable:

Importation of materials to the site shall only be permitted between 10am and 3pm on Mondays to Fridays, and not at all at weekends or on bank holidays. No more

than 10 loads, 20 vehicle movements, shall be permitted on any day during these times.

Reason: to restrict impact on local residents during the construction phase of the development.

#### Landscape Architect

04/09/17 - The submitted landscape statement does not offer a sufficient level of assessment of the site's landscape, its landscape and visual context and the impact of the proposed development on the aforementioned. No assessment of potential landscape or visual receptors has been carried out although the site is located within the Blackdown Hills Area of Outstanding Natural Beauty (AONB). Views will be available from the public highways to the east and north-east at gateways and during winter times; however no views have been assessed. The landscape statement states that the proposals will not introduce any new elements which are contrary to the existing localised character of the farm, however the scheme introduces highly engineered landforms within a landscape defined by naturally undulating landforms and little 20th century development as identified in the East Devon and Blackdown Hills Areas of Outstanding Natural Beauty and East Devon District Landscape Character Assessment & Management Guidelines 2008. Due to the aforementioned the scheme should be considered to be in conflict with the local landscape character. The slurry pit could be better integrated within the landscape if:

- oIts landform and shape were to follow the natural contours, e.g. the shape of pit should be changed to tie in better with natural landform,

- oThe slurry pit were to be set into the hillside, reducing the need to increase the ground levels; and

- o The steepness of its slopes were reduced.

The proposed planting will assist in partially screening the proposed development, however the most westerly proposed native hedge is located on the lower reaches of the slope where its screening will be limited as the embankments of the slurry pit will be much higher than the proposed height of the native hedge. Further the proposed height of the native hedge at 2m is not in keeping with the local landscape character which identifies hedges within this specific landscape character type as: 'Very wide, usually low, species-rich hedges with many hedgerow trees'. Further DCC's landscape character assessment, which identifies the site's area as part of Blackdown Hills Devon Character Area (DCA), defines the hedges within this area as: 'more species-diverse Devon hedges (e.g. beech, sycamore, ash, hazel and gorse) with flower, fern and moss-rich banks on lower slopes'. The current proposals indicate no hedgebank. A hedgebank could be used to help integrate some of the level changes (see detail below). The hedge mix should be revised to include the species mentioned in DCC's landscape character assessment.

The landscape statement states: 'blocks of woodland are not a feature of the immediate cluster of fields'; however directly south to the site is a small woodland block and there are various woodland blocks within the landscape. Inclusion of woodland blocks could greatly assist the screening of the proposed development.

The scheme proposes the area to be seeded with a high value ecological meadow mix and to be grazed; however the proposed 1/2.5 slopes will not allow for any farm equipment to access the slopes. At least a 1/5 slope should be provided to allow for farm vehicles to access the slope (e.g. to carry out the hay cut as described in the grass management regime). Without a considered slope design it seems unfeasible for the site to go back into any form of agriculture.

Earlier mismanagement of the land is not an appropriate reason for further harm to the landscape of the Blackdown Hills AONB.

The current pit slope design appears un-safe; at 1/1 slopes there is little opportunity for anyone who falls into the pits to get back out.

Currently none of the submitted sections show the existing or proposed landscape. The proposed site layouts should show how the proposed levels integrate with the existing, currently the layouts still show the existing contours and not the proposed contours.

The scheme should have been accompanied by a tree survey assessing the on-site and directly abutting existing tree and hedge planting to ensure there is no adverse impact on the existing planting, and where there is, to ensure it is appropriately mitigated.

Details of tree and hedge planting and a landscape and ecological management plan should have been submitted (or should be conditioned if scheme is approved). The current tree pit description on drawing 2077.001 rev. A includes topsoil beyond 500mm below ground level. Below 500mm the topsoil mix should be replaced with topsoil to BS 8601:2013.

Extent of area to be seeded to be clearly indicated on the proposals layout.

Due to the aforementioned the scheme does not comply with Strategy 46 - Landscape Conservation and Enhancement and AONBs, which states the following:

Development will need to be undertaken in a manner that is sympathetic to, and helps conserve and enhance the quality and local distinctiveness of, the natural and historic landscape character of East Devon, in particular in Areas of Outstanding Natural Beauty.

Development will only be permitted where it:

1. conserves and enhances the landscape character of the area;
2. does not undermine landscape quality; and
3. is appropriate to the economic, social and well-being of the area.

When considering development in or affecting AONBs, great weight will be given to conserving and enhancing their natural beauty and major development will only be permitted where it can be shown that it cannot be reasonably accommodated elsewhere outside of the AONB.

The current Area of Outstanding Natural Beauty Management Plans, the East Devon and Blackdown Hills Areas of Outstanding Natural Beauty and East Devon District

Landscape Character Assessment & Management Guidelines 2008 and the Devon County Council Landscape Character Areas Assessment should be used in design and management considerations.

Further due to the above raised concerns the scheme should not be considered to comply policy 01 - Design and Local Distinctiveness and 02 - Landscape Requirements.

Therefore the scheme is unacceptable in landscape design terms.

NOTE THE LANDSCAPE ARCHITECT HAS NOT COMMENTED ON THE AMENDED AND ADDITIONAL INFORMATION

Environment Agency

16/08/17 - Thank you for consulting us on the above planning application.

Environment Agency position

We have no objections in principle to the proposal, but advise that if any part of the slurry store lagoon is located within 10m of any watercourse, the application should not be determined until the applicant has demonstrated that appropriate mitigation will be undertaken to minimise pollution risks to the watercourse. Further advice is set out below.

Advice - Slurry Stores

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. These regulations aim to prevent pollution from stores of silage, slurry and agricultural fuel oil. They set out requirements for the design, construction and maintenance of new facilities for storing these substances. Site operators should ensure that there is no possibility of contaminated water entering and polluting surface or underground waters.

The applicant cannot site slurry storage facilities within 10m of inland or coastal waters without written agreement from the Environment Agency. We would advise the applicant to locate the storage lagoon as far as possible from the minor watercourse to the north of the site. If it is not possible to locate the storage lagoon 10m from the watercourse, appropriate mitigation (e.g. piping a small section of watercourse) will be required to minimise pollution risks. We would advise the applicant to contact Pete Ball (Environment Officer) on 02084747053 to discuss this further.

The applicant 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 store at least 14 days before starting any construction work. The notification must include the type of structure and the proposed design and construction. Please send us a completed WQE3 notification form before you start using the facility.

Further information can be accessed on our website at: <https://www.gov.uk/storing-silage-slurry-and-agricultural-fuel-oil>.

Environmental good practice advice is available in The Code of Good Agricultural Practice (COGAP) for the protection of water, soil and air (produced by DEFRA): [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/268691/pb13558-cogap-131223.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/268691/pb13558-cogap-131223.pdf)

Please contact us again if you require further advice.

20/12/17 - Thank you for your consultation of 04 December 2017 following receipt of additional information in respect of the above planning application.

Environment Agency position

We have no objections to this planning application. Our Environment Officers are aware of this proposal and we have had pre-application discussions which have ensured that the new slurry lagoon will be located an appropriate distance from water courses and other water interests. Our standard advice for slurry stores is provided below.

Advice - Slurry stores

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. These regulations aim to prevent pollution from stores of silage, slurry and agricultural fuel oil. They set out requirements for the design, construction and maintenance of new facilities for storing these substances. Site operators should ensure that there is no possibility of contaminated water entering and polluting surface or underground waters.

The applicant 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 store at least 14 days before starting any construction work. The notification must include the type of structure and the proposed design and construction. The applicant must send us a completed WQE3 notification form before they start using the facility.

Further information can be accessed on our website at: <https://www.gov.uk/storing-silage-slurry-and-agricultural-fuel-oil>.

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We advise that farmers can use up to 5,000 tonnes of suitable imported waste clays for the bunding of slurry stores by registering an exemption U1 and following the conditions. Further advice is available on our website at: <https://www.gov.uk/waste-exemptions-using-waste>.

AMENDED PLANS - 29.03.2018 Thank you for your consultation following submission of amended plans in respect of the above planning application.

Our position remains unchanged from our letter of 20 December 2017 in which we had no objection but provided our standard advice in respect of slurry stores.

Devon County Highway Authority

10.01.2018- Observations:

The County Highway Authority (CHA) has examined the application and has also taken into account the comments made by other consultees and members of the public and has the following comments:

Construction Traffic Management Plan (CTMP), Additional Information (Dec 4, 2017):

I have reviewed the latest Construction Traffic Management Plan where it is proposed that traffic related to the construction of the development will utilise two routes. One for inbound traffic and the other for outbound traffic.

Quantum of HGV Trips Generated by the Construction Phase:

The CTMP states at 3.2.2 that "At planning stage, it is not possible to fully describe the programming of the required construction works in terms of their phasing, quantity and expected duration. However, it is suggested the majority of plant utilised will be farming equipment owned and operated by the land owner, thereby ensuring the removal of unnecessary local trips made by large and heavy vehicles." Whilst this seems viable and would likely reduce the number of trips by outside contractors, because there is no proposed phasing in terms of time or season of year, is it not likely that the land owner may require this plant for other farming practices and other imported machinery may be required.

The CTMP goes on to say at 3.2.3, that "the volume of traffic will depend on the rate of build and materials used in the construction of the development, which in turn will depend on the economic climate at the time. However, there will be no more than 30 two HGV movements per day, between Monday To Friday of the agreed operating hours. This will be controlled by the site operator."

Because of the nature of the proposed routes to and from the site and their width constraints, junction geometry and lack of defined vehicle passing places, the CHA would wish to limit the number of construction traffic movements to a maximum of 30 two way movements per day despite the rate of build or economic climate.

Phase One - Preparation (Condition Survey):

The CHA will require that the applicant produces photographic record of the condition of the highway of the proposed routes (Figure 4.1 and Figure 4.2) to and from the development site connecting to the A30 (T) and A35 (T). Including the roads highway furniture with text detail where appropriate. The current condition, prior to commencement, of construction route roads. Such a survey and text to be agreed by DCC prior to any commencement of the works.

There are a number of bridges (some with parapet walls), roadside ditches and constrained junctions on the routes proposed and special note/attention is to made of the these within both the pre-commencement survey and the post completion surveys.

For the avoidance of doubt the proposed routes are:

Figure 4.1 to the site from the A30 (T) from Ford Cross taking the C352 to Ford Bridge where the road bears right and continues to Beacon Cross, then turns left (south) onto the unclassified W161 road known as Dumpdon Lane until the unclassified W1618 road sign [posted to Wick passing the car park at Dumpdon Plantation and then to the application site entrance.

and

Figure 4.2 from the site, north on the W1618 unclassified road taking the left fork at Wick Cross onto the W1619 unclassified rod to Barn Cross and then left onto the classified road C354, bearing left at Fenny Thorn Cross and continuing on the C354 turning left onto Langford Road (C25) and thus to the A30 T) via the A35 (T) slip road.

#### Phase Two - Operation

The CHA recommends that during the construction phase, large vehicles and HGV movements will be limited (where possible and there are no other restrictions) to the proposed routes for inbound and outbound construction traffic between 08:30 hrs.

and

17:30 hrs. Monday to Friday; between 09:00 hrs. and 13:00 hrs. on Saturdays and no construction traffic on Sundays (including Bank Holidays).

The applicant will submit details of any proposed Traffic Management Scheme measures to DCC at least 3 months prior to proposed date of implementation. Such measures shall not be implemented until approval of the scheme has been given in writing.

The CHA will also require a post construction photographic record including the roads highway furniture with text detail where appropriate of the routes to determine whether any damage can be attributed to development construction traffic. This record to be agreed by DCC and any remediation to the highway that is considered to be attributable to the development traffic above that of normal wear and tear will be charged to the applicant accordingly.

The proposed access to the site will be the only access to the site from the public highway.

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON  
BEHALF OF  
DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, RECOMMENDS  
THAT  
THE FOLLOWING CONDITIONS SHALL BE INCORPORATED IN ANY GRANT OF

## PERMISSION

1. Prior to commencement of any part of the site the Planning Authority shall have received and approved a Construction Management Plan (CMP) including:

- (a) the timetable of the works;
- (b) daily hours of construction;
- (c) any road closure;
- (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;
- (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
- (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
- (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
- (h) hours during which no construction traffic will be present at the site;
- (i) the means of enclosure of the site during construction works; and
- (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site
- (k) details of wheel washing facilities and obligations
- (m) Details of the amount and location of construction worker parking.
- (n) Photographic evidence of the condition of adjacent public highway and the proposed routes to and from the development prior to commencement of any work and post completion of all works.

REASON: to ensure that the proposed development does not unduly impact on the local highway network.

2. The development hereby approved shall not be carried out otherwise than in accordance with a phasing programme which shall previously have been submitted to and approved by the Local Planning Authority in writing.

REASON: To ensure the proper development of the site.

### Other Representations

36 letters of representation have been received to date, consisting of 33 letters of objection (the remainder representations). In summary;

- Disruption of traffic through construction phase in terms of traffic generation.
- Impact on road surface, property and highway safety during construction phase.

- Highway and pedestrian safety would be compromised during construction.
- Impact on road network for the operation of the lagoon once completed.
- Proposed lorry route is insufficient to cope with anticipated movements.
- Visually harmful to the AONB landscape.
- Odour.
- Harm to tourism industry
- Potential for embankment to collapse and pollute nearby water course.
- Discrepancies on the plan and submitted statements
- Lack of engineering details to ensure safe construction and other suitable details regarding its construction.
- Land instability.
- No calculations to explain why the volume of imported material is required.
- No explanation was to why the structure cannot be set lower into the ground through 'cut and fill'.
- Question what enforcement action will take place if permission is not given.

**PLANNING HISTORY**

Reference	Description	Decision	Date
10/1056/MFUL	Construction of slurry lagoon	Approved	12.11.2010

The above planning consent allowed for a slurry pit measuring 60 metres by 25 metres with an earth bund of 8 metres above the existing ground level.

**POLICIES**

Adopted East Devon Local Plan 2013-2031 Policies

EN6 (Nationally and Locally Important Archaeological Sites)

EN7 (Proposals Affecting Sites which may potentially be of Archaeological Importance)

ENS (Significance of Heritage Assets and their setting)

EN9 (Development Affecting a Designated Heritage Asset)

D1 (Design and Local Distinctiveness)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

D7 (Agricultural Buildings and Development)

EN5 (Wildlife Habitats and Features)

TC7 (Adequacy of Road Network and Site Access)

TCS (Safeguarding of Land required for Highway and Access Improvements)

D2 (Landscape Requirements)

EN21 (River and Coastal Flooding)

EN14 (Control of Pollution)

EN17 (Notifiable Installations)

#### Government Planning Documents

NPPF (National Planning Policy Framework 2012)

#### Site Location and Proposed Development

The proposal seeks planning consent for the creation of a slurry lagoon to serve Higher Wick Farm. The application site is within the open countryside and designated Area of Outstanding Natural Beauty (AONB). The site is also within the general vicinity of Dumpdon Hill, an scheduled ancient monument. The agricultural holding currently comprises a total farmed land area of 141ha consisting of 50ha owned with 91ha rented. Cropping consist of 60 acres under maize; 58 acres to cereals with the remainder kept as grass land.

In order to contain the lagoon significant depositing of material is required in order to construct an embankment. It should also be noted that a significant amount of material has already been brought to the site to date without prior approval and this has been the subject of an enforcement investigation.

The lagoon would be lined with 1 metre of clay with an underground pipe running to the bottom of the embankment. On top of the embankment would be a security fence 1.3 metres high. At the bottom of the embankment a native field hedge is proposed in order to provide mitigating screening. To the immediate west of the lagoon and embankment would be a borrow pit, from which the clay extraction would take place. Further to the west is a water course which flows along the valley floor.

#### Procedural Matters

The proposed slurry lagoon does not fall within the thresholds of Schedule 2 of the EIA 2017 regulations. The only agricultural project is for "projects for the use of uncultivated land or semi-natural areas for intensive agricultural purposes" where the threshold for requiring an EIA is when the area of development exceeds 0.5 hectares. Projects which are described in the first column of Schedule 2 but which do not exceed the relevant thresholds, or meet the criteria in the second column of the Schedule, or are not at least partly in a sensitive area may not be Schedule 2 development. Such projects do not usually require further screening or an EIA. In this instance, the site area exceeds 0.5 hectares, however, the relevant trigger is whether the site falls within the first column and is therefore classed as uncultivated or semi-natural land.

Cultivated land includes land that has been broken and/or subject to ploughing, rotavating, harrowing, tining, discing and re-seeding. The land has previously been subject to ploughing as evident from photographic records. The site is therefore not

considered to be uncultivated land. The proposal does not fall within Schedule 2 of the regulations and no further requirement or an EIA are required.

Nevertheless in considering the likely environmental effects this development is proposed as an improved management system for the existing waste produced on the farm and would not result in the production or increase of waste in itself. From the site history it is apparent that the previous slurry storage arrangements were substandard and therefore in environmental/pollution terms the current application represents a potential improvement over the previous substandard arrangements. Given the existing operation and the nature of the proposal it is not therefore considered that an Environmental Impact Assessment was required.

Through the processing of this planning application amended plans and additional information has been received from the applicant. These amended plans changed the originally submitted position of the lagoon, its shape and gradient of surrounding slopes. These provide greater clarification on the ground works required and landscaping proposed. Further information was also submitted to justify the gradient of the embankment and an explanation of why the lagoon could not be sited lower into the ground. Consultees were given the opportunity to comment upon these changes. Accordingly the analysis and consideration of the proposal are made in light of these amended plans.

## ANALYSIS

The main issues concerning this planning application are;

- the overarching policy context
- the impact on the character and appearance of the AONB landscape
- the agricultural justification for the lagoon
- the traffic implications during construction
- the potential impact on the protection of groundwater and method of construction of the proposed lagoon
- Justification for the finish floor level of the proposed lagoon
- agricultural justification for the proposal
- impact on a heritage asset (Dumpton Hill)
- other matters
- planning balance

Addressing each element above in turn;

### **The overarching policy context**

East Devon has an adopted local plan from January 2016. The local plan was considered sound at examination and adopted in light of the National Planning Policy Framework (NPPF). Accordingly the development plan is considered up to date and can be attributed full weight in the planning balance (established under Section 38(6) of the Planning and Compulsory Purchase Act 2004).

### **The impact on the character and appearance of the AONB landscape**

Areas of Outstanding Natural Beauty (AONBs) have the highest status of protection in relation to landscape and scenic beauty and great weight is to be afforded to conserving their landscape and scenic beauty (paragraph 115 of the NPPF). Planning permission should be refused for major developments in these areas except in exceptional circumstances and where it can be demonstrated they are in the public interest (paragraph 116 of the NPPF).

The statutory purpose of AONBs is to conserve and enhance the natural beauty of the area. Paragraph 113 of the NPPF requires that local planning authorities (LPAs) should set 'criteria based policies against which proposals for any development on or affecting protected...landscape areas will be judged.' Therefore most local development framework policies now refer to published local landscape character assessments (LCAs) which identify relevant characteristics of the local landscape to be conserved and enhanced, and comment on the potential capacity of landscape character types or areas to accommodate new development.

Current local plan Strategy 46 states great weight will be given to conserving and enhancing their natural beauty. Moreover, the statutory recognition and duties of AONBs, enshrined in Section 85 of The CRoW 2000, requires all relevant authorities to have regard to the purpose of conserving and enhancing the natural beauty of AONBs when performing their functions.

The land on which the application is sited is characterised as 'LCT 3A Upper Farmed and Wooded Slopes'. Generally the built form is dispersed with small farms. The defining characteristics of the landscape are the following;

- Undulating upper valley slopes below the scarp slope
- Well treed pastoral farmland, with arable cultivation on lower slopes
- Small to medium size fields with irregular boundaries
- Deciduous woods and copses, especially on hilltops and upper slopes
- Very wide, usually low, species-rich hedges with many hedgerow trees
- Dispersed settlement pattern of isolated farms and small villages
- Very winding narrow lanes
- An intimate and intricate landscape with views out confined by vegetation
- Remote and with little 20th century development

No assessment of potential landscape or visual receptors in terms of a Landscape and Visual Impact Assessment has been carried out although the site is located within the Blackdown Hills Area of Outstanding Natural Beauty (AONB). Views would be available from the public highways to the east and north-east at gateways and during winter times; however there is a lack of evidence that surrounding views have been assessed. The landscape statement states that the proposals will not introduce any new elements which are contrary to the existing localised character of the farm. However, the scheme introduces highly engineered landforms within a landscape defined by naturally undulating landforms and little 20th century development as identified in the East Devon and Blackdown Hills Areas of Outstanding Natural Beauty and East Devon District Landscape Character Assessment & Management Guidelines

(2008). It has been suggested that the slurry pit could be better integrated within the landscape if:

- Its landform and shape were to follow the natural contours, e.g. the shape of pit should be changed to tie in better with natural landform,
- The slurry pit were to be set into the hillside, reducing the need to increase the ground levels; and
- The steepness of its slopes were reduced.

From surrounding visual receptors there would be a high magnitude of visual change apparent due to the significant increased levels of the site.

The proposed planting would only assist in partially screening the proposed development. The most westerly proposed native hedge is located on the lower reaches of the slope where its screening will be limited as the embankments of the slurry pit will be much higher than the proposed height of the native hedge. Further, the proposed height of the native hedge at 2m is not in keeping with the local landscape character which identifies hedges within this specific landscape character type as: 'Very wide, usually low, species-rich hedges with many hedgerow trees'. DCC's landscape character assessment, which identifies the site's area as part of Blackdown Hills Devon Character Area (DCA), defines the hedges within this area as: 'more species-diverse Devon hedges (e.g. beech, sycamore, ash, hazel and gorse) with flower, fern and moss-rich banks on lower slopes'. A hedgebank has been submitted to help integrate some of the level changes.

The landscape statement states: 'blocks of woodland are not a feature of the immediate cluster of fields'; however directly south to the site is a small woodland block and there are various woodland blocks within the landscape. Inclusion of woodland blocks could greatly assist the screening of the proposed development. The landscaping that has been proposed consist of hedging at the lower slopes and its ability to providing meaningful screening is considered modest. That said opportunities to provide screening on top of the earth boundary would create a contrived landscape feature and would not follow recognised field boundaries. Additionally the planting on top of the bund could invite land stability issues which should therefore be avoided.

The scheme proposes the area to be seeded with a high value ecological meadow mix and to be grazed; however the proposed 1/2.5 plus slopes will not allow for any farm equipment to access the slopes. Without a considered slope design it seems unfeasible for the site to go back into any form of agriculture.

To summarise the proposal is considered to result in visual harm to the qualities of the AONB landscape.

In terms of character the land use would continue to serve an agricultural purpose. This includes the borrow pit required for the clay lining located lower down the slope. This pit would be landscaped with native hedging and cut into the landscape minimising its visual impact. Furthermore, the pit would be situated lower down the slope and would not be prominent within the landscape. The area is predominantly utilised for agricultural purposes and this forms the main character of this part of the

AONB landscape. Although the physical works would provide a more engineered appearance it would not harm the established character of that as an actively working agricultural landscape.

The above noted it should be recognised that in 2010 planning consent was granted for a slurry lagoon of similar proportions on approximately the same site. The details of that consent illustrated a 25 metre wide, 60 metres long and 6m deep lagoon and also secured significant volumes of materials being deposited on the land resulting in an approximately 8 metres height bund. There is no evidence submitted that this planning consent was begun within its lifespan (of three years) and there have been no pre-commencement conditions that have been discharged. A certificate of lawfulness has not been submitted to establish beyond reasonable probability that this 2010 consent had begun within the requisite time frame. Therefore this planning consent does not represent a valid fallback position for the applicant to then implement should this planning application be refused.

Taking the above in account the highly engineered landform would result in a high magnitude of change in conflict with the established landform character of its surrounds.

For the avoidance of doubt due to the localised impact on the landscape and accounting for the overall scale of the development within this context the proposal does not constitute 'major development' for the purposes of paragraph 116 of the NPPF.

#### **The agricultural justification for the lagoon**

The currency herd size is approximately 200 dairy cows with dairy young stock rear but not at this site. This herd is robotically milked with milking cows housed all year in cubicles. The slurry from the feeding and accommodation area is scraped to a weeping walled store. Dirty water from the parlour, dairy and walled store is tinkered to the land.

The slurry lagoon stems from a requirement to limit clean surface water from mixing with slurry. This is a requirement to reduce the amount for dirty water stored on a holding to meet Natural England, DEFRA and EA requirements in a Catchment Sensitive Farming area. The site would appear to be within a lower spatial priority area for water quality. This being the case increased weight can be attributed to the justification of the lagoon facility.

The applicant has submitted a document titled 'An assessment of current farm manure storage and management and recommendations for the future for higher Wick Farm'. This report identified that the farm has a very limited slurry storage facility. The farm is identified within a high rainfall area and so the proposal seeks to prevent surface water mixing with waste water. It is also understood that it is the EA requirement for lagoons to hold up to 4 months' worth of slurry. However, the lagoon would provide more than 5 winter months storage. Farm waste volume calculations have been submitted which identified a requirement for just over 5 months (at 22 weeks) for a volume of 4,945m<sup>3</sup>. When calculating the required capacity of steel or concrete store there is a requirement to include a minimum of 300 millimetres of freeboard. For earth-

banked stores it is a requirement for a minimum of 750 millimetres, this must be maintained during use (freeboard is the vertical distance between the crest of the tank or lagoon and the slurry surface). Once completed the slurry volume capacity of the lagoon would be equal to 5050m<sup>3</sup>. Accounting for the above average rainfall and freeboard capacity the volume and size of the proposed lagoon is not deemed unreasonable.

At the request of the LPA the applicant has been asked to provide justification for the site selection of the lagoon. The site selection derives from the aim to reduce the visual impact to ensure that this structure is seen in the context of the existing farm complex. Additionally the position would allow for gravity assisted drainage and would be the furthest position away from the water course but still be positioned within the field and serve the adjacent agricultural building.

Accordingly the lagoon being situated within a lower spatial priority area for water quality would appear to be justified, as a matter of principle.

### **Traffic implications during the construction phase**

Paragraph 32 of the NPPF indicates that development should only be prevented or refused on highway safety grounds if the residual cumulative impact of the development is severe.

The issues surrounding the traffic implications are two fold, firstly the impact of construction traffic in terms of highway safety and potential congestion on narrow country lanes. The second issue is assessing the impact upon residents in terms of environmental health issues.

The planning application has been submitted following an enforcement investigation involving the depositing of material on the land which resulted in a high volume of vehicle movements. This drew a large volume of complaints from those in the locality as it resulted in highway safety issues and traffic congestion. Indeed, the highway network serving the site mostly consists of sunken, narrow and winding country lines with little passing or manoeuvring opportunities.

Within the submitted construction traffic management plan two optimal routes are proposed to be used for the remainder of the construction phase. One for vehicles entering the site and one for vehicles leaving the site and returning to the A30. The highway authority has commented on the proposal and consider that the proposed routes would be acceptable. This would be subject to conditioning these appropriate routes, a CEMP, and completion of a before and after photograph record of the route to seek prevention of harm to the road surface and infrastructure.

Upon request the applicant has confirmed the amount of material required for the construction of the lagoon. The total requirement submitted would be for 38,880m<sup>3</sup>; comprising of 12,000m<sup>3</sup> imported material to date, with a further 23960m<sup>3</sup> of material yet to be imported. To produce the clay lining this would derive from land within the site (from the borrow pit) and would comprise of 2420m<sup>3</sup>. Indigenous spoil derived from within the site to create the lagoon platform of 500m<sup>3</sup>.

The EA has confirmed that a Waste Recovery Plan (WRP) is in place which forms part of the standard rules Environmental Permit. Although the permit covers quantities up to 60,000 tonnes, the WRP refers specifically to this site which is permitted to import the 38,000 tonnes referred to in the planning application. The required material to completed construction represents approximately 1800 loads in 14 tonne Lorries (the largest able to negotiate the access lanes safely).

Environmental Health have contacted the agent for clarification of traffic movements and he has confirmed that the times and vehicle movements stated in his letter (dated 29.11.2017) are what they are now proposing. The quantum of traffic movements and duration of this phase has not been made explicit (despite being requested) but it has been submitted that this would vary dependant on the economics of the situation. The revised construction management plan (prepared by Hydrock) at paragraph 3.2.3 states that there will be no more than 30 two way HGV movements per day, between Mondays and Fridays. Adopting a hypothetical scenario of max 30 two way movements per day (Monday to Friday) to import the required material of 1800 loads this would equate to 60 days, which translates into 12 week period (not accounting for bank holidays) of potential road traffic disruption - were this to be carried out in a continuous manner.

The applicant understands the concerns of the community with respect to vehicle movements in the lanes but considered that the original condition suggested by Environmental Health as too restricting. Environmental health propose delivery hours of 9am to 4pm with no more than 12 loads (24 movements) per day. This would represent a considerable improvement on the uncontrolled movements experienced earlier in the year which drew much complaint. Material is to be brought in as and when it is sourced from construction sites, and as construction sites are themselves hours restricted. A condition, as suggested by Environmental Health, would read:

*Importation of materials to the site shall only be permitted between 9am and 4pm on Mondays to Fridays, and not at all at weekends or on bank holidays. No more than 12 loads, 24 vehicle movements, shall be permitted on any day during these times.*

*Reason: To restrict impact on local residents during the construction phase of the development.*

Such a restriction would produce a longer overall period to conclude the works, but should mitigate harm to surrounding residents. This suggest condition is therefore considered both reasonable and necessary to limit this temporary harm throughout the construction phase.

Although it is not disputed that disturbance to the highway network would occur the indications are that this would be temporary and could be successfully mitigated with conditions. The resulting impact would not be considered severe. Therefore it would be unreasonable to withhold planning consent based on this temporary issue when the development, once complete, would endure.

### **The potential impact on the protection of groundwater and method of construction of the proposed lagoon**

The NPPF (paragraphs 120 and 122) stresses the need for LPAs to take into account the effects of pollution on health, the environment and to ensure that development is appropriate for its location. The NPPF establishes the role of planning to prevent development contributing to unacceptable levels of water pollution and to ensure in this respect it is appropriate for its proposed location. The Government's planning advice on the use of foul drainage in England is contained within the Planning Practice Guidance (PPG). Paragraph 020 of the NPPG on water supply, wastewater and water quality indicates that any planning application that proposes non-mains foul drainage should be accompanied by sufficient information to understand the potential implications for the water environment.

The Parish Council and local residents have raised concerns regarding the pollution risk from the proposed slurry store. There are nearby watercourse which at the bottom of the valley floor, which should the construction fail could suffer severe long term pollutant impacts. Whilst there is agreement with third parties that a precautionary approach is required, it is the opinion of the Councils Environmental Health department that the appellant has provided a proportionate but sufficient site investigation and construction plans to ensure that any risk of pollution or lagoon failure can be satisfactorily reduced to an acceptable level by viable and practicable methods.

The criterion 'contravention of recognised practices' includes consideration of the EA's 'Groundwater protection: policy and practice'. In considering possible 'damage to the environment and amenity', particular care should be taken to avoid damage to AONBs bearing in mind also that a proliferation of septic discharges can cause considerable harm to the water environment. The EA has its own Policy and Practice for the Protection of Groundwater under which it has identified Source Protection Zones around all significant groundwater abstractions. However, the EA have confirmed to the LPA that the application site is not within a source protection zone (SPZ).

Irrespective of the EA SPZ policy, The Environmental Permitting (England and Wales) Regulations 2010 prohibit the discharge of the most harmful List I Substances (including mercury, cadmium, oil and some other organic compounds) to the groundwater and greatly limit the somewhat less harmful List II Substances. This provides a statutory layer of protection against such pollutants.

Moreover, the EA has advised that the proposal must comply with the Control of Pollution (Silage, Slurry and Agricultural Fuel Oils) Regulations and the Nitrate Pollution Prevention Regulations. Such legislation is enforced by The Department for the Environment, Food and Rural Affairs (DEFRA), the EA and the Council's environmental health service. There is no firm evidence to indicate that these legislative regimes would not provide effective controls and the granting of planning permission does not remove the requirement to obtain the EA's approval before the slurry operations commence.

The amended plans sets out the construction methodology for the remodelling of the lagoon to reduce the steep gradient of its sides, the inclusion of a geo-grid reinforcement to the clay used in the construction, the installation of the impermeable membrane liner and the inclusion of a leak detection system. There is no substantive evidence to indicate that such measures would not be feasible and in this respect the EA and Environmental Health have not raised any objections, subject to conditions.

It should be noted that the proposal would not be sited in a Nitrate Vulnerable Zone.

The strongly felt concerns local residents regarding the stability of the embankments and the potential consequences should the sides of the lagoon fail are recognised. Furthermore, there have been explicit requests for an independent engineer to evaluate the proposal. That said there is no technical evidence on hand to suggest that such measures would be insufficient to support the structural stability of the lagoon or that the accompanying assessments are in any way inaccurate. The latest annotated drawings appear to note the relative slurry guidance and restriction on such a construction. The informal advice of the Council engineers have been sought and they have not taken issue with the gradient of the embankment.

A construction and environment management plan (CEMP) would be required in order to regulate working on the site itself to ensure that it does not unreasonably impact on the local community. Environmental Health recommend that this must comply in full with the requirements set out within the adopted East Devon DC Construction Sites Code of Practice which requires that working hours are restricted to 8am - 6pm Monday to Friday and 8am -1pm on Saturdays. No site vehicle shall be fitted with high frequency audible reversing alarms as these can be audible a considerable distance away, particularly in a rural area such as this. A condition requiring a CEMP should be included in any approval.

Slurry tanks, reception pits, pipes and channels must be impermeable and meet the anti-corrosion standards set in British Standard 5502-50:1993+A2:2010. They should last for at least 20 years with maintenance. The base and walls of slurry tanks and any reception pits must withstand the wall loadings set in the standard. For clarification it is the responsibility of the farmer or land manager to meet the general rules and properly manage the installation. As far as the remit of planning legislation the LPA consider that the proposal does not pose a threat to the nearby watercourse, given the expert views of the EA, Environmental Health and the informal opinion of the Councils Engineers. Accordingly this issue would not preclude planning consent being given.

### **Justification for the finish floor level of the proposed lagoon**

Considering that there has been identified harm to the AONB landscape a valid question it to ask whether the quantum of imported material is necessary. A scenario could be envisaged where the actual lagoon is placed within the same position on the slope of the land, but instead set further down within existing ground levels thereby reducing the need to create the same height of an embankment to contain it.

The EA are aware of a marked spring 'issue' at NGR ST 17107 04236, the watercourse of which, flows alongside the northern hedge line, where it enters the River Love at NGR ST 16800 04218. The EA have also stated there may be a drainage ditch the runs along the southern side of the field. The lagoon must not be within 10m of any watercourse, drain or ditches which the proposed position currently appears to accord with. However, there is no evidence of a water table being sited under the proposed level of the slurry lagoon which would prevent it from being positioned at a lower depth.

The applicant has been asked this question directly. The response include a typical water table representation and a statement that *'The water table will typically rise from the trail pits location into to the side of the hill, as per figure 2'* (sic). However whilst there a photograph of an apparent trail pit there is no evidence as to its depth, size or position on the slope. Therefore there is no definitive answer is provided as to where the winter water table actually lies under this slope.

The applicant contends that if a deeper lagoon is to be created this would result in two roads, one to allow maintenance of the farm buildings and one to allow the lagoon to be lined. Why there needs to be a permanent access road for the construction has not detailed but as a consequence of this construction access the position of the lagoon would have to move approximately 4.5 metres further down the slope. Even if there is a suitable explanation for the creation of this permanent access route this has not been made explicit within the submitted information. Further, it is claimed that a deeper lagoon could compromise the existing buildings higher up the slope. However, no engineering literature or calculations accompanies the proposed to justify this view.

Given the above there remains insufficient justification to explain why the quantum of material needs to be deposited on the site in order to create the embankment. As previously identified there is resulting harm to the AONB landscape. Increased weight can be placed upon this harm as it is by no means clear on the basis of the submitted information that the massing and height of an engineered landform is necessary.

#### **Impact on a heritage asset (Dumpdon Hill)**

To the east of the application site, and at a higher level, is Dumpdon Hill - an iron age hill fort owned and maintained by the National Trust. This is a categorised as a scheduled ancient monument (SAM) (ref; SAM/29661/LUPP) a heritage asset which should be attributed considerable importance and weight. The monument includes Dumpdon Camp, a prehistoric hillfort located on a detached hill, 260m high, at the southern end of a steep-sided ridge of Upper Greensand between the River Otter and the Luppitt Brook. The flat topped and triangular shaped hillfort of 2.6ha was defended by two substantial ramparts and ditches on the northern side, controlling the only easy line of approach, and by single ramparts on the east and west sides. A single inturned entrance on the north east side provided the only known point of entry. The layout of the defences largely reflects the configuration of the hilltop which is flattest and widest towards its northern end, narrowing down to a steep sided point at its southern end. The northern approach required the strongest artificial protection and here the defences were bivallate with a berm 30m wide separating two ramparts and their accompanying ditches. Evidence from outside numerous examples of small multivallate hillforts suggests that extra-mural settlement was of a similar nature. Small multivallate hillforts are rare with around 100 examples recorded nationally. Most are located in the Welsh Marches and the south-west with a concentration of small monuments in the north-east. In view of the rarity of small multivallate hillforts and their importance in understanding the nature of settlement and social organisation within the Iron Age period, all examples with surviving archaeological remains are believed to be of national importance.

Under paragraph 132 of the NPPF great weight should be given to the scheduled monuments conservation. Dumpdon Hill is a prominent landmark and distinctive due

to a copse of beech trees at its summit. This landmark is perceptible in the landscape from long and distant range views.

Although historically the application site likely formed some part of the relationship with the Hill fort - being situated on the lower slopes, its relationship is visually no longer apparent and given the distance and positioned of existing buildings. The proposal is unlikely to affect interpretation of multivallate earthworks which are concentrated higher up the hill. Further, the application site does not interfere with the circular footpath and therefore interrupt public enjoyment or appreciation of the SAM. Dense treeline trees and topography prevents direct inter-visibility. The boundary features of the site and field shapes would remain intact and as a result the proposal would not alter the interpretation of the original farmstead or the existing relationship with the SAM. It is perhaps disappointing that the applicant has not fully elucidated upon the relationship between the site and assessment of the heritage asset, in accordance with paragraph 128 of the NPPF. Nevertheless, the LPA are satisfied that the proposal does not result in harm to the setting of the heritage asset or its interpretation and so the proposal avoids constituting 'less than substantial harm' referred to in paragraph 134 of the NPPF. Even if 'less than substantial harm' were to be found the wider public benefits to the protection and improvement of ground water quality, resulting in an environmental improvement would outweigh any less than substantial harm to the significance of this heritage asset.

An archaeological report has accompanied the proposal which the Devon County Archaeologist has considered sound and should be secured via condition.

There are listed building within the general vicinity of the application site however the distance and topography means that the setting of these are not comprised by the development proposed with special regard paid to Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### ***Other matters***

Concerns have been raised regarding the potential odour from the slurry from the farm to the lagoon. Officers are not aware of any complaints regarding odour or any concerns raised by the Environmental Health department. Moreover, people living and working in a rural environment should reasonably be expected to be aware of possible odours from the keeping of livestock can occur.

There has been concern regarding the knock on impact on the local tourist industry. However, considering the agricultural works are justified and would form part of an agricultural holding, which in turn has led to define the shape and character of the area

It is understood that there may be monetary gain through the importation of material to the site and accordingly there may be little incentive to minimise the material deposited on the site. However, this any potential 'profit issue' that may arise through depositing material does very little to weigh against the current scheme.

### **The planning balance**

Paragraph 7 of the NPPF outlines that there are three dimensions to sustainable development: economic, social and environmental. Paragraph 8 explains that these dimensions should be undertaken in concert in order to achieve sustainable development.

In this instance, taking into account the above, the proposal would provide a potential solution to current slurry issues and support the rural economy which in term would support the vitality of rural communities. Both the capacity and purpose of the lagoon has been justified as a matter principle.

Given the site history and past activity on the site without going through the appropriate channels the concern of the parish council and local residents is understandable. There are complexities to untangle surrounding the responsibility of each official body in relation to the differing elements of this proposal. However, the Environmental Health team consider that the construction can be carried out in a responsible manner without overriding harm to neighbouring properties. There are British Standards in place for the construction of slurry tanks to ensure its soundness and so it is for the applicant to ensure compliance with this and all other legislation. The Environment Agency do not consider there to be a threat to the nearby watercourse, indeed it could provide an opportunity to remedy past environmental issues. That said weight should be tempered in this regard as environmental issues have resulted from apparent breaches of other types of environmental legislation. To use such breaches as justification would reward unsatisfactory site conditions. Additionally, the Highway Authority does not raise an object to the impact on the surrounding highway network.

The crux of the issue relates to the visual harm to the AONB and the agricultural need for the slurry lagoon which would aid the ongoing agricultural operation and support and boost the rural economy. There is no evidence to suggest planning consent ref; 10/1056 represents a valid fallback position in terms of being able to implement that consent.

However, given the above the height and mass of the required material to be deposited on the site to create the embankment this would appear discordant with the surrounding landforms which largely remain unaltered. Further, there is a lack of justification as to why this amount of deposited material is required and why the finished floor levels of the lagoon cannot be made lower within the existing ground levels. As a result the proposal neither conserves nor enhances the designated AONB landscape, which enjoys the highest status of protection. Accordingly, and in line with the NPPF, the environmental dimension is not met. As each dimension, environmental, economic and social, is required to act in concert the proposal does not constitute sustainable development.

## **RECOMMENDATION**

REFUSE for the following reason;

1. The proposed embankment to contain the slurry lagoon would result in the significant raising of the ground levels with the importation of a large quantum of material. This would result in a high magnitude of change to both the visual appearance and established character of the Area of Outstanding Natural Beauty, the conservation and enhancement of which is attributed great weight in the planning balance. By reason of the proposed significant height and mass the proposed embankment element would result in a highly engineered landform feature that would appear out of keeping with the surrounding landscape, which remains relatively untouched. Further, there is insufficient justification as to why the lagoon could not be lowered further down into the existing ground levels, thereby reducing the requirement for the importation of this amount of material. As the identified harm cannot be successfully mitigated with landscaping there is conflict with Strategy 7 (Development in the Countryside), Strategy 46 (Landscape Conservation and Enhancement and AONBs) and policies D1 (Design and Local Distinctiveness) and D2 (Landscape Requirements) of the adopted East Devon Local Plan and guidance contained within the National Planning Policy Framework.

#### NOTE FOR APPLICANT

##### Informative:

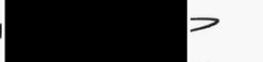
In accordance with the requirements of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 in determining this application, East Devon District Council has worked proactively and positively with the applicant to attempt to resolve the planning concerns the Council has with the application. However, the applicant was unable to satisfy the key policy tests in the submission and as such the application has been refused.

##### Plans relating to this application:

2077.001 B: LANDSCAPE MITIGATION	Additional Information	30.11.17
1715-06 A	Additional Information	30.11.17
1715-07 A	Additional Information	30.11.17
1715-08 A	Additional Information	30.11.17
1715-09 A	Additional Information	30.11.17

##### List of Background Papers

Application file, consultations and policy documents referred to in the report.

Ward Member 3 day consultation completed	Yes	
gds	<u>klead vf=P+aRRinfl/</u> Development Manager/ <u>Asst Deýt Marutger/</u> <u>SeRier Plar.ner =</u>	<del>ChairN</del> <b>ice-Chair of</b> Development Management Committee
Authorised By		
Date	10/4/18	10-04-2018







