
Appeal Decision

Hearing held on 9 February 2017

Site visit made on 9 February 2017

by Jonathan Price BA(Hons) DMS DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 14th March 2017

Appeal Ref: APP/J1915/W/16/3156149

Home Farm, Munden Road, Dane End, Hertfordshire SG12 0LL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr James Sapsed (Indegro Limited) against the decision of East Hertfordshire District Council.
 - The application Ref 3/15/1080/FUL, dated 26 May 2015, was refused by notice dated 25 May 2016.
 - The development proposed is construction and use of an agricultural storage lagoon.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr James Sapsed (Indegro Limited) against East Hertfordshire District Council. This application is the subject of a separate Decision.

Preliminary Matter

3. The Council's decision related to the amount and type of additional traffic generated by the proposal and the effect of this on the rural character of the approach road, on the occupiers of homes along it and on the potential for conflict with other road users. The Council's refusal was not on highway safety grounds. However, this is a significant concern raised in representations made by 'Stop Lagoon at Dane End' (SLADE), the community group set up to represent the objections from interested parties from both Dane End and the surrounding villages. As highway safety relates to road character it forms part of the main issues in the appeal.

Main Issues

4. Whether the proposal would be appropriate in relation to:
 - The character of the roads leading to the site;
 - The living conditions of roadside occupiers, with particular regard to noise and vibration;
 - The safety and convenience of other highway users.
-

Policy context

5. The development plan comprises the East Herts Local Plan Second Review 2007 (EHLP). Paragraph 215 of the National Planning Policy Framework (the Framework) requires that due weight be given to relevant policies in this existing plan, according to their degree of consistency with the Framework.
6. The appeal site is located in farmland within the Rural Area beyond the Green Belt where, under EHLP Policy GBC3, agricultural development would be appropriate in principle. However, the proposal was refused as being contrary to EHLP Policy TR20, which concerns development generating traffic on rural roads. This policy seeks to resist development which would give rise to a significant change in the amount or type of traffic on rural roads which are poor in terms of width, alignment and construction. The intention of this policy is to prevent developments where the resulting increased traffic would have a significant adverse effect on the local environment, either to the rural character of the road or residential properties along it, unless this impact can be mitigated.
7. Policy TR20 is consistent with the core planning principles in the Framework to always seek a good standard of amenity for all existing occupants of land and buildings, to take account of the different roles and character of different areas and to recognise the intrinsic character and beauty of the countryside. Policy TR20 also reflects paragraph 32 of the Framework whereby decisions should take account of whether improvements can be undertaken within the transport network that cost effectively limit the significant impacts of development. However, the paragraph 32 also states that development should only be prevented or refused on transport grounds where the residual cumulative impacts are severe.
8. The Council has published and consulted on a pre-submission draft of the emerging District Plan and, under paragraph 216 of the Framework, weight can be given to its policies. This plan is at a relatively early stage and so the extent of any unresolved objections has yet to be established. Nevertheless significant weight is attached to emerging Policy TRA2, as this is consistent with paragraph 32 of the Framework in setting out how decisions should take account of whether safe and suitable access to the site can be achieved for all people.
9. Although not part of the development plan moderate weight is given to Hertfordshire County Council's Local Transport Plan of 2011, mainly in respect of this providing a consistent basis for the highway advice provided.

Proposal

10. The agricultural storage lagoon would occupy a site of nearly 1 hectare in the north-east corner of an arable field adjacent to Home Farm and to the west of Dane End village. The lagoon would have the capacity to accommodate up to 10,000 m³ of bio-fertiliser, which would be provided by road tankers accessing the site from a new entrance on Munden Road, south of Home Farm.
11. The bio-fertiliser is a by-product of Anaerobic Digestion (AD). AD plants use waste food to produce power and the digestate by-product can be used as an organic alternative to synthetic agricultural fertilisers. The lagoon proposed is to

store the bio-fertiliser supplied from AD plants for later application to surrounding fields via an umbilical pipe system.

Amount and type of traffic

12. Deliveries of bio-fertiliser from the AD plant would be by tanker. The transport statement refers to a tanker payload of 29tn and so these would be heavy goods vehicles (HGVs).
13. The proposal is to provide the capacity to apply piped bio-fertiliser to approximately 600ha of surrounding farmland. The appellant estimates that currently the application of synthetic fertilisers to this area, taking place in the period March to April, amounts to around 36 HGV and 250 tractor movements.
14. The application of bio-fertiliser to this area would require up to 30,000tn of the material, which is approximately equivalent to three times the capacity of the proposed lagoon. The piped week-long bio-fertiliser applications would take place during three indicative periods each year – March, July/August and September. Based on a 6 day operation (Monday to Saturday), supplying the storage lagoon with 30,000tn of bio-fertiliser would involve 2-3 tanker deliveries per day during the non-spreading winter months (October to March) and a maximum of 4 deliveries per day in the two three-month periods between the spreadings.
15. The appellant translates this as 345 deliveries in the 6 month October - March period and 576 in the two three-month spring and summer periods, making an annual total of 921 deliveries and 1,842 tanker movements. These annual tanker deliveries would then displace the 36 HGV and 250 tractor movements involved in applying synthetic fertiliser in March/April.
16. Analysis of these figures is provided in the SLADE evidence. In summary, this discounts the highway benefits of the displacement of the 250 tractor movements, as this would have mainly taken place off-road and via field 'tram-lines'. Therefore, the argument is that this proposal would increase the hypothetical HGV movements significantly from 36 to 1,842. SLADE cite the higher figure of 1,002 total annual tanker deliveries (2,004 movements) provided by totalling the monthly breakdown set out in earlier correspondence from the appellant¹ to the highway authority.
17. SLADE also raises concerns that, as it calculates that the appellant has only secured access to 276ha of the assumed 600ha of farmland to be supplied with bio-fertiliser, there would be significant tankers movements involved in exporting surplus bio-fertiliser from the lagoon. Estimates of the potential additional tanker movements that might result from exports from the lagoon are provided by SLADE and I have had regard to these.
18. My conclusion is that it is not possible to rely on an exact figure of the annual tanker movements that would arise from this proposal. Much would depend on the appellant achieving the stated business plan. Consequently, I am basing the decision on the proposed limit of 4 tanker deliveries (8 movements) per day (Monday to Saturday) with no export of bio-fertiliser from the proposed lagoon other than that piped. Excluding Sundays and Bank Holidays this provides 305 days whereby a maximum of 4 daily tanker deliveries (8 vehicular movements) would amount to up-to 2440 annual movements in a non-leap

¹ Letter from Create Consulting to HCC Highways 25 February 2015.

year. However, the evidence suggests that the 4 deliveries per day is the headroom sought and these would average out significantly fewer than this, with up to three deliveries in the winter months and up to four in the summer period.

Reasons

Character of the roads leading to the site

19. The proposal is that bio-fertiliser deliveries to the lagoon would be via a designated haul route from the main A602 to the south, along a 2.6km length of Sacombe Pound and Munden Road. This would provide the most direct route to the site from the A602 and avoid tankers passing through Dane End village. The junction of the A602 with Sacombe Pound is the subject of a proposed County Council safety scheme, although this depends on future funding being available. However, the highway authority would accept the additional traffic on this junction provided tanker deliveries were restricted to left in/left out manoeuvres.
20. The additional use of the A602/Sacombe Pound junction itself would have limited effect on overall road character. It is the character of the minor route leading from this junction to the appeal site which is the more relevant concern, in respect of its width, alignment, construction and provision for non-motorised users. The 2.6km approach road to the Munden Road lagoon access is of a variable width. In places it widens to beyond 7m and in places narrows to less than 5m. Although for the main part it is set to a 60 mph speed limit the perception of width would encourage significantly lower speeds, particularly when other vehicles are approaching and passing.
21. The width has encouraged the formation of informal widening in places, where larger vehicles have overrun the metalled carriageway and worn back the soft sides, as commonly seen in rural roads. There are points where vehicles, particularly larger ones, would have to slow down significantly to safely pass other road users and, at some points such as at Sacombe Bridge, would have to stop and give way to onward traffic.
22. I would not dispute the original highway objection² from SLADE, which notes that there are 17 points along the haul route where there are widths of between 5-5.5m, where cars and tankers would have to take particular care in passing, and a number of pinch points of below this where one vehicle would have to wait for the other to pass. There are a number of sections where forward visibility is restricted, as set out in Section 3.6 of this highway objection.
23. The road is mainly without separate footways although there are short sections of pedestrian pavement alongside the housing either side of Sacombe Bridge, where there is also a 30mph speed limit. The appellant's transport statement describes the road as lightly trafficked but well-used by farm vehicles, although no counts are provided. The SLADE transport evidence does provide traffic counts, taken at Munden Road and Sacombe Pound, showing in the region of 1,000 vehicle movements along the proposed haul route during the 12 hours period of its proposed use, with currently a small proportion of HGVs.

² WSP/Parsons Brinckerhoff October 2015

24. The County Council is responsible for the maintenance of the road and considers its construction, including that of the bridges, adequate to accommodate the traffic generated by this proposal. Regard has been given to the concerns of interested parties over the potential harm to the bridges. However, the highway authority has not indicated these structures would have a weight-bearing capacity inadequate to support the likely tanker movements involved.
25. The proposal involves no physical changes to the minor road leading to the site and so it would remain as it is at present in respect of width, alignment and construction. In regard to the adequacy of the road to accommodate this proposal the issues are quite finely balanced. My starting point is that the County Council as local highway authority does not wish to restrict permission subject to conditions, which include adherence to a Traffic Management Plan (TMP).
26. Agriculture is an expansive industry in respect of the land used and, unlike more spatially consolidated activities, is generally served by a wide network of roads, generally not up to the standard of purpose-built industrial estates. The route serving the proposed lagoon is consequently no different to many rural roads serving agricultural activities, which this proposal would comprise.
27. The County Council's Local Transport Plan discourages developments which place a significant amount of vehicular traffic on rural roads, unless these are within 1km of a distributor road and improvements are made to the route. The lagoon would be 2.6km from the A602. However, the proposal is for a maximum of 4 tanker deliveries per day which is not a high number of traffic movements relative to the likely daily total on this road.
28. Should the surrounding farms not use this amount of bio-fertiliser then deliveries of synthetic fertiliser would remain. In addition, if the lagoon was provided and the take-up of bio-fertiliser was lower than that planned, then the number of annual tanker deliveries would be commensurately fewer. The figures for the net additional HGV movements show a stark annual increase along this road. However, if the planned amount of bio-fertiliser were to be applied to this area of farmland, as an alternative to synthetic fertiliser, then regardless of whether it was piped directly to the proposed lagoon or delivered directly to the individual farms this would still involve HGV movements in this area.
29. The proposed lagoon would focus the delivery of bio-fertiliser, in whatever quantity required to meet local demand, along an identified haul route. However, there are some advantages in this taking the most direct route from the A602 which, whilst passing some housing, avoids tankers travelling through the main Dane End village.
30. Part of the concern, identified in the SLADE evidence, is over this proposal providing a local storage and distribution point for the bio-fertiliser produced by AD plants. However, the appellant is clear that the proposal would be for piped distribution only and would not involve any onward tanker exports.
31. Taking account of the fact that this proposal is an agricultural operation it would be appropriate in this location. The route between the A602 of the appeal site is direct and avoids areas with a significant amount of habitation. Whilst this minor road has clear deficiencies in respect of width and alignment

this is no different from many rural routes which must accommodate the normal amount of vehicular traffic involved in agriculture.

32. The relative increase in the vehicular use of this road would not be great but would involve a higher proportion of larger tanker vehicles. The proposal would give rise to a degree of change in the type and amount of traffic along this rural road which has deficiencies in width, alignment and construction. However, subject to a suitably enforceable TMP, the local highways authority considers this road adequate to accommodate the vehicular movements generated.
33. Subject to the proposed daily limit on tanker deliveries, I consider that the change in the amount and type of traffic arising from this proposal would not have a significant effect on the local environment, in respect of the rural character of the road. For this reason the proposal would not conflict materially with EHLP Policy TR20.
34. I am aware of no other major developments which would result in any significant cumulative increase in vehicle movements along the route in question. There might be a small increase in the incidence of vehicles having to slow or to stop temporarily to permit safe passage along the road. However, this would be unlikely to result in significant queuing or congestion. Consequently this proposal would not exceed the capacity of this road to accommodate the additional vehicular movements involved. Therefore, the proposal would gain support from paragraph 32 of the Framework, whereby development should only be prevented or refused on transport grounds where the residual cumulative impacts are severe.

Living conditions of roadside occupiers, with particular regard to noise and vibration.

35. Tankers using the proposed haul route would not pass through the main developed area of Dane End and this would avoid significant harm in this respect to occupiers in this village. The corollary to this is that those residents who live alongside the tanker route would bear the brunt of the impacts of the additional vehicle movements.
36. Whilst some of the homes affected are set reasonably well-back from the road, others are sited closer to it. For example, there would be a relatively greater degree of impact on Nos 2 and 4 Sacombe Pound due to these houses being close to the road, and to Home Farm Cottage, which is sited adjacent to the proposed new site access on the Munden Road.
37. Some occupiers, living adjacent the proposed haul road, would experience a relatively greater impact from the noise of passing tankers, and from hydraulic brake sound and vibration where vehicles slowed and stopped at pinch points, such as Sacombe Bridge. This harm has to be balanced against the existing effects of traffic on this road, the advantages of routing tankers away from the main areas of housing, the low frequency of additional vehicle movements and the general purpose of the highway, which includes supporting the local transportation needs of agriculture.
38. Having weighed these considerations, and accounting for a maximum of eight daily tanker movements causing intermittent rather than prolonged disturbance, there would not be the significant adverse effect on the local

environment, in respect of the living conditions of occupiers along this road, for the proposal to be contrary to EHLP Policy TR20.

39. The proposed TMP could incorporate measures to restrict tankers stopping for any period at or along the proposed new access adjacent to Munden Cottage and limiting speeds within the site to 20mph. Along with a requirement for appropriate landscaping, this could go some way to mitigate any harmful impacts of the tanker deliveries on these closest occupiers.

Safety and convenience of other highway users

40. The Council's decision relates to the potential conflict with tankers and other road users, although the concerns relate to issues of convenience and amenity rather than safety. However, the representations from SLADE, and those made independently from interested parties, do raise highway safety concerns both in respect of the new Munden Road entrance and the haul route.
41. The new tanker entrance onto Munden Road was required by the highway authority to overcome concerns with the original plan to serve the lagoon from the existing farm access at the junction of Green End Lane/Whempstead Lane. The highway authority is content with the design of the access, based on a swept path analysis of tankers entering and leaving the site, which provides 43m visibility in either direction onto Munden Road from a 2.4m setback. This meets the recommendations in Manual for Streets (MfS) for a design speed of 30mph along this road.
42. The highway authority had not required a Road Safety Audit (RSA) of the junction design, which for an access of this nature would not be mandatory. The SLADE concerns are that the visibility splays would be inadequate and should have been designed to recorded road speeds, as reflected in their own survey results. However, the MfS recommended distances provide a starting point and, taking account of the level of use proposed and the nature of the approach roads, I consider the visibility proposed at the new site entrance access to be adequate in respect of highway safety.
43. Regarding haul route safety both the appellant and SLADE provide evidence of road traffic accidents, but these show no clear correlation with particular parts of the minor road section. The junction of the A602 with Sacombe Pound is the subject of a proposed County Council safety scheme due to its accident record. There is no certainty over when this improvement might be carried out. Nevertheless, I am persuaded that the level of additional HGV movements resulting from the lagoon would be acceptable in highway safety terms in advance of this junction improvement. However, I agree with the highway authority that the tankers using the present junction would only be acceptable in highway safety terms if restricted to left in/left out manoeuvres.
44. Regarding the safety of the minor route section of the haul route I have considered the RSA³ commissioned by SLADE. However, the recommendations for widening the road, including the bridges, or, failing that, providing passing places, road re-alignment and signalling would be disproportionate in relation to the level of additional HGV use proposed.
45. The width and alignment of this road, like many other rural routes, has the effect of moderating vehicles speeds to substantially below the 60mph, which

³ Stage 1 Road Safety Audit Alpha Consultants January 2017

large sections are controlled to and which is not intended to be a target speed. Case law⁴ has recently clarified that the severity test over residual cumulative transport impacts, referred to in paragraph 32 of the Framework, does not apply to matters of highway safety. Nevertheless, I consider that the width and alignment of this rural route would moderate the speed of traffic and demand caution and care from road users, particularly when responding to approaching traffic. As a consequence, I consider that the road would safely accommodate the increased level of HGV movements and that the proposal would satisfy both emerging District Plan Policy TRA2 and paragraph 32 of the Framework.

46. However, the additional vehicular movements resulting from this proposal, in the context of the characteristics of the road, would nevertheless raise issues of highway user conflict. Where development on rural roads would not be precluded under EHLP Policy TR20 there nevertheless remains a requirement for financial contributions for road improvement measures to assist cyclists and pedestrians, where deemed necessary and reasonably related to the scale of the proposal.
47. In the revised planning statement of February 2016 the appellant has proposed a permissive footpath alongside the Munden Road to connect with the ends of Little Munden footpaths Nos 6 and 28. It is evident that just prior to the Council's decision there had been discussions with the County Council's Countryside Access Officer over this offer and a range of enhanced mitigation options were recommended for improving footpath connectivity along this route, as set out in an email dated 21 March 2016⁵.
48. It is clear that the Countryside Access Officer was seeking an undertaking to secure a connected public bridleway alongside the road, to give walkers and horse riders the option to avoid conflict with the additional amount of HGV traffic. The Council's decision would have curtailed further negotiation over these options and, due to the wide range of additional issues raised in the appeal, this matter was not discussed in detail at the hearing.
49. There are clearly existing conflict points between road users along the proposed tanker route. Paragraph 75 of the Framework states that local authorities should seek opportunities to provide better rights of way facilities by adding links to existing networks. The evidence is that a permanent right of way could be secured alongside the Munden Road which would be a measure proportionate with mitigating the impacts of the additional tanker traffic generated and a reasonable requirement for meeting the terms of EHLP Policy TR20.
50. For long-term security this mitigation would need to be in the form of a dedicated length of public bridleway. Because of the Order required to secure such mitigation, this would not be appropriately required through a condition. Consequently, as submitted, this proposal would not adequately mitigate the additional degree of conflict between HGVs and other road users, principally walkers and horse riders, to satisfy the aims of EHLP Policy TR20.

Enforceability of TMP and other conditions

⁴ *Mayowa-Emmanuel v Royal Borough of Greenwich* [2015] EWHC 4076

⁵ From Tom Goldsmith Countryside Access Officer, Hertfordshire County Council to EHDC Planning.

51. This decision is based on the proposal being conditional upon the terms of an enforceable TMP. This would require no more than 4 tanker deliveries per day (Mondays to Saturdays and not Sundays or Bank Holidays) during agreed hours of operation and times of the day, using only the haul route proposed and vehicular movements being restricted to left-in/left out movements at the A602/Sacombe Pound junction. A further condition would also secure no onward export of bio-fertiliser from the lagoon, other than via umbilical pipe.
52. Consideration has been given to the concerns of SLADE that a TMP would not be enforceable through a condition and I have had regard to the separate appeal decision⁶ which supports this view. However, in this case, the alternative option of a Traffic Regulation Order would not provide a practical means of enforcing the necessary vehicular management, as this would unreasonably restrict the rights of all road users. In my view a TMP, if suitably framed, could in principle be enforceable through a planning condition. The local highway authority confirmed its satisfaction with this approach at the hearing. However, as the full details of the TMP have not been provided, my decision can only be based on the principle of a condition adequately securing its requirements. Enforceability would depend on the precise terms of the TMP.
53. Paragraph 206 of the Framework requires that planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. I have considered the other conditions agreed by the main parties in the Statement of Common Ground (SoCG) and consider these would meet the required tests.

Other Matters

Environment and ecology

i. Ground water protection

54. The lagoon would be constructed in accordance with the Water Resource (Control of Pollution) (Silage, Slurry and Agricultural Fuel Oil) (England) Regulations 2010 (SSAFO). An environmental report⁷ produced on behalf of SLADE raises concerns over the lagoon being sited above a chalk aquifer, with the risk of pollution to groundwater and the associated chalk stream this feeds, and relying solely on a sheet membrane liner. These concerns were accompanied by a review of complaints made to the Environment Agency and its other UK counterparts in respect of SSAFO regulated farm lagoons, obtained through a Freedom of Information request.
55. At the hearing the appellant rebutted these concerns and it was confirmed that the design and construction of the lagoon would meet SSAFO regulations by adhering to CIRIA C759 guidance over the construction and management of the lagoon, which forms part of the BSI PAS⁸ 110 setting quality specifications for the use of anaerobic digestate bio-fertiliser.
56. I can find nothing in the complaints review that would clearly substantiate an objection to this particular proposal, which should in any case be considered on its own merits, or that its proposed construction or operation would fall below

⁶ APP/Y3940/W/16/3147707

⁷ AAe Environmental Limited

⁸ British Standards Institution Publicly Available Specification

the required standards. There is not the evidence that the underlying geology would fail to support the lagoon and thus risk groundwater pollution. Therefore, there would be no material conflict with this proposal and the aims of EHLP Policy ENV20 over groundwater protection.

ii Biodiversity

57. The SLADE representations raise concerns over harm to biodiversity, particularly in respect of the lack of prior species surveys and effects on hedgerow habitat. The evidence suggests that the appeal site has modest biodiversity interest but that the hedgerows would support nesting birds and possibly slow-worms and/or Roman snails.
58. Planning conditions might prevent the removal of hedgerow during the bird nesting season and require a protected species survey and any necessary mitigation. Subject to this, the proposal would result in no material harm to biodiversity interests and therefore comply with EHLP policies ENV16 and ENV17.

Landscape and visual impact

59. Interested parties raise concerns over the harmful visual impact of the lagoon in the landscape. Regard has been given to these concerns and the evidence provided by SLADE through the reports commissioned from The Landscape Partnership.
60. The surrounding landscape is characterised by quite gently rolling farmland, interspersed by woodland and rural development. The lagoon would be sited in the corner of a higher part of a field where the land slopes down towards the south-west. The cut-and-fill construction would provide for a bunded feature of a relatively low profile. The bund would extend to screen the vehicle delivery area. Security fencing would be along the outer edges of the bunds so would not be visually intrusive.
61. Although the lagoon is of a geometric shape it would be an agricultural use adjacent to the existing farm complex to its east and would not comprise an unduly alien feature. Any material harm arising from the visual impact of the lagoon and its proposed entrance would be mitigated by the planting proposed and through further measures that might be appropriately secured through condition, such as requiring planting along the open section on the west side of the new access.
62. Any surplus material might be used to create a more rounded shape to the visible sides of the lagoon and this, along with the landscaping of unused areas of the site and the planting and maintenance of the bund slopes, would also be further matters appropriately addressed through conditions. The same would apply to measures to protect the trees along the southern site boundary during the construction of the new access.
63. At the hearing the appellant advised that only a limited amount of operational lighting would be required, with no constant illumination. Lighting would be a matter that could be adequately addressed through the condition agreed as part of the SoCG and, subject to this, the proposal would have no materially harmful impact in respect of reducing local dark skies and comply with EHLP Policy ENV23. The colour of the lagoon cover might also be the subject of the condition to help the development blend in acceptably with its surroundings.

64. Subject to the conditions referred to above, the lagoon would assimilate acceptably into the landscape and not give rise to any significant visual harm. Consequently this proposal would not conflict with EHLP policies GBC14 and ENV1, in respect to any material harm to landscape character, and would satisfy Policy ENV11 in protecting existing trees and hedges and by providing adequate replacement where required. There would consequently be no conflict with the principles of the Framework for planning decisions to take account of the different roles and character of different areas and recognising the intrinsic character and beauty of the countryside.

Flood risk

65. Part of the new access to the lagoon is within a Flood Zone 3 area. Any flooding of the access would result in the temporary cessation of its use. Were there any emergency issues to attend to during any period the lagoon access was flooded then there would be alternative means to reach the development.
66. The design, construction and operation of the new access should not impede the adjacent water course, such as to risk the flooding of adjacent upstream areas. I am not persuaded that this is likely to be the case. Consequently, this proposal would not conflict with EHLP Policy ENV19 in respect of development in areas liable to flood. Subject to compliance with the SSAFO regulations and associated guidance this proposal would satisfactorily address EHLP Policy ENV19 concerning surface water drainage.

Odour

67. There have understandably been concerns raised by interested parties over the lagoon giving rise to harmful odour effects. The evidence would not support a conclusion of any material harm in this respect. I am satisfied that, due to the crust forming nature of the bio-fertiliser, the provision of a cover, the potential to apply a neutraliser and the general quality standards for the production of digestate, a planning objection to the lagoon in respect of harm from unpleasant odour cannot be substantiated. However, in the event of a statutory nuisance there remains separate environmental health legislation that would appropriately address this.
68. Any odour resulting from the application of bio-fertiliser to the surrounding fields would be as a result of an agricultural operation falling outside the ambit of planning control and so this is not an issue that I can attach any weight to.

Agricultural issues

69. The agricultural report produced for SLADE sets out the legislative rules for the storage and application of bio-fertiliser, which relate to various issues including the intended crop, the 'strength' of the fertiliser and the area of spread. These controls largely exist separate to the planning considerations relevant to this proposal.
70. This evidence has been considered alongside concerns set out by SLADE that the appellant has insufficient buy-in from neighbouring farms to provide the land area to use the bio-fertiliser piped from the proposed lagoon, based on its proposed throughput capacity. However, limited weight can be given to this concern as the appeal should be judged primarily on its acceptability in land-use planning terms and the viability of the proposal would be a separate matter.

Conclusion

71. Having considered the case made by the Council, and paid full regard to the range of concerns raised by the considerable number of individual interested parties, and collectively through the SLADE representations, I have balanced the issues.
72. Weight is given to the benefits of the supply of anaerobic digestate as an alternative to artificial fertiliser and the broader advantages provided in respect of supporting sustainable development. The take-up in the supply of piped bio-fertiliser from the lagoon would be commensurate with a reduction in direct road deliveries of fertiliser, either artificial or otherwise. The lagoon use would be related directly to an agricultural demand and be appropriate in principle within an area where farming is the predominant land use.
73. The character of the haul route, in respect of width, alignment and construction, would dictate the behaviour of all responsible road users and an objection in highway safety terms is not substantiated. In the context of the existing use of the surrounding highway network, and the current agricultural activity this supports, the proposed road to the lagoon site would have the capacity to adequately accommodate the additional HGV traffic generated by the proposal. Subject to the conditions proposed in the SoCG there would be no material harm to the rural character of the road or the living conditions of occupiers alongside it.
74. Nevertheless, the road also provides for the needs of other users, including walkers, cyclists and horse riders. Whilst there are benefits in securing a tanker route that avoids the main areas of housing, this would focus and increase movement along a particular stretch of highway which would intensify the conflict with other road users. The lack of a detailed TMP, and also the means to secure a permanent bridleway/footpath alongside the road leading to the site, would fail to adequately mitigate for the impact of the additional road traffic that would result from this proposal.
75. It is for this reason, having carefully considered all other matters raised, that I conclude that the appeal should be dismissed.

Jonathan Price

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr James Sapsed	Indegro Limited
Sarah Simpson	Create Consulting Engineers Limited
Anna Becvar	Earthcare Technical
William Gilder	Transport consultant

FOR THE LOCAL PLANNING AUTHORITY:

Lisa Page	East Hertfordshire District Council
Oliver Sowerby	Hertfordshire County Council
Councillor Paul Kenealy	East Hertfordshire District Council

INTERESTED PERSONS:

Salvatore Amico	Attwaters Jameson Hill Solicitors
Damian Ford	TPA Transport and Highway Consultants
Paul Spackman	Agronomist
Carolyn Marlow	Chair of SLADE
Rebecca Legg	Local resident
Alastair Gresswell	Local resident
Gary Cowler	Local resident
Stuart Clarke	Local resident
Simon Marlow	Local resident
Russell Parkins	Local resident
Robert Hicks	Local resident