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<b>Application Number:</b>	22/00936/FUL
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<b>Application Type:</b>	Full Application
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<b>Proposal Description:</b>	Engineering Operation for creation of Access Track and Bio-fertiliser Storage Lagoon.
<b>At:</b>	Red House Farm Doncaster Road High Melton Doncaster

<b>For:</b>	Mr M & T Woolhouse
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<b>Third Party Reps:</b>	123 objections	<b>Parish:</b>	High Melton Parish Council
		<b>Ward:</b>	Sprotbrough

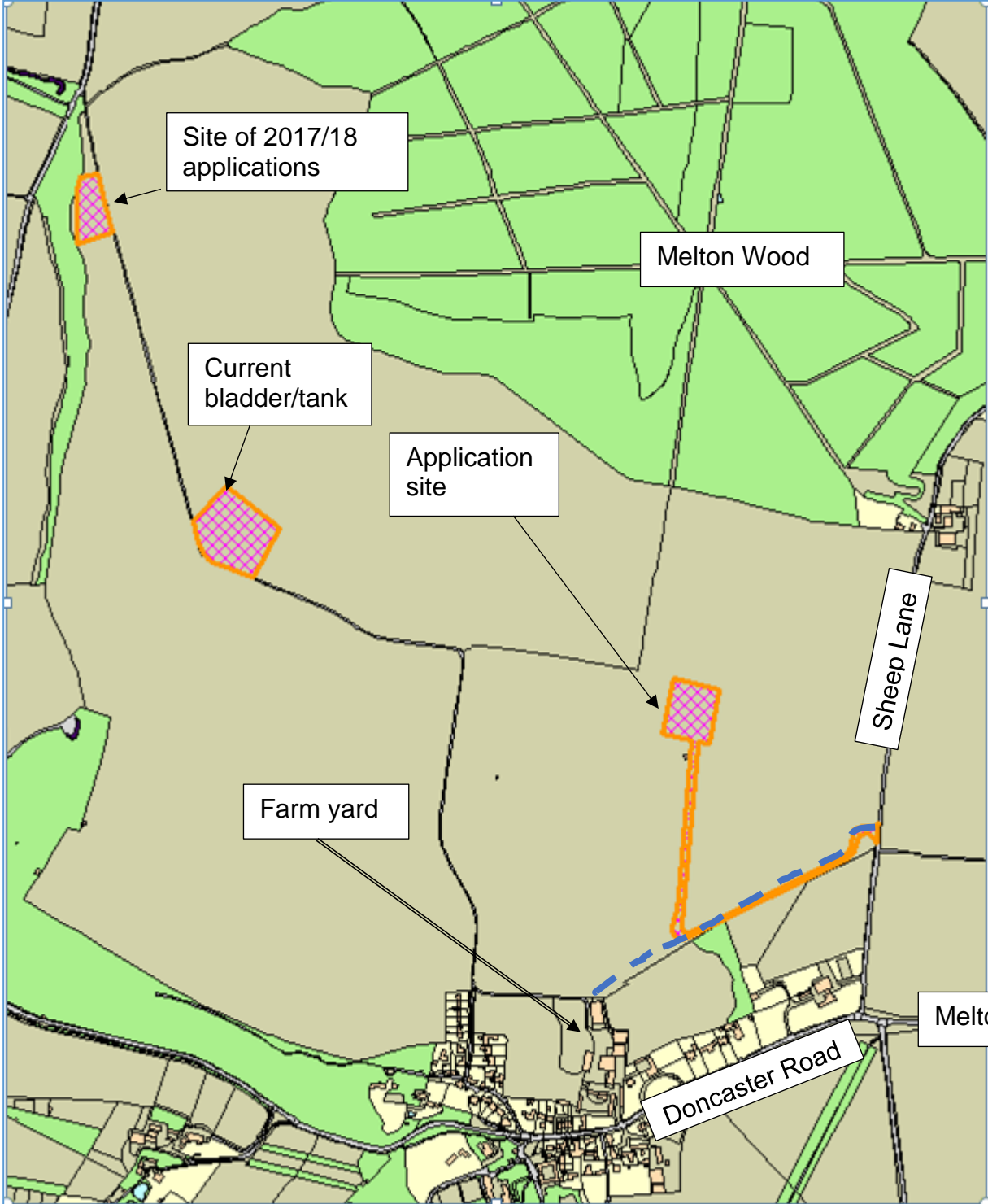
<b>Author of Report</b>	Mark Ramsay
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## SUMMARY

This proposal seeks planning permission for engineering operations to create a lagoon to store Bio-fertiliser within the holding of Red House Farm to allow the timely spraying of crops without having to await deliveries. The proposal also includes a spur from the already authorised access track that leads from Sheep Lane to the farmyard. This will replace the existing tank used for storing Bio-fertiliser which is located further to the west and is currently accessed from Hangman Stone Lane and requires delivery vehicles to exist the farm within the village.

The application is being presented to Planning Committee given the level of public interest.

**RECOMMENDATION: To GRANT planning permission subject to conditions.**



Route of track  
20/02080/FUL

## **1.0 Reason for Report**

- 1.1 This application is being presented to committee due to the high level of interest in the proposal.
- 1.2 The application was deferred from the planning committee held on the 04<sup>th</sup> April 2023 to:
  - Provide clarity on the extent of the farm holding;
  - Identify on what parcels of land the digestate would be used;
  - Provide clarity in respect of the planning history; and;
  - To provide clarity in respect of the difference in odour between the existing bladder tank and the proposed development.

## **2.0 Proposal and Background**

- 2.1 The proposal comprises of the excavation of soil to then be used to create banking to form a lagoon that would enable approximately 6,000m<sup>3</sup> of Bio-fertiliser to be temporarily stored before use on the farm. The lagoon will be lined and covered with high strength Polyolefine, and the seams will be welded and include vents.
- 2.2 The digestate or 'Bio-fertiliser' material will be produced from the anaerobic digestion of food waste. The Bio-fertiliser that is to be stored within the proposed lagoon will have achieved British Standard Institution's Publically Available Specification – BSI PAS110 - prior to dispatch from the producing anaerobic digestion site, i.e., it is a product not a waste. This specification provides a baseline quality specification for digestate, ensuring that it is safe and reliable to use. PAS110 includes requirements about how food waste and other materials can be processed, and forms the main part of the bio-fertiliser Certification Scheme. This certification will ensure that the material is of a consistent quality, is sanitised and stable.
- 2.3 The farm holding is principally in arable production growing wheat, potatoes, sugar beet, oil seed rape and haylage. The Bio-fertiliser will be delivered by tanker (as it currently is to the mesh bladder/tank on the farm) and then transferred to and from the lagoon via sealed pipework that will connect the tanker to a discharge station. The discharge station includes a double valve assembly and a sump (PVC overflow drum) to capture any spills during discharge/ filling and also enables the lagoon to be completely emptied, if required. The Applicant's own farm tanker will be used for the removal of digestate for spreading on the land.
- 2.4 The existing bladder/tank within the Farm Holding is served by a track way that runs from the farmyard in the south through to Hangman Stone Lane in the north. This track is of a limestone and road scalping's surface and currently serves the farm holding for farm vehicle movements. This trackway is in part also a public footpath and bridleway. The proposal will render the existing bladder tank redundant and remove the requirement for delivery vehicles to access the farm on the bridleway/footpath.

- 2.5 A new access to the site of the proposed lagoon is partly permitted and under construction from Sheep Lane to the existing farm yard in order to serve a new barn. A new spur will link this access to the lagoon. This new access will provide access to the lagoon from Sheep Lane and avoid deliveries of bio-fertiliser from having to use the access to the farm from Doncaster Road which is in the middle of the village. Tankers will enter and leave the farm from the new access road which is specifically designed for the farm and its specialist vehicles.
- 2.6 The applicants have provided more detailed information regarding how they calculated the required size of the lagoon. This is based on the planting of 186 ha. of land north of High Melton Village and east of Sheep Lane (see appendix 1). During February and March all the land is planted and requires 30 to 50 cu m of fertiliser per ha over the period. Once filled to capacity, the lagoon would provide sufficient capacity to allow the crops to be fertilised at the most optimum time (while still being topped up as regular deliveries would continue). While the applicant also has other land in their holding they have stated that for the lagoon to serve any more land, it would have to be even bigger and also involve double handling which is logistically impractical and they do not intend to transfer the contents elsewhere.

### 3.0 Site Description

- 3.1 The application site lies within the farm holding of Red House Farm and is located, on land to the north of the west of the farmyard. High Melton village principally lies along Doncaster Road running east-west and the site of the lagoon would be approx. 0.5 km to the north of the village to the west of Sheep Lane.
- 3.2 The farmyard itself lies adjacent to High Melton Village and the associated farm land extends to a total of 190 hectares to the north and east of the village. Sheep Lane runs through the land holding with 40 hectares lying to the east of the road.
- 3.3 The farm buildings are located around the farm yard and comprise large modern agricultural buildings used for machinery storage crop drying and storage. The original and historic farm buildings lie principally within another ownership south of the working farmyard.

### 4.0 Relevant Planning History

#### 2017 and 2018 applications

Application Reference	Proposal	Decision
17/00808/FUL	Proposed excavation and installation of biofertiliser lagoon, access area and 1.8m stock proof fence - also Underground pipe conduit under SHEEP LANE.	Refused 20 November 2017
Reason for refusal		
1. The proposed development would detract from the enjoyment and safety of users of the Public Right of Way through an increase in vehicle movements being contrary to Policies CS3 and CS 17 of the Doncaster Council Core Strategy (2011-2018) adopted May 2012.		
2. The development would lead to the creation of a dangerous access on Hangman Stone Road and dangerous exit on Doncaster Road where there is reduced visibility.		

This is contrary to Policy CS3 of the Doncaster Council Core Strategy (2011-2018) adopted May 2012.		
18/00269/CPL	Certificate of proposed lawful development for engineering operation to construct a bio-fertiliser lagoon.	Refused 02 July 2018
Reason for refusal The applicant has failed to provide sufficient information to demonstrate that it falls within Class A of Part 6 of the Permitted Development Order. Without sufficient information, the application for a Certificate of Proposed Lawful Use should be refused.		

- 4.1 The application in 2017 was for a site at the north west corner of the farmstead close to the access to Hangman Stone Lane from Hangman Stone Road, which is south of the Marr Wind Farm. This was for a lagoon of similar capacity as the current proposal. It was proposed to cover a smaller area but deeper than this application. It was to be covered by floating boards rather than a polyefine cover with welded seals that is included in the current application and would share its access with a public bridleway whereas this application will have its own access from Sheep Lane.
- 4.2 The first application sought consent in terms of gaining planning permission for the development and was refused by members at a Planning Committee in November 2017 for reasons relating to safety of users of the public bridleway (that doubles up as farm access running through the farmstead from Hangman Stone Road to the farm yard). The second reason for refusal was that the access from High Melton village on Doncaster Road presented safety concerns.
- 4.3 The 2018 application sought to show that the same development was in fact permitted development under Part 6 of the General Permitted Development Order 2015 as amended and, therefore, would **not** require planning permission. In determining the Certificate application a planning judgement or balancing exercise on the merits of the development was not made. It was determined on the basis of whether the proposed development would comply with the relevant legislation.
- 4.4 It was considered by officers, following legal advice from Counsel that the applicant had failed to provide sufficient information to demonstrate that it falls within the relevant parts of the Order. Without there being sufficient information, the application for a Certificate of Proposed Lawful Use was refused.

### 2018 development and subsequent Enforcement Appeal

19/00003/ENFNOT (Planning Inspectorate ref APP/F4410/C/19/3222400)	Appeal against enforcement action for alleged unauthorised installation of bladder tank under grounds A, C, E, F and G.	Appeal allowed Enforcement Notice Quashed and planning permission granted 17 August 2021
'The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely a mesh silo in the position shown on the Plan attached to the notice with the dimensions of 3 metres high from the ground, and 23		

metres in diameter with a capacity of 1,250 cubic metres incorporating associated pipework, the materials being galvanised steel mesh outer basket and black inner impermeable liner, at land situate and known as land north of Hangman Stone Lane, High Melton, Doncaster.'

### Background

- 4.5 In 2018 a bladder/tank (as referred to by the applicants and 'mesh silo' as referred to by the Planning Inspector) was erected adjacent to Hangman Stone Lane without planning permission. The applicants asserted that planning permission was not required and an Enforcement Notice was served by the authority. The appeal was heard by an Inspector at a Public Inquiry in 2021 and a decision issued 17 August 2021 (19/0003/ENFNOT/APP/F4410/C/19/3222400) quashing the enforcement notice and issuing planning permission (see appendix 6).
- 4.6 There are matters of note from the decision notice issued by the appeal inspector. In paragraph 24 of the decision letter, it was confirmed that the mesh silo is a building used for the purposes of agriculture and that agricultural buildings are not inappropriate development in the Green Belt as expressed in paragraph 149 of the National Planning Policy Framework.

### Landscape

- 4.7 At the time of the Inquiry the site was designated as being within an area of Special Landscape Value as set out in the Unitary Development Plan and an there was a published assessment that the Inspector referenced. While this has been superseded by Local Plan Policies the Inspector comments about the landscape (paragraph 32 & 33) being dominated by the Marr Wind Farm and Electric Pylons and are 'substantial pieces of infrastructure'. This was relevant when considering the impact on the landscape of the appeal site and although it is approximately three-quarters of a kilometre further east, they are prominent in the setting of the application site of the lagoon. This also goes to the tranquillity of the setting or lack thereof due to the appearance of the infrastructure. It is further noted that although rural, the appeal site is a working farm with '...activity associated with this working landscape, including movements by vehicles and farm equipment. Some of that activity, previously, related to the use of bladder tanks for the storage of Digestate through the use of bladders either suspended in the farm yard or placed on the land.
- 4.8 Consequently, in relation to perceptual qualities of this landscape, activity levels on the appeal site formed a part of the baseline against which the development, subject of the appeal, was assessed. Similarly the application site of the lagoon is well inside the working area of the farm.

### Digestate/bio-fertiliser

- 4.9 The 2021 appeal heard evidence that explained that Digestate is one of the products of anaerobic digestion (paragraph 44). Digestate is certified under the bio-fertiliser certification scheme to PAS 110 standard. As such, it is not a waste material and does not require an environmental permit or exemption to be in place prior to application to land.

- 4.10 Digestate is a valuable source of essential plant nutrients, such as nitrogen, phosphate and potash, and is low in potentially toxic elements. Anaerobic digestion is a continual process, so a means of storage for the digestate is essential to enable the process of anaerobic digestion to continue. Having the storage facility on the farm itself means that when the time for application is appropriate the digestate can be spread promptly, efficiently and above all, accurately to the land. The odour given off by digestate, whilst unpleasant, is not known to be noxious.

#### Odour

- 4.11 The 2021 Public Inquiry heard that there were objections to the odour given off by the digestate from the mesh silo (paragraph 49). Upon the site visit the Inspector noted the odour of the digestate was apparent when standing downwind of the mesh silo and recognised that it was an unpleasant smell although confined to an area close to the mesh silo. He noted that it may be stronger and travel further at other times; for example, when digestate is being delivered to the mesh silo and being transferred into it from the tanker, and/or when the wind is stronger.
- 4.12 The Inspector noted that details of complaints about odour had not been provided to the Inquiry (although all the representations provided in response to the publicity to the Inquiry had been sent to the Inspector). Upon checking with the Environmental Health Officer, the complaints received in terms of a statutory nuisance had nearly all been in regard to spreading on land and not the operation of the tank. There were a very small number of incidents of spills occurring from deliveries and the Inspector noted in his report sight of some material on the ground, by the tank, when he did his visit.
- 4.13 The Inspector noted that the closest residential properties were some distance away and the application of digestate to land is a legitimate farming operation. The smell associated with fertilizers is associated with farming, and in that respect is not unexpected in this location. The Inspector did not consider the chemical composition of digestate to be a material consideration that weighs against the development.

#### Delivery of the Digestate

- 4.14 The 2021 Public Inquiry heard about the access used by delivery vehicles to the mesh silo (paragraph 52). The appellant stated that the average number of tanker movements delivering the digestate would be approximately 208 per annum, which equates to just over 2 vehicle movements per day and is dictated by the maximum permissible quantity of bio-fertiliser which can be applied on this block of land. The lagoon subject of this application is substantially larger and would require approximately double the frequency of movements to keep it filled although it is on a different part of the farm and would have a different access.
- 4.15 The tankers currently access the mesh silo along the farm track starting where Hangman Stone Road and Hangman Stone Lane meet and the appellant/ applicant uses a one-way system along that farm track. The farm track is also a public right of way (Bridlepath High Melton No.1). The Inspector noted the potential conflict with walkers, cyclists and riders but was more concerned about the amenity of nearby dwellings that might be affected by deliveries at unsocial hours (stated as early as 05.45 and as late as 21.00).

The Inspector in allowing the appeal required conditions for traffic management (paragraph 55) and an odour management plan to be agreed with the Local Planning Authority.

- 4.16 The bladder/tank currently used to store bio-fertiliser allowed by the appeal decision will become redundant should the lagoon be allowed and the applicants accept that this can then be removed.

### 2020 application

20/02080/FUL	Proposed Erection of Hay Store (36.81m x 27.1m) and provision of new farm access track from Sheep Lane.	Granted December 2020
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- 4.17 In 2020 an application was approved for a new barn at the north end of the farmyard in connection with the provision of a new access from Sheep Lane. The access from Doncaster Road is relatively narrow and was proving difficult for large delivery vehicles to turn in and out of.

- 4.18 The access in the 2020 approval overlaps with the access to the proposed lagoon to be used by vehicles delivering digestate. The current application adds a spur from this track running north to serve the lagoon and would result in all deliveries of bio-fertiliser to enter and leave from Sheep Lane and not require access to the bridleway or the entrance to the farm in High Melton village. The increase in number of movements and impacts on amenities of nearby residents is discussed in the assessment of the current application.

### Other development

- 4.19 Red House Farm has had various applications for development not directly related to the storage of bio-fertiliser in recent years and these are listed below for completeness;

Application Reference	Proposal	Decision
15/00142/FUL	Formation of hardstanding to store agricultural produce	Planning permission granted 10.04.2015
16/00038/FUL	Demolition of agricultural cart shed within a conservation area (part retrospective)	Planning permission refused 10.05.2016
19/01941/FUL	Proposed installation of ground source heat pump for existing adjacent grain store.	Planning permission granted 08.10.2019
19/02658/FUL	Installation of ground source heat pump for existing adjacent grain store (being resubmission of application 19/01941/FUL, granted on 08/10/19) including substation	Planning permission granted 23.12.2019
20/01025/FUL	Installation of ground source heat pump for existing adjacent grain store	Planning permission granted 11.05.2020



20/01423/AGR	Prior notification for the erection of a hay/grain store.	Prior approval refused 06.07.2020
20/01734/FUL	Demolition of the remainder of existing barn and erection of replacement building for use as farm office.	Planning permission granted 09.10.2020
20/02080/FUL	Proposed Erection of Hay Store (36.81m x 27.1m) and provision of new farm access track from Sheep Lane.	Planning permission granted 23.12.2020
22/01274/PRIOR	Notification to determine if prior approval is required for Installation of 158.8W roof mounted PV system comprising of 418 x Canadian Solar 380w modules	Planning permission not required 13.09.2022
22/02151/PRIOR	Application to determine if prior approval is required for the proposed Installation of other Solar Photovoltaics (PV) equipment on the roof of existing barn.	Prior approval not required 30.09.2022
22/02528/FULM	Installation of a ground mounted solar PV system comprising of 2640 x Canadian Solar 380w solar panels'	Pending consideration

## 5.0 Site Allocation

5.1 The site is identified as being within the South Yorkshire Green Belt as shown in the Doncaster Local Plan.

## 5.2 National Planning Policy Framework (NPPF 2021)

5.3 The National Planning Policy Framework 2021 (NPPF) sets out the Government's planning policies for England and how these are expected to be applied. Planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions and the relevant sections are outlined below:

5.4 Paragraph 2 states that planning law requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise.

5.5 Paragraphs 7 – 11 establish that all decisions should be based on the principles of a presumption of sustainable development.

5.6 Paragraph 38 states that local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.

- 5.7 Paragraph 47 reiterates that planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.
- 5.8 Paragraphs 55 and 56 states that Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. Planning conditions should be kept to a minimum and only be imposed where necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.
- 5.9 Paragraph 111 states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 5.10 Paragraph 119 requires planning policies and decisions to promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.
- 5.11 Paragraph 130 states that planning decisions should ensure developments will function well and add to the overall quality of the area, are visually attractive and optimise the potential of the site.
- 5.12 Paragraphs 147 -150 states that development in the Green Belt is inappropriate unless there are very special circumstances except for a number of types of development that are not considered inappropriate such as engineering works and agricultural buildings.
- 5.13 Paragraph 183 states planning policies and decisions should ensure that a site is suitable taking account of ground conditions and any risks arising from land instability and contamination.
- 5.14 Paragraph 184 states where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

### **Local Plan**

- 5.15 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires proposals to be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan for Doncaster consists of the Doncaster Local Plan (adopted 23 September 2021). The following Local Plan policies are relevant in this case:
- 5.16 Policy 1 Settlement Hierarchy (Strategic Policy) sets out that High Melton is a Defined Village and that decisions for development in the Green Belt will be taken in accordance with policies set out in the National Planning Policy Framework.
- 5.17 Policy 13 relates to sustainable transport within new developments. Part A.6 states that proposals must ensure that the development does not result in an unacceptable impact on highway safety, or severe residual cumulative impacts on

the road network. Developments must consider the impact of new development on the existing highway and transport infrastructure

- 5.18 Policy 41 of the Local Plan states that development proposals will be supported where they respond positively to their context, setting and existing site features, respecting and enhancing the character of the locality; and where they integrate visually and functionally with the immediate and surrounding area at a settlement, neighbourhood, street and plot scale.
- 5.19 Policy 46 sets out that all non-residential and commercial developments, must be designed to be high quality, attractive, and make a positive contribution to the area in which they are located and have no unacceptable negative effects upon the amenity of neighbouring land uses or the environment.

### **Other material planning considerations and guidance**

- Transitional Developer Guidance (2022)
- National Planning Policy Guidance

### **5.20 Neighbourhood Plan (NP).**

- 5.21 No neighbourhood plan is relevant to this application.
- 5.22 Doncaster Council adopted the Biodiversity Net Gain Supplementary Planning Document (SPD) in September 2022, and the document is a material consideration in decision-making
- 5.23 Doncaster Council's previous suite of adopted Supplementary Planning Documents (SPDs) have been formally revoked in line with Regulation 15 of the Town and Country Planning (Local Planning) (England) Regulations 2012, following the adoption of the Local Plan. The SPDs refer to superseded development plan policies, and some provide guidance which is not in accordance with the new Local Plan. The Transitional Developer Guidance (April 2022) provides guidance on certain elements, including design, during the interim period, whilst new SPDs to support the adopted Local Plan are progressed and adopted. The Transitional Developer Guidance, Carr Lodge Design Code and the South Yorkshire Residential Design Guide (SYRDG), should be treated as informal guidance only as they are not formally adopted SPDs. These documents can be treated as material considerations in decision-making, but with only limited weight

### **6.0 Representations and consultations**

- 6.1 This application has been advertised in accordance with Article 15 of the Town and Country Planning Act by display of site notice close to the site and letters to neighbouring properties
- 6.2 118 individual representations were received objecting to the proposal and the matters raised include;
- loss of amenity through noise, traffic, noxious odour, air quality;
  - scale of the storage facility when compared with the bladder/tank;
  - extra movements of large vehicles on country roads and through Sprotbrough village;

- water pollution;
- validity of odour management plan; and;
- management of current spreading on the farm.

6.3 Since the application was deferred at the Planning Committee in April, 5 further representations have been received, 4 objecting to the proposal and 1 in support. The matter raised include:

- concerns regarding access to the lagoon
- environmental risks
- considered the existing storage as sufficient.
- the odour management plan is insufficient, and,
- implications of a permission that was overturned in a legal case, connected with a proposal for a chicken shed and the subsequent spreading of manure on adjacent land resulting from that development.

## **7.0 Town/Parish Council**

### **High Melton Parish Council**

7.1 High Melton Parish Council resolved to object to the proposal.

### **Sprotbrough and Cusworth Parish Council**

7.2 The main areas of concern relate broadly to two material planning considerations;

- Impact on local amenity in relation to noise and odour, and,
- Impact on the local highway network.

‘The proposed application will have a significant impact on the resident’s enjoyment of their home, the village of Sprotbrough and the surrounding area with persistent odour pollution from the development either by the effect of prevailing winds or the pooling of odour.

7.3 We note the response from the Environment Agency to this application dated 24th May 2022 and endorse the view relating to the advice given regarding compliance with The Water Resources (Control of Pollution) (Silage, Slurry and Agricultural Fuel Oil) (England) (SSAFO) Regulations 2010 and as amended in 2013 and The Reduction and Prevention of Agricultural Diffuse Pollution (England) Regulations 2018.

7.4 With regard to impact on the local highway network there will be an increase in heavy goods vehicles through the Parish – notably Sprotbrough Road, as this is the most direct route to Bentley where ReFood is located. This type of traffic is unsuitable through a residential area which includes a primary school at Richmond Hill adjacent to the road.’

## **8.0 Relevant Consultations**

### **Environmental Health**

- 8.1 Version 2.1 of the Odour Management Plan is agreeable with the measures to be taken considered suitable and sufficient to control the potential for odour emissions from the proposed storage lagoon.

### **Environment Agency**

- 8.2 No objections but have highlighted the legislation that the developer will need to comply with, in terms of avoiding pollution, should permission be granted.; i.e. Water Resources (Control of Pollution) (Silage, Slurry and Agricultural Fuel Oil) (England) (SSAFO) Regulations 2010 and as amended 2013 and Reduction and Prevention of Agricultural Diffuse Pollution (England) Regulations 2018. It is recommended to include informatives to this effect in the decision notice.

### **Highways**

- 8.3 No objections subject to minor alterations required to ensure sufficient turning for delivery vehicles.

### **Natural England**

- 8.4 No objections.

### **Yorkshire Wildlife Trust**

- 8.5 No objections.

### **Public Rights of Way**

- 8.6 The Public Rights of Way team has no objection to the planning application.

Access to the proposed lagoon site is along the new farm access track from Sheep Lane (approved under application ref: 20/02080/FUL) and a proposed link from this track to the lagoon. Public footpath No.4 High Melton crosses the new farm access track. Given the likely increase in traffic from vehicles accessing the lagoon, provision needs to be made to safeguard pedestrians using the public footpath. The farm access track poses a new hazard to pedestrians, previously it was a field with not interaction with vehicles other than during agricultural operations.

### **Ecology**

- 8.7 No objections - in order to provide net gain for bio diversity a condition requiring a landscaping scheme comprising equivalent to two habitat units is required.

## **9.0 Assessment**

- 9.1 For the purposes of considering the balance in this application the following planning weight is referred to in this report using the following scale:

- Substantial
- Considerable
- Significant
- Moderate
- Modest

- Limited
- Little
- No

### Principle of development

- 9.2 The main assessment in this report will directly be related to the creation of the lagoon and its use. In considering the proposal, the main material planning considerations are outlined below:
- 9.3 The application site falls within the South Yorkshire Green Belt as shown on the Policies Map that supports the Doncaster Local Plan 2015-2035. Local Plan Policy 1 is relevant and states that for development in the Green Belt national planning policy will be applied including the presumption against inappropriate development except in very special circumstances.
- 9.4 Paragraphs 147-150 of the NPPF set out that certain types of development are not considered inappropriate in the Green Belt and these include agricultural buildings and engineering operations (provided they preserve its openness and do not conflict with the purposes of including land within it). The proposal is considered to fall within the exemptions highlighted in paragraphs 149 (a) of the NPPF and therefore, the proposal does not need to demonstrate very special circumstances.
- 9.5 Paragraph 84 of the NPPF also states that planning decisions should support the sustainable growth and expansion of all types of business in rural areas through the development and diversification of agricultural and other land-based rural businesses.
- 9.6 The proposal has been screened for an Environmental Impact Assessment (EIA) in accordance with The Town and Country Planning (Environmental Impact Assessment) Regulation 2011. The proposal is not Schedule 1 development requiring mandatory EIA. The proposal is, however, potentially caught by Schedule 2 (Part 11) i.e. Installations for the disposal of waste (within 100 metres of controlled waters). The proposal is not strictly speaking 'disposal' as it is to be stored for the beneficial use as a fertiliser on adjacent land. Nevertheless, it is akin to such considerations and the assessment criteria laid out in Schedule 3 have been assessed.
- 9.7 The impact of storage of this material has been considered and it is unlikely that the proposal will have a significant effect on the environment in terms of the characteristic of the development, the location of the development or the characteristics of the potential impact. Also, the material to be stored is already spread onto this agricultural land and is subject to regulations laid down by the Department of Environment, Food and Rural Affairs (DEFRA) and subject to regulation by the Environment Agency.
- 9.8 The application has been deferred from the 5<sup>th</sup> April Planning Committee as members sought clarity in relation to the size of the farm holding and where the digestate associated with this application would be spread. The applicant has confirmed through the additional statement from their consultants that the intention is to have sufficient capacity for the lagoon to provide fertiliser for the 186ha of land north of the village and to the east of Sheep Lane (see map at appendix 1).

- 9.9 This requirement is particularly acute during February and March when historically all the land requires fertiliser because it is being farmed at the same time (see table 1 at appendix 5). It is stated that the requirement is between 30 and 50 cubic metres per hectare over that period. The capacity of 6000 cubic metres would on average service just over 32 cubic meters per hectare during that period, so being at the lower end of the 30-50 threshold. The lagoon would continue to receive its regular schedule of deliveries through that period, so not running dry. The applicants state that they do not propose to transport material elsewhere from the lagoon.
- 9.10 The proposal, therefore, is acceptable in principle.

### Sustainability

- 9.11 The National Planning Policy Framework (NPPF, 2021) sets out at paragraph 7 that the purpose of the planning system is to contribute to the achievement of sustainable development. At a very high level, the objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs.
- 9.12 There are three strands to sustainability, social, environmental and economic. Para.10 of the NPPF states that in order sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development.
- 9.13 The proposal supports a rural agricultural business and will allow the enterprise to virtually eliminate the use of factory prepared fertilisers and move completely over to the use of Bio-fertiliser. Additionally by having the material stored on site and in sufficient quantity, will be able to deploy this at the optimum time, especially when weather conditions are changeable. As the available storage is greater than the bladder/tank, overall, the number of deliveries should even out and it is estimated that around 21 deliveries across a week would be sufficient to keep the lagoon filled.
- 9.14 While the Bio-fertiliser itself is technically not waste, the re-use of the end product from the process of disposing of waste food can be seen to add to the overall sustainability of the proposed development including the advantages of bio-fertiliser over factory produced fertiliser.

## **SOCIAL SUSTAINABILITY**

### Impact on Amenity

- 9.15 The proposal will store 6,000 cubic metres of bio-fertiliser. The lagoon has been designed to be lined underneath and with high strength Polyolefine cover over the top with the seams welded together and vents fitted into the cover. The Bio-fertiliser does have a distinctive odour, however as the lagoon is covered, the amount of odour emanating from the lagoon itself will be limited and is likely to only emit odour when being filled as the liquid will push air through the vents.
- 9.16 The applicants have prepared an Odour Management Plan (OMP) that has assessed the receptors within a kilometre of the site and based on the study, they have concluded the results of odour modelling predict that the 98<sup>th</sup> percentile hourly

mean odour concentrations at the modelled residential/commercial premises would be less than the Environment Agency's benchmark criteria for the most offensive odours, the 98th percentile hourly mean odour concentration being 1.5 ouE/m<sup>3</sup>.

- 9.17 In representations the Air Quality Management guidelines have been highlighted and they point to additional community based assessments. However, the guidance itself acknowledges that the difficulty of measuring odour at ambient levels i.e. no analytical techniques can currently measure the sensitivity, speed of response and breadth application of the human nose, hence the proposed use of 'sniff tests' in the OMP.
- 9.18 The spreading of fertiliser is also covered by Code of Good Agricultural Practice (COGAP) for the protection of water, soil and air and the Code of Good Agricultural Practice (COGAP) for Reducing Ammonia Emissions(produced by DEFRA in 2009 and 2018 respectively). The OMP is written in the context of these measures and puts in place requirements for complaints including contacting the Environmental Health department at the authority who also have the responsibility of determining whether there is a statutory nuisance and take action under Environmental Health Protection legislation. Similarly, the same legislation applies if a nuisance is caused from the spreading of fertiliser through not following the good practises.
- 9.19 The Applicant is also required to maintain records of all monitoring carried out. Details of odour non-conformances, odour complaints, including investigations, and remedial measures taken, will be recorded by the Applicant and copies will be maintained within the Farm Site Office and be available for inspection and notified to the Environmental Health Team at the Council. This would inevitably involve local people providing the community involvement mentioned in the Air Quality Management guidelines.
- 9.20 Representations have also been put forward seeking equivalence to a case which escalated to the courts (R(Squire) v Shropshire Council [2019]) in connection with the building of a new chicken farm building and the resulting manure to be spread on adjacent land. The matters raised with the court were whether an Environment Agency permit could be relied on to control the application of manure. The other matter raised was the assessment of dust and odour caused by the development and spreading manure on adjacent land, some of which was outside the ownership of the applicant.
- 9.21 This development differs in that the development being applied for would allow a larger storage receptacle than at present, rather than a new intensive livestock operation as examined by the court. The material being kept in the lagoon is also not classed as waste and would be limited to being spread on the 186ha of land of Red House Farm as set out in the conditions recommended below.
- 9.22 It also differs in that the same bio-fertiliser that would be contained in the lagoon is already used across the same farm land, so the only difference is that the store of material available to apply to that land would be larger and in a different location than at present. The lagoon has a sealed cover so there would not be dust generated from its use. The current storage (in the existing tank) or spreading is not an activity that is controlled by a permit as it doesn't trigger the requirements of the permitting regulations. For the avoidance of doubt, no weight is being applied to the balance of considerations on the basis that it might be.



- 9.23 The odour management plan specifically considers the development of the lagoon and its proposed operation. The assessment concludes that predicted odour concentrations are at levels which would indicate that odour from the proposed lagoon would very rarely, if ever, reach detectable levels at any residential/commercial properties, the closest of which is over 400m away.
- 9.24 The modelling predicts that in closer proximity (within approximately 200m) of the proposed Bio-fertiliser storage lagoon, there would be detectable odours on occasion. This area is largely open arable farmland, however users of the footpaths and/or bridleways might encounter moderate odour levels in very close proximity to the lagoon.
- 9.25 Natural England and the Wildlife Trust have not objected but stated that additional advice is taken. The nearest receptor of interest would be Melton Wood which at its closest point is over 300m away. Given that the development is sufficiently set apart it is not considered that the development would be detrimental to that habitat.
- 9.26 Many of the representations take issue with the odour from the spreading of the product and whether this should be used at all. However, the product is certified for use and is already being spread across the farm holding successfully. The spreading of this product or any fertiliser will inevitably produce some odour but is not directly controlled under the planning acts. Should there be a statutory nuisance it would be for the authority to act in its role under Environmental Protection legislation.
- 9.27 The odour management plan puts in place measures that the operator must take in the course of the operation of the lagoon, as good practice, if any incidents occur and has been assessed based on its capacity of 6000 cubic metres. This is in a similar fashion to that required by the appeal decision on the smaller bladder/tank which holds about 1200 cubic metres. The Inspector at the 2021 Public Inquiry did not consider the chemical composition of digestate to be a material consideration that weighed against that development. No technical assessment was carried out as part of the appeal but anecdotally the Inspector noted the smell from the tank was only noticeable close to the tank.
- 9.28 It is acknowledged that the proposed lagoon will have a much greater capacity and is closer to receptors than the bladder/tank, however in this case the odour management plan (OMP) has been prepared specifically considering its size and design (with a permanent cover and welded closed) and calculations of the likelihood of it affecting nearby residents. As the lagoon has a sealed cover, most odour is kept within the lagoon and would likely only vent externally when being filled. The plan also puts in place measures to make the deliveries as safely as possible and that there are processes within that plan, should incidents occur. The Environmental Health Officer has agreed the contents of the OMP.
- 9.29 The siting of the lagoon is over 400m from the nearest dwelling and the access track for delivery vehicles will be no closer than 150m from the dwellings that front Doncaster Road. The lagoon is proposed to be situated in a dip in the landscape which will also reduce the impact on the appearance in the landscape and the openness of the Green Belt. It also would avoid any run off to adjacent land.
- 9.30 The vehicle movements to and from the lagoon would also lessen the impact of amenities of occupants within the village in terms of disturbance and remove

conflict with pedestrians. Delivery vehicles would no longer need to turn onto Doncaster Road within the village and share a bridleway with pedestrians and other users. This is discussed in more detail later in the report.

### **Conclusion on Social Impacts.**

- 9.31 The development is within the landscape looked over by residents on the edge of the neighbouring settlement. However, the development is not sufficiently close to significantly harm the amenities of residents through noise, disturbance or odour, due to the distance involved to the nearest receptors and limited weight should be afforded. Additionally this development will render an earlier development redundant and there is a net benefit from vehicle movements servicing that development no longer being required. This is a benefit to users of the bridleway and occupiers next to the farm. Therefore, limited weight can be set against the proposal based on social impacts.

### **ENVIRONMENTAL SUSTAINABILITY**

#### Impact upon the character and appearance of the surrounding area

- 9.32 The NPPF attaches significant weight to the design of the built environment and states that planning decisions should aim to ensure that developments are visually attractive as a result of appropriate landscaping.
- 9.33 In terms of the existing landscape, the area is dominated by both arable and pasture fields, Melton Wood and trees separating the ribbon of housing on Doncaster Road from the farmland. The key part of the design in its final appearance is safe and secure storage area for digestate and one that isn't intrusive into the surrounding landscape.
- 9.34 The proposal will comprise the excavation of the lagoon, and create a low raised bund approx. 3.5m above ground level. This will limit its visual impact in the landscape. This is then viewed in the setting of the woodland to the north and within undulating land across the holding. The site is also seen in the context of turbines at Marr Wind Farm to the north and Electrical Power Lines that cross the site. These were referenced by the Planning Inspector in his appeal decision for the bladder tank and although the locations are approximately three quarters of a kilometre apart the two features are prominent in their respective settings.
- 9.35 Given the relatively modest rise of the bund above surrounding ground level, which will become naturally colonised by native species, it is considered that the visual impact of the actual lagoon structure will be negligible.
- 9.36 A condition is recommended that would require prior approval of any fencing and landscaping that surrounds the turning area and the lagoon itself.

#### Impact on the Highway Network

- 9.37 Local Plan Policy 46 requires, amongst other things, that site layouts should function correctly and development should not result in unacceptable impact on highway safety.

- 9.38 The access to the lagoon will principally be from Sheep Lane which connects to routes towards Sprotbrough, Cusworth and Doncaster so that delivery vehicles can operate to and from the producer.
- 9.39 The current bladder tank is subject to a route management plan that sees vehicles proceed from Hangman Stone Road, share the Bridleway known as Hangman Stone Lane and then exit the farm via the farm yard and the access onto Doncaster Road, within High Melton village
- 9.39 Should the proposed development proceed, this will no longer be necessary as the bladder/tank would be redundant. Vehicles would therefore access the lagoon from Sheep Lane, transfer the Bio-fertiliser to the lagoon and leave via the same route. The applicant is agreeable to the removal of the bladder/tank that was approved at the appeal.
- 9.40 The proposal would benefit two fold, first removing tanker vehicles from the shared bridleway. It would also cease requiring vehicles to turn at the access to Red House Farm within the village itself and also not having to turn from Hangman Stone Road, where vehicles need to slow on the approach and visibility is not ideal. The requirement will be to, instead, access the lagoon for deliveries from Sheep Lane which removes the existing conflicts and provide a net benefit in terms of highway and pedestrian safety.
- 9.41 Concern has been raised due to the extra movements in Sprotbrough and Cusworth, once the lagoon has been filled the number of trips would average 21 per week so represent 4 or 5 movements each way across a five day week. This does not represent an excessive number of additional movements on local roads and would also remove the requirement for movements within High Melton village and on Hangman Stone Lane.
- 9.42 The lagoon has a greater capacity than the existing bladder/tank previously approved because it will service not only all the land to the north of the village and east of Sheep Lane (186ha), but has been designed with sufficient capacity to provide for the times of year (Feb and March) when all this land is being farmed for grass, winter wheat, fodder beet and oilseed rape and requires fertilising. (see table 1 at appendix 5). Additionally this will replace any remaining current supply arrangements of factory produced fertiliser.
- 9.43 On this basis, there is a requirement for between 30 and 50 cubic metres for each hectare from February to March. Therefore, 6000 cubic metres will be at the bottom end of this threshold, although regular deliveries will continue, which in most circumstances will provide sufficient capacity through this busy period, and therefore unlikely to need to fall back to using factory made fertiliser to make up any shortfall.
- 9.44 While the applicant does farm more land, they have stated in the update that in order to service this, they would require a much larger lagoon (up to 3 times the size) and require double handling in order to reach more remote fields, which they state is logistically difficult. A condition is recommended that only digestate stored in the lagoon shall be used on the 186ha of Red House Farm (see appendix 1). The applicants have further stated they won't transport the digestate elsewhere.

- 9.45 The benefit to using the bio-fertiliser instead of factory made fertiliser, is that it is more sustainable through using less energy and natural gas to produce and also produces less emissions. (1 tonne of artificial fertiliser replaced with digestate saves 1 tonne of oil, 108 tonnes of water and 7 tonnes of CO2 emissions – figures from Anaerobic Digestion and Bioresources Association).
- 9.46 It is also recommended to include a condition stating that access to the lagoon for deliveries is not permitted from Doncaster Road or Hangman Stone Lane, which in turn ensures that deliveries only access the lagoon from Sheep Lane.

### **Conclusion on Environmental Issues**

- 9.47 Para. 8 of the NPPF (2021) indicates, amongst other things, that the planning system needs to contribute to protecting and enhancing the natural built and historic environment, including making effective use of land, helping to improve Biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.
- 9.48 It is considered that this proposal, would have some impact on the surrounding landscape although this will lessen as the bund grasses over and it is recommended a scheme is required by condition for prior approval of boundary treatment, fencing and landscaping of the bund and turning area.
- 9.49 While overall the number of vehicle movements increases, they are not considered to be so frequent that it would represent an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe (the test for refusing planning permission on highway grounds as set out at para 111 of the NPPF).
- 9.50 The development would remove the requirement for delivery vehicles to use the access into the farm within High Melton village. Similarly there is also a positive benefit in terms of delivery vehicles no longer needing to use Hangman Stone Lane and Hangman Stone Road which have poor access and/or conflict with existing public rights of way.
- 9.51 The appearance of the lagoon would represent a change in the landscape, however this is limited by the height of the bund and the distance this would be from the road. So overall, there is limited impact in terms of Environmental sustainability.

### **ECONOMIC SUSTAINABILITY**

- 9.52 This proposal is to benefit the operation of a rural enterprise that already employs 9 people and add to its sustainability by reducing its reliance on bought in factory prepared fertilisers and enable it to apply Bio-fertiliser to the land within the farm holding at the most opportune time, especially given changeable weather conditions.
- 9.53 It has been raised in representations, concern that the lagoon would store Bio-fertiliser for onward sale to other operators. The applicant has stated that the content of the lagoon would be purely for the use on this holding. The onward sale may also change the status of what is stored, which would require planning

permission and also and bring it within other licencing requirements such as the waste transfer regime.

- 9.54 Given that the development has been proposed on the basis of the requirements of the current farm holding, it would not be unreasonable to condition that the storage of Bio-fertiliser is purely to benefit the applicant or any operator of Red House Farm that may succeed them.

### **Conclusion on Economy Issues**

- 9.55 Para 8 a) of the NPPF (2021) sets out that in order to be economically sustainable developments should help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure.
- 9.56 The development will assist the efficiency of the farm holding which is an economic benefit. The work involved in creation of the lagoon will also provide work for a short period in terms of production of the liner, cover and also the digging out of the lagoon and creating the bund.
- 9.57 The development will therefore give a positive economic benefit to a local employer that grows crops for sale to major food producers through the planting of crops, the fertilisation of the land, harvesting, storage and on site drying of cereals before final transport off the farm to their final destination.

## **10.0 PLANNING BALANCE & CONCLUSION**

- 10.1 In accordance with Paragraph 10 of the NPPF (2021) the proposal is considered in the context of the presumption in favour of sustainable development. Officers have identified that economic factors that weighs in positive favour along with the social and environmental benefits from deliveries no longer having to come through High Melton village and the Hangman Stone Lane bridleway but balanced against the moderate impact on the landscape and limited impact on amenities of local residents from vehicle movements and odour when in close proximity to the lagoon.
- 10.2 On balance of planning considerations the harm from its appearance can first be mitigated partly by landscaping around the lagoon which will also contribute to Biodiversity. The harm is outweighed by the economic benefit of allowing the lagoon to contribute to a local rural enterprise. There are no other material considerations which indicate the application should be refused.

## **11.0 RECOMMENDATION**

### **11.1 MEMBERS RESOLVE TO GRANT PLANNING PERMISSION FOR THE PROPOSED DEVELOPMENT SUBJECT TO THE FOLLOWING CONDITIONS:**

#### **Conditions / Reasons**

01. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date of this permission.  
REASON

Condition required to be imposed by Section 91(as amended) of the Town and Country Planning Act 1990.

02. The development hereby permitted must be carried out and completed entirely in accordance with the terms of this permission and the details shown on the approved plans and specifications:

21/358-102 Block Plan  
23/358-103 Land Ownership Plan

REASON

To ensure that the development is carried out in accordance with the application as approved.

03. The planning permission hereby granted shall not be used other than for storage of bio-fertiliser used by the applicant (or by any succeeding operator of the Red House Farm) only on the farm holding outlined in blue on the Land Ownership Plan reference 23/358-103.

REASON

To restrict the use to the needs of the applicant only in the interests of the proper planning of the area and to reflect the applicant's circumstances.

04. Tanker deliveries to the lagoon shall not access or leave the site at any time either via the farm entrance fronting Doncaster Road or from the farm access on Hangman Stone Road.

REASON

In the interests of improving amenity in High Melton village and reduce conflicting vehicle movements on the footpath/bridleway known as Hangman Stone Lane.

05. The submitted Earth care Technical Odour Management Plan version 2.1 dated 25 November 2022 shall be adhered to at all times throughout the life of the development. Records of all monitoring required by the odour management plan shall be kept for a period of not less than 2 years and made available to the local planning authority for inspection upon request. The odour management plan is approved by the LPA and any proposed changes must be submitted to the LPA for agreement prior to the change being implemented.

REASON

To ensure that the development does not prejudice the local amenity.

06. Prior to construction of the lagoon, a scheme shall be submitted to and agreed with the Local Planning Authority to put in place warning signage about pedestrians crossing in the vicinity of where the public footpath intersects with the access track. The signage scheme shall be implemented before the lagoon is brought into use and maintained in perpetuity.

REASON

In the interests of highway safety and the amenity of the public.

07. Prior to the lagoon being brought into use, a scheme shall be submitted to the Local Planning Authority and approved in writing for the removal of the bladder tank permitted by Appeal decision APP/F4410/C/19/322400. This shall also include a scheme for the restoration of the site. The scheme shall include a timetable of works that includes a date for the cessation of the use of the tank, its subsequent

removal, restoration of the site and the removal shall be carried out in accordance with the timetable and details in the agreed scheme.

REASON

In order to ensure development in the Green Belt that is redundant is removed.

08. Before the development is brought into use, that part of the site to be used by vehicles shall be surfaced, drained and where necessary marked out in a manner to be approved in writing by the local planning authority.

REASON

To ensure adequate provision for the disposal of surface water and ensure that the use of the land will not give rise to mud hazards at entrance/exit points in the interests of public safety.

09. The vehicle turning space as shown on the approved plans shall be constructed before the development is brought into use and shall thereafter be maintained as such.

REASON

To avoid the necessity of vehicles reversing on to or from the highway and creating a highway hazard.

10. Once constructed, a permanent cover, as specified in the odour management plan, shall remain over the lagoon at all times, except for the purposes of allowing access for routine and emergency maintenance and then only for the shortest period necessary to carry out the maintenance. All instances when the cover is to be removed shall be notified to the LPA at least seven days prior to its removal in the case of routine works. In the event that the cover must be removed for emergency access then the LPA shall be notified within 48 hours following the cover being removed.

REASON

To ensure that the development does not prejudice the local amenity

11. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The Statement shall provide for:

- i) the parking of vehicles of site operatives and visitors;
- ii) the identification of delivery routes.
- iii) the identification of a construction access point and a swept path analysis for the largest construction vehicle to enter the site;
- iv) loading and unloading of plant and materials;
- v) storage of plant and materials used in constructing the development;
- vi) wheel washing facilities;
- vii) measures to control the emission of dust and dirt during construction;
- viii) a scheme for recycling/disposing of waste resulting from demolition and construction works; and
- ix) delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

REASON

To safeguard the living conditions of neighbouring residents and in the interests of highway safety

12. Within one month of the commencement of development, an ecological enhancement plan shall be submitted to the local planning authority for approval in

writing. This plan shall include details of the following measures, all of which shall be implemented prior to the development being brought into use:

- Screening planting on two sides of the lagoon comprising native species trees and shrubs.
- Native species hedgerow to be planted on the northern boundary of the site and on sections of the proposed access track linking to the existing access track.

#### REASON

To ensure the ecological interests of the site are maintained in accordance with Local Plan policy 29

### INFORMATIVES

01. INFORMATIVE

Planning consent does not authorise the obstruction or interference of public rights of way in any way.

02. INFORMATIVE - Silage, Slurry and Agricultural Fuel Oil Regulations - advice to applicant

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. 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). The applicant is advised to review the existing on-farm slurry and manure storage and ensure compliance with the SSAFO Regulations.

You must inform the Environment Agency, verbally (Tel: 03708 506 506) or in writing, of a new, reconstructed or enlarged slurry store, silage clamp or fuel stores at least 14 days before starting any construction work. The notification must include the type of structure, the proposed design and construction, and once an agreed proposal has been constructed we will ask you to send us a completed WQE3 notification form before you start using the facility.

Further guidance is available at:

Storing silage, slurry and agricultural fuel oil

Protecting our Water, Soil and Air: A Code of Good Agricultural Practice for farmers, growers and land managers

03. INFORMATIVE Farming Rules for Water - advice to applicant

The Reduction and Prevention of Agricultural Diffuse Pollution (England) Regulations 2018 which came into effect in April 2018, introduce farming rules for water that now apply to all farms. The 2018 Regulations seek to address diffuse water pollution from agriculture and set a consistent baseline of good practice across the agricultural industry in England. They aim to prevent water quality deterioration as a result of farming activities, but at the same time benefit the farming business by ensuring that fertilisers are spread to meet crop and soil needs, that no nutrients wash off to the water environment causing diffuse pollution and that soil is kept in good health. In this context, Reg 4(1) provides that application of manure and manufactured fertiliser on agricultural land must be planned to meet soil and crop nutrient needs. Hence, it



is likely that manure and slurry produced on farms may need to be stored for longer periods before it is applied on land.

In light of the above, the proposed slurry tank must have capacity to store the total volume of slurry produced on the farm for such periods as necessary to comply with the 2018 Regulations.

Additionally, it must be ensured that organic manure (slurry included) is not stored on agricultural land within 10 metres of inland freshwaters or coastal waters, or within 50 metres of a spring, well or borehole. Any risk factors for runoff, such as the angle of slopes, presence of land drains, soil type etc, must be taken into account when deciding on an appropriate storage location.

For more information on the Reduction and Prevention of Agricultural Diffuse Pollution (England) Regulations 2018 please visit:

<https://www.gov.uk/guidance/rules-for-farmers-and-land-managers-to-prevent-water-pollution#assess-pollution-risks>

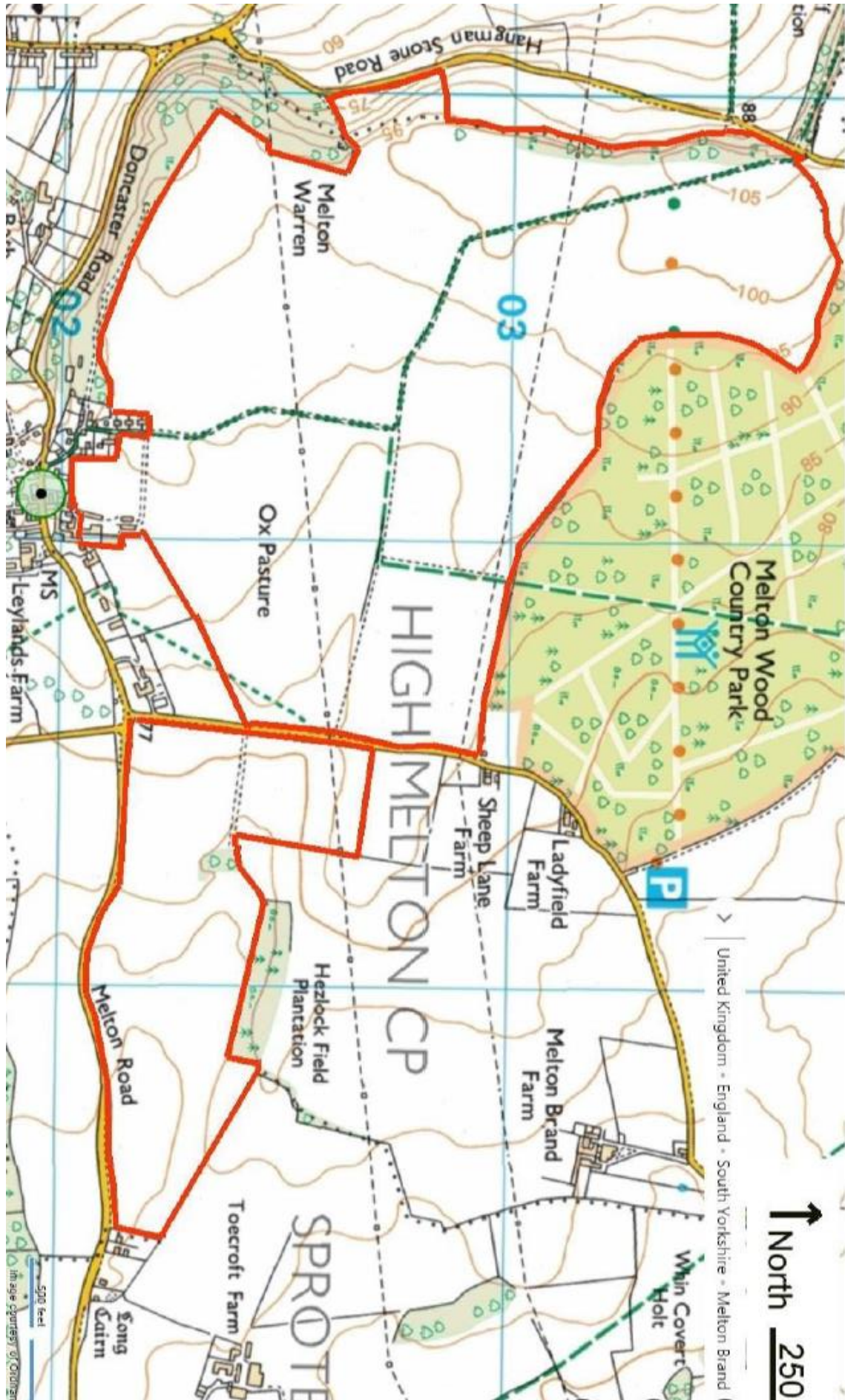
## **STATEMENT OF COMPLIANCE WITH ARTICLE 35 OF THE TOWN AND COUNTRY DEVELOPMENT MANAGEMENT PROCEDURE ORDER 2015**

In dealing with the application, the Local Planning Authority has worked with the applicant to find solutions to the following issues that arose whilst dealing with the planning application;

to ensure the access is adequate for delivery vehicles, details and enhancements to the odour management plan.

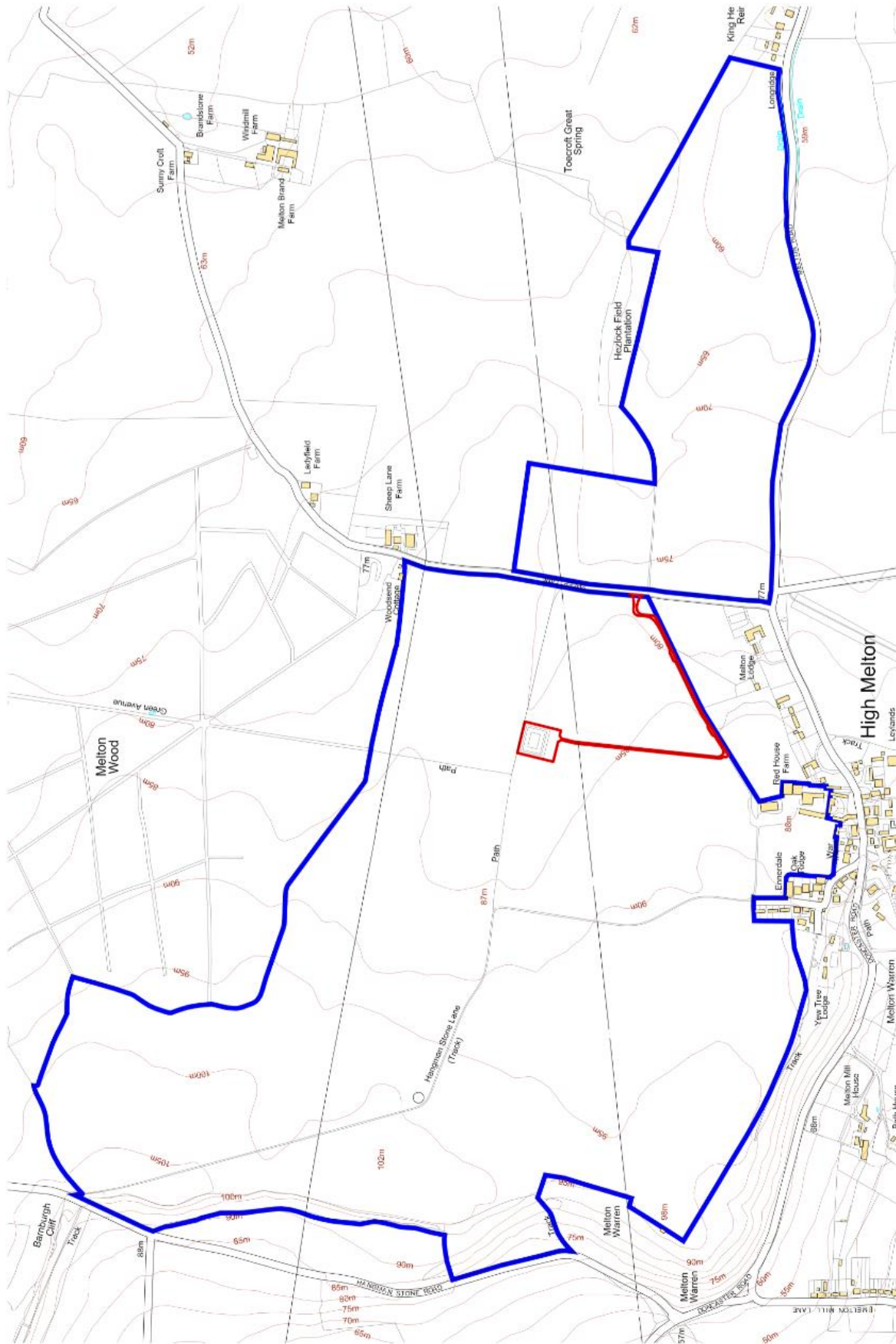
**The above objections, consideration and resulting recommendation have had regard to Article 8 and Article 1 of the First Protocol of the European Convention for Human Rights Act 1998. The recommendation will not interfere with the applicant's and/or objector's right to respect for his private and family life, his home and his correspondence.**

Appendix 1 Land area





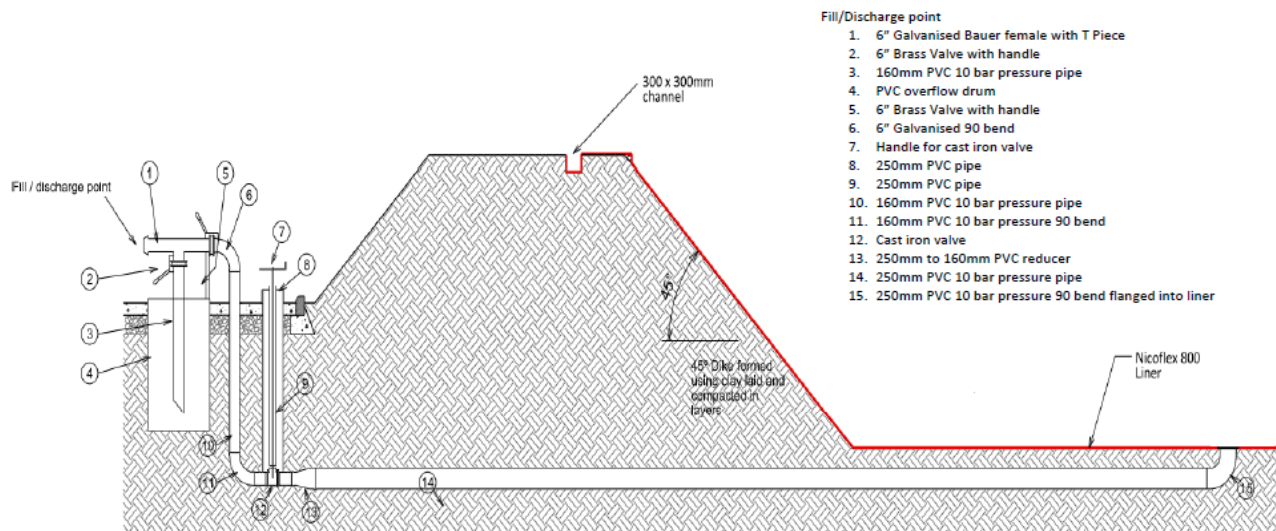
# Appendix 3: Location Plan







## Appendix 4 - Cross section



## Appendix 5

### Extract from 'Brief Note: Clarification on land served by the proposed lagoon.- Earthcare technical'

*Table 1 Land use over the previous 4 years at Red House Farm and timing of application*

Crops grown	Field area (ha)				Timing of application
	2020	2021	2022	2023	
Grass cut for haylage and hay	57.89	45.22	56.84	30.53	Mar-Aug
Fodder beet	15.73	21.35	6.81	19.57	Feb-Mar
Winter wheat	112.67	111.54	74.46	77.71	Feb-Mar
Oilseed rape	0	8.18	48.18	58.48	Aug and Feb-Mar
<b>Total</b>	186.3	186.3	186.3	186.3	



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## Appeal Decision

Inquiry Held on 27 & 28 July 2021

Site visit made on 4 August 2021

by Paul Freer BA (Hons) LLM PhD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 August 2021

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**Appeal Ref: APP/F4410/C/19/3222400**

**The land situate and known as land north of Hangman Stone Lane, High Melton, Doncaster**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (the 1990 Act) as amended by the Planning and Compensation Act 1991.
  - The appeal is made by Mr Stewart Woolhouse against an enforcement notice issued by Doncaster Metropolitan Borough Council.
  - The enforcement notice was issued on 11 January 2019.
  - The breach of planning control as alleged in the notice is, without planning permission, the erection of a bladder tank.
  - The requirements of the notice are to dismantle the unauthorised bladder tank and remove the materials from the Land.
  - The period for compliance with the requirements is two months.
  - The appeal is proceeding on the grounds set out in section 174(2) (a), (c), (f), and (g) of the Town and Country Planning Act 1990 as amended.
- 

**Summary Decision: the appeal is allowed, the enforcement notice is quashed and planning permission is granted in the terms set out the Formal Decision below.**

### Procedural matters

- 1 The appeal as initially made included an appeal on ground (e) as set out in section 174(2) of the 1990 Act: namely that copies of the enforcement were not served as required by section 172 of that Act. The appeal on ground (e) was subsequently withdrawn at the Inquiry.

### The Enforcement Notice

- 2 The breach of planning control as alleged in the notice, is without planning permission, the erection of a bladder tank.
- 3 In a Statement of Common Ground dated 11 June 2020 (SoCG), the parties agreed that the breach of planning control should more properly be described, in summary, as a mesh silo. I concur that the description set out in the SoCG is a more accurate description of the breach of planning control that has occurred than that set out in the enforcement notice, albeit the wording and construction is somewhat cumbersome. I shall therefore correct the notice to allege the breach of planning control set out in the SoCG, albeit with minor amendments to the wording and construction. Given that this description has been agreed by the appellant and the Council, no injustice would be caused by so doing.



### The appeal on ground (c)

- 4 The ground of appeal is that, in respect of any breach of planning control that may be constituted by the matters stated in the notice, those matters do not constitute a breach of planning control. An appeal on this ground is one of the 'legal' grounds of appeal, in which the burden of proof is on the appellant to show, on the balance of probability, that the matters alleged in the notice do not constitute a breach of planning control.
- 5 The meaning of development for the purposes of the 1990 Act is defined at section 55(1) of that Act as:

*...the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any building or other land.*
- 6 It is not contended that the mesh silo constitutes an engineering operation, and it is evidently not a mining or other operation<sup>1</sup>. By elimination, the question before me is therefore whether the mesh silo constitutes a building operation for the purposes of section 55(1) of the 1990 Act. In that context, the approach of the Courts is to ask first whether what has been done has resulted in the erection of a 'building': if so, the Courts would need a great deal of persuading that the erection of it had not amounted to a building operation or other operation<sup>2</sup>.
- 7 In *Cardiff Rating Authority v Guest Keen Baldwin's Iron and Steel Co Ltd* [1949] 1QB 385, subsequently endorsed by the Court of Appeal in *Skerritts of Nottingham Ltd v SSETR (No.2)* [2000] 2 EWCA Civ 5569, three primary factors were identified as decisive of what was a building: (i) size; (ii) permanence; and (iii) physical attachment. However, before considering these factors in detail, it is helpful to first describe the process by which the mesh silo arrived at its present position.
- 8 By reason of its dimensions when complete, the mesh silo was not delivered to the site as a single entity. In giving his evidence, the appellant explained that the mesh silo was delivered in component form to his farmyard. The components were then transported to the present position, where the mesh silo was installed over a period of five or six days by three or four staff members provided by the company that supplied it. The area on which the mesh silo was to be placed was excavated to form a shallow depression, in which was laid a pipe from which the mesh silo is filled with Digestate and Digestate is extracted<sup>3</sup>. That pipe runs from the centre of depression to a couple of metres beyond it, a distance of some 13 or 14 metres. The inner lining (that now holds the Digestate) was placed in that depression, and the pipe connected to the base of it. The galvanised steel mesh was then erected around the inner lining, each section being secured to the next by bolts. The top of the inner lining was overlaid on the rim of steel mesh, and affixed to it. The trench containing the pipe beyond the circumference of mesh silo was then infilled to a depth of approximately 0.6 metres (not with concrete).

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<sup>1</sup> Other' operations may include, for example, such works as the formation of earth banks, where this was undertaken without the degree of preplanning and skill constituting engineering operations.

<sup>2</sup> *Barvis v SSE* [1971] 22 P&CR 710

<sup>3</sup> "Digestate" is the product name of the PAS110 certified fertiliser stored in the mesh silo

- 9 Turning now to the three primary factors identified in *Cardiff Rating*, in terms of size the mesh silo is 3 metres high and 23 metres in diameter. It has a capacity of some 1,246 cubic metres and can hold some 1,200 m<sup>3</sup> of Digestate. The Council calculate that the mesh silo has a plan area of 415.5m<sup>2</sup>, the equivalent size of more than five average-sized new build bungalows. The mesh silo is visible from a distance of up to 1km away and, at closer quarters, is visually dominant. It is, in my judgment, as a matter of fact and degree a large structure.
- 10 The mesh silo was first brought to the site in or around December 2018, and has therefore been in situ now in excess of 2½ years. When full, the mesh silo holds some 1,200 tonnes of Digestate but even when empty it would in my judgment not be straightforward to remove it. That is evidenced by the stages involved in its original installation, the number of specialist personnel required to achieve that and the time taken to do so. The mesh silo has not been temporarily removed since first being installed: for example, during the closed season for spreading Digestate. Moreover, there is nothing in the appellant's evidence to suggest that the intention is to move the mesh silo from place to place around the farm. To the contrary, much of the appellant's evidence related to having selected the location of the mesh silo as being the optimum to serve the farm unit as a whole. I consider that, as a matter of fact and degree, the mesh silo has a degree of permanence.
- 11 The mesh silo is not physically attached to the ground in terms of having foundations or being secured by stakes. The mesh silo rests on a series of pads and, in essence, is kept in place by its own weight. However, the pipe that runs beneath the mesh silo emerges some two metres or so beyond its circumference. Between those points, the pipe is buried to a depth of 0.6 metres. That pipe is an integral part of the mesh silo, being the principal means by which the mesh silo is filled with Digestate and the Digestate is then extracted. As such, as a matter of fact and degree, the subterranean location of that pipe constitutes physical attachment of the mesh silo to the ground.
- 12 In summary, I conclude that the mesh silo is a large structure which is physically attached to the ground and has a degree of permanence. It therefore exhibits all three of the primary factors identified in *Cardiff Rating*. Accordingly, in my judgment, the mesh silo should properly be considered to be a building.
- 13 The appellant maintains that the mesh silo is plant associated with the agricultural use of the land. The definition of "plant" relied upon by the appellant is that contained in the New Shorter Oxford Dictionary, which is:
- Machinery, fixtures, and apparatus used in an industrial or engineering process; a single machine or large piece of apparatus.*
- 14 The appellant maintains that the mesh silo would fall within that definition, given that farming is a process engaged in the production of food. In support of that, the appellant points to the fact that silos are treated as plant for the purpose of tax cases and that, in relation to a site at Bardsea Business Park, an Inspector found that plant does not have to be in a building<sup>4</sup>.

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<sup>4</sup> Ref: APP/M0933/X/00/1035902

- 15 I take the appellant's point that the mesh silo is part of a "process", in this case the process of applying Digestate to the soil on the appellant's farm that starts with delivery of Digestate to the farm and ends with the application of that digestate to the soil. The appellant's farm is clearly engaged in the production of food. But, on my reading of the definition of plant relied upon by the appellant, the key words are "industrial or engineering". Those words appear immediately before the word "process" in that definition, and must be read together with it. The word "or" between "industrial" and "engineering" serves to limit the scope to which the word "process" applies in that definition.
- 16 To my mind, neither the words industrial nor engineering properly apply to farming. Both words connote a manufacturing process, rather than the growing of crops. For that reason, I do not consider that the mesh silo can properly be regarded as being plant.
- 17 Furthermore, even if the mesh silo was considered to be plant, that does not necessarily mean that it would not also fall within the scope of the 1990 Act. The appeal decision in relation to the Bardsea Business Park demonstrates that point.
- 18 The appeal in relation to the Bardsea Business Park was against the decision of South Lakeland District Council to refuse to grant a Certificate of Lawfulness under section 191(1) of 1990 Act for the retention of an existing concrete batching plant. In dismissing the appeal, the Inspector concluded that a specific grant of planning permission was required for the concrete batching plant<sup>5</sup>. The obvious corollary of that conclusion can only be that the Inspector must have been satisfied that the concrete batching plant constituted development for the purposes of section 55(1) of the 1990 Act. As such, this appeal decision does not support the appellant's case: indeed, if anything, it tends to support the Council's case that the mesh silo is similarly development subject to control under the 1990 Act.
- 19 Having found that the mesh silo is a building, I am not persuaded by the appellant's evidence that the installation of it did not amount to a building operation. Indeed, the explanation given by the appellant of the process by which it was installed reinforces my view that it was a building operation. I conclude that the installation of the mesh silo constituted a building operation and as such constitutes development for the purposes of section 55(1) of the 1990 Act.
- 20 Section 57(1) of the 1990 Act provides that planning permission is required for development. It was agreed in the SoCG that, if the mesh silo is found to be a building, then a Prior Approval Application under Condition A2 (2) Class A Part 6 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 was required. No prior approval application was submitted, and there is no provision for Prior Approval to be submitted retrospectively. It follows that no planning permission is in place for the mesh silo, but that planning permission is required for it. I conclude that the matters stated in the notice do constitute a breach of planning control.
- 21 Accordingly, the appeal on ground (c) fails.

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<sup>5</sup> Paragraph 7 of the Inspector's Decision



**The appeal on Ground (a) and the deemed planning application**

- 22 The ground of appeal is that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted.
- 23 The appeal site is within the Green Belt. The Council has stated one substantive reason for issuing the enforcement notice from which the main issues raised are:
- Whether the breach of planning control alleged in the notice is inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (Framework), and
  - the effect of the development on the character and appearance of the area.

*Whether the breach of planning control alleged in the notice is inappropriate development in the Green Belt*

- 24 The mesh silo is a building used for the purposes of agriculture. Although initially cited as one of the reasons for issuing the notice, it was subsequently agreed in the SoCG that agricultural buildings are not inappropriate development as expressed in paragraph 149 of the Framework. I see no reason to take a different view.

*Character and appearance*

- 25 The appeal site is positioned on an elevated limestone plateau to the north of the Dearne Valley. The appeal site is located about 1km to the north-west of the settlement of High Malton, and approximately 0.4km to the south-west of Melton Wood Country Park.
- 26 The Council has commissioned a Landscape & Visual Impact Assessment (LVIA) to inform its evidence at the Inquiry. The LVIA has been produced in accordance with the principles established in 'The Guidelines for Landscape and Visual Impact Assessment', 3rd Edition (GLVIA3) produced by the Landscape Institute and the Institute for Environmental Management and Assessment. The appellant has not questioned the methodology of the LVIA produced by the Council. I see no reason to take a different view but, for the reasons set out below, I do take issue with some of the conclusions within it.
- 27 The Baseline for the LVIA notes that the mesh silo is situated at an elevation of approximately 98m AOD, meaning that it is situated close to the highest elevation in the surrounding landscape. From that point, the land falls away to the south and east, with Sheep Lane at an elevation some 20m lower than the mesh silo. The LVIA notes that the mesh silo sits within an open tract of arable farmland, and that there is no other vegetation within the immediate vicinity. To the north-east, Melton Wood is a significant block of mixed deciduous and coniferous extending to over 100 hectares
- 28 Whilst there are no buildings within the immediate vicinity of the tank, the LVIA identifies two overhead electricity lines that pass through the landscape surrounding the mesh silo. The LVIA includes the Marr Wind Farm in the Baseline, the wind farm being situated approximately 1km to the north of the mesh silo.

- 29 At a national level, the site and the surrounding local landscape falls within National Character Area (NCA) 30 – Southern Magnesian Limestone. The key characteristics of that landscape designation include an open landscape offering long views of the lowlands to the east and west.
- 30 At a local level, the Landscape Character & Capacity Assessment of the Doncaster Borough (March 2007) identifies the appeal site as being within Landscape Character Type (LCT) C - Limestone Plateau. This broad LCT has been further subdivided into landscape character areas. The site of the mesh silo is situated within Landscape Character Area C2 - Cadeby to Adwick Limestone Plateau. The key characteristics of LCA C2 include a gently rolling landform dipping gently to the north and east; large scale intensive arable farmland; tree cover throughout, including areas of ancient woodland; public rights of way linking settlements; and very rural and tranquil in some areas.
- 31 The sensitivity of the landscape is assessed within the LVIA as being Medium/High. The mesh silo sits in an Area of Special Landscape Value (ASLV) as identified in the development plan for the area. Nevertheless, the overall conclusion of the LVIA is that this is a valued landscape, irrespective of the ASLV designation.
- 32 Having visited the site, I am not persuaded that the Baseline as described in the LVIA is an entirely accurate starting point from which to assess the impact of the mesh silo on the landscape. In my opinion, the LVIA significantly underplays the impact of the Marr Wind Farm on the landscape. Similarly, the electricity pylons that cross the appeal site. These substantial pieces of infrastructure do not undermine the character or quality of the landscape. But they are important features within it. I have therefore had this infrastructure very much in mind when considering the baseline against which the development must be assessed.
- 33 I also have some reservations about the emphasis placed in the LVIA on the tranquillity of this rural location. Although rural, the appeal site is a working farm. There is activity associated with this working landscape, including movements by vehicles and farm equipment. Some of that activity historically related to the previous use of bladder tanks for the storage of Digestate. Consequently, in relation to perceptual qualities of this landscape, activity levels on the appeal site should form a part of the baseline against which the development subject to the notice must be assessed. I am not convinced that the LVIA takes full account of that.
- 34 The framing of the reasons for issuing the notice also requires an understanding as to how the mesh silo is experienced by those who use the landscape. In that context, I am mindful that there are Public Rights of Way through the landscape. These Public Rights of Way are used primarily for recreational purposes. The LVIA considers the recreational users of these Public Rights of Way have high sensitivity to change. I concur with that assessment.
- 35 The mesh silo is designed for a specific purpose: to store and dispense bio-fertilizer. It is a functional design. The design is consistent with the intended purpose of the building. The design and materials are to a high standard in the context of the intended purpose of the building. The area around the building is not landscaped in any way. Again, that is consistent with the purpose of the building and the need to gain access to it.

- 36 There is no denying that the mesh silo is an obvious feature in this landscape. It is clearly visible from Hangman Stone Lane where it leaves the residential properties at its southern end. It is clearly visible from the bridleway when exiting Melton Wood Country Park. It is visible from Sheep Lane and, in places, from Footpath High Melton No.4. In some views the mesh silo breaks the skyline. In others, it is viewed against a backdrop of trees. In all these views, the presence of the mesh silo in the landscape obviously increases as the viewer gets close to it. Given the sensitivity of this landscape to change, the introduction of the mesh silo into this landscape has undoubtedly changed it.
- 37 But that does not mean that the change is a harmful one. The mesh silo sits in a working agricultural landscape. It is a landscape which features large infrastructure: notably the Marr Wind Farm and the electricity pylons that cross the appeal site. The farmyard to Red House Farm is extensive and contains some substantial buildings. Although some distance from Red House Farm, the mesh silo is linked to that complex of buildings by a farm track. The mesh silo therefore reads as a building associated with Red House Farm and to the agricultural use of the land. As such, the mesh silo is absorbed into the receiving landscape and integrates with it.
- 38 Although the mesh silo does break the skyline in some views, where it does so the mesh silo is seen with trees and other vegetation to each side. These trees are of at the least the same height as the mesh silo, and in some cases higher than it. The skyline is already broken by these trees. As a result, the mesh silo is not unduly conspicuous or intrusive in the landscape.
- 39 For these reasons, I cannot accept the conclusion in the LVIA that the mesh silo appears incongruous with the nature of the receiving landscape, or that it appears discordant within views from identified visual receptors. It does not, in my view, have a Major adverse effect on the visual receptors using the public bridleways and footpaths that cross the appeal site. On the contrary, in my opinion the mesh silo sits comfortably in this working agricultural landscape.
- 40 I conclude that the mesh silo does not harm the character and appearance of the area. I therefore conclude that the breach of planning control alleged in the notice does not conflict with Policies CS3 CS14 of the Doncaster Council Core Strategy (Core Strategy), as well as Policies ENV3, ENV6 and ENV17 of the Doncaster Unitary Development Plan (UDP). These policies indicate, amongst other things, that within Areas of Special Landscape Value the protection and enhancement of the landscape will be the overriding factor in considering proposals for development. These policies go on to indicate that development will not be permitted where it fails to integrate with the landscape or would significantly detract from views across open countryside.
- 41 The Council is in the process of adopting the Doncaster Council Local Plan (Local Plan) which, when adopted, will replace the Core Strategy and the UDP. The Local Plan has reached an advanced stage of preparation with, following Examination, the Inspector's Report being published in June 2021. The Council is looking to adopt the Local Plan in September 2021. Paragraph 48 of the Framework confirms that the more advanced an emerging plan is in its preparation, the greater the weight that may be given to the policies within it.
- 42 Policy 33 of the emerging Local Plan states, amongst other things, that development will be permitted provided that it conserves, enhances and where



possible restores the landscape character and local distinctiveness. For the reasons set out above, the mesh silo conserves the character and appearance of the landscape. As such, the development accords with Policy 33 of the Local Plan. In accordance with paragraph 48 of the Framework, that is a material consideration to which I attach substantial weight.

- 43 Paragraph 174 of the Framework indicates that planning decisions should contribute to and enhance the natural and local environment by, amongst other things, protecting and enhancing valued landscapes. The appeal site lies within the ASLV, a designation which connotes that the landscape is valued. The mesh silo does not harm this valued landscape. Accordingly, the breach of planning control accords with paragraph 174 of the Framework.

#### ***Other considerations***

Section 38(6) of the Planning and Compulsory Purchase Act 2004 indicates that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be in accordance with the plan unless material considerations indicate otherwise. I have found that the mesh silo accords with the development plan in relation to the reasons for issuing the notice. However, objections have been made to the development on other grounds: specifically, odour, the chemical composition of the Digestate and issues surrounding the delivery of the product. It is therefore necessary for me to consider whether the matters raised in those objections constitute material considerations of sufficient weight to indicate that determination should be made otherwise than in accordance with the development plan. It is, however, helpful to first put these objections into context by understanding the purpose and benefits of the Digestate that is stored in the mesh silo to the farming operation that takes place on the land.

#### ***Benefits of Digestate to the farming operation on the land***

- 44 In his evidence, Mr Kirkham explained that Digestate is one of the products of anaerobic digestion. Digestate is certified under the biofertilizer certification scheme to PAS 110 standard. As such, it is not a waste material and does not require an environmental permit or exemption to be in place prior to application to land. Digestate is a valuable source of essential plant nutrients, such as nitrogen, phosphate and potash, and is low in potentially toxic elements. Mr Kirkham went on to explain that, because anaerobic digestion is a continual process, some means of storage for the Digestate is essential to enable the process of anaerobic digestion to continue. Having the storage facility on the farm itself means that when the time for application is appropriate the Digestate can be spread promptly, efficiently and above all accurately to the land.
- 45 It is Mr Kirkham's evidence that the requirement for the storage of Digestate on the farm is enhanced by the Environment Agency's interpretation of the Reduction and Prevention of Agricultural Diffuse Pollution (England) Regulations 2018 (2018 Regulations). In summary, the Environment Agency's interpretation of the 2018 Regulations is that it is now an illegal act to apply any form of organic manure in the late summer- autumn period unless the crop has an established need for the nutrients contained within it in the autumn. As Mr Kirkham points out, this interpretation places a huge emphasis on the storage of organic manures for an extra period of time, typically the spring of the following year.

- 46 Conversely, if the application of the Digestate took place on the day of delivery, the application would take place over a much longer period due to the volumes of liquid involved. There would also be attendant logistical issues and application inaccuracies, both associated with having to return to from the point of delivery to the point of application more frequently. Within such a scenario, there would be a greater opportunity for poor application, prolonged exposure to odour and spillages.
- 47 Mr Kirkham explains that the yield potential for crops grown on the appellant's land is above the national average. Since the appellant began to use Digestate, the yields of crops grown has proven to be consistently greater than same crop grown on neighbouring land, of similar soil type and with the high standard of husbandry, but without the benefit of Digestate application. Mr Kirkham attributes that greater yield potential to the enhanced soil microbial activity resulting from the regular application of Digestate.
- 48 Other benefits resulting from the use of Digestate identified by Mr Kirkham include a significant reduction in inorganic fertiliser usage at Red House Farm, resulting in significant cost savings and reductions in greenhouse gas emissions. The evidence of Mr Kirkham was not challenged in technical terms and I found it to be compelling in terms of the benefits derived from using Digestate on the appellant's farm.

*Odour*

- 49 The first objection to the mesh silo relates to the odour given off by the Digestate. I noted at the site visit that odour of the Digestate was apparent when standing downwind of the mesh silo. It is an unpleasant smell. Nevertheless, at the time of site visit, the odour was confined to an area close to the mesh silo. I recognise that the odour may be stronger and travel further at other times; for example, when Digestate is being delivered to the mesh silo and being transferred into it from the tanker, and/or when the wind is stronger. In that context, I did note small patches of Digestate on the ground around the connection for the pipe into which the Digestate is fed.
- 50 However, I have no evidence to suggest that odour from the Digestate is a widespread problem: for example, there is no record of dates/times when local residents found the odour from the Digestate to be unacceptable. The number of objections on that ground is low. The closest residential properties are some distance away. The application of Digestate to land is a legitimate farming operation. The smell associated with fertilizers is associated with farming, and in that respect is not unexpected in this location. The appellant has also produced an Odour Management Policy for the spreading of Digestate on the land, which could be secured by the means of an appropriate planning condition. For all these reasons, I attach limited weight to the objections in relation to odour.

*The chemical composition of the Digestate*

- 51 As indicated above, Mr Kirkham confirmed that Digestate is certified under the biofertilizer certification scheme to PAS 110 standard. As indicated above, it is not a waste material and does not require an environmental permit or exemption to be in place prior to application to land. The odour given off by Digestate, whilst unpleasant, is not known to be noxious. A planning condition could be imposed to limiting the storage in the mesh silo to PAS110 accredited



products. For these reasons, I do not consider the chemical composition of Digestate to be a material consideration that weighs against the development.

*Delivery of the Digestate*

- 52 The appellant indicates that the average number of tanker movements delivering the Digestate would be approximately 208 per annum. This equates to just over 2 vehicle movements per day and is dictated by the maximum permissible quantity of bio fertiliser which can be applied on this block of land. The tankers access the mesh silo along the farm track and appellant uses a one-way system along that farm track.
- 53 The farm track is also a public right of way (Bridlepath High Melton No.1). I accept that there is the potential for conflict between the delivery tankers and walkers, cyclists and those riding/leading a horse on the bridlepath. The landscape is open, with good mutual visibility of approaching vehicles, walkers, cyclists and those riding/leading a horse. There would therefore be ample warning of an approaching tanker, and ample space to move out of the way by stepping off the bridlepath into the adjoining field. Accordingly, the risk to the public using the bridleway is low.
- 54 The more significant issue, it seems to me, is the times at which the deliveries are made to the mesh silo. It is indicated in representations that deliveries begin as early as 05:45 and continue as late as 21:00. Given the proximity of the bridlepath to the residential properties at the southern end of Hangman Stone Lane, I consider that vehicle movements at these times unacceptably detract from the living conditions enjoyed by the occupiers of those properties. However, the appellant proposes the submission of a traffic management plan to address this issue. The traffic management plan could also formalise the one-way system along the farm track, as well as seeking to address some of the other issues raised in representations: for example, mud on the road.
- 55 The submission of and subsequent adherence to a traffic management plan could be secured by a condition. Subject to such a condition, I am satisfied that the delivery of the Digestate to the mesh silo would not give rise to any unacceptable impacts.

*Support for the development*

- 56 A number of local residents support the retention of the mesh silo on the basis, amongst other things, that the farm will continue to use Digestate but through the less satisfactory method of storage in bladder tanks. Similarly, High Melton Parish Council supports the retention of the mesh silo, partly on the basis that it has a greater capacity and therefore requires less deliveries than the previously used bladder tanks. The Parish Council considers that this causes less disruption for residents, a view also held by some other local residents. The support expressed in these representations clearly weighs in support of the development.

*Planning conditions*

- 57 The Council provided a list of conditions that it would favour in the event that the appeal was allowed, and additional conditions were discussed at the Inquiry. It seems to me that conditions requiring the submission and approval of odour and traffic management plans, as well as a condition limiting the storage to PAS110 accredited products, could mitigate any harm in those

respects. Those conditions would be necessary to make the development acceptable in planning terms.

- 58 The other conditions discussed related to measures to mitigate the visual impact of the mesh silo. These conditions proposed planting around the mesh silo and painting the galvanised mesh a darker colour. However, whilst these measures might soften the appearance of the mesh silo to some extent, I have found the mesh silo to be acceptable within this landscape as it stands. Conditions requiring planting around the mesh silo and painting the galvanised mesh a darker colour would therefore not be necessary to make the mesh silo acceptable in planning terms.

***Conclusion on the appeal on ground (a) and the deemed planning application***

- 59 For the reasons set out above, the breach of planning control alleged in the notice accords with the development plan in relation to the main issues. I have not been advised of any material considerations of sufficient weight, either taken individually or cumulatively, to indicate that determination should be made otherwise than in accordance with the development plan. If anything, materials considerations relating to the benefits derived from using the Digestate and the support for proposal in some representations weigh in favour of granting planning permission.
- 60 Accordingly, I conclude that planning permission ought to be granted for the matters stated in the notice.

**Conclusion**

- 61 For the reasons given above, I conclude that the appeal should succeed on ground (a). I shall grant planning permission for the mesh silo as described in the notice as corrected. Because the appeal succeeds on ground (a), the appeals on grounds (f) and (g) do not fall to be considered.

**Formal Decision**

- 62 It is directed that the enforcement notice is corrected by:
- In paragraph 3 of the notice, delete the words "bladder tank" and substitute there the words "mesh silo in the position shown on the Plan attached to the notice with the dimensions of 3 metres high from the ground, and 23 metres in diameter with a capacity of 1,250 cubic metres incorporating associated pipework, the materials being galvanised steel mesh outer basket and black inner impermeable liner."
- 63 The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely a mesh silo in the position shown on the Plan attached to the notice with the dimensions of 3 metres high from the ground, and 23 metres in diameter with a capacity of 1,250 cubic metres incorporating associated pipework, the materials being galvanised steel mesh outer basket and black inner impermeable liner, at land situate and known as land north of Hangman Stone Lane, High Melton, Doncaster, subject to the following conditions:

1. Within 6 weeks of the date of this decision letter, an Odour Management Plan relating to the use of the mesh silo shall be submitted to the Local Planning Authority for approval. The use of the mesh silo shall thereafter be carried out in full accordance with the approved Odour Management Plan for the lifetime of the development.
2. Within 6 weeks of the date of this decision letter, a Traffic Management Plan shall be submitted to the Local Planning Authority for approval. The Traffic Management Plan shall include but not necessarily be limited to details of frequency and timing of deliveries of product to the mesh silo, and the routing of the vehicles delivering that product into and out of the farmstead. The deliveries of product to the mesh silo shall thereafter be carried out in full accordance with the agreed Traffic Management Plan for the lifetime of the development.
3. Unless agreed in writing with the Local Planning Authority, no material other than that which is PAS110 accredited (or equivalent) shall be stored in the mesh silo hereby approved.

*Paul Freer*  
INSPECTOR