
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

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.
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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 The appeal on ground (e) was subsequently withdrawn at the Inquiry.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 operation¹. 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 operation².
- 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 extracted³. 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).

¹ 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.

² *Barvis v SSE* [1971] 22 P&CR 710

³ "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 m³ of Digestate. The Council calculate that the mesh silo has a plan area of 415.5m², 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 building⁴.

⁴ 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 plant⁵. 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.

⁵ 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 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

APPERANCES

For the appellant:

Mr David Anderton

Solicitor

He called:

Mr Stewart Woolhouse

Appellant

Mr David Kirkham Bsc

Agricultural Consultant

Mrs Janet Hodson BA TP MRTPI

Planning Consultant

For the Local Planning Authority:

Mr Philip Robson

Of Counsel

He called:

Ms Frances Horne BA (Hons) DIPLA DIPUED CMLI

Chartered Landscape
Architect

Mr Darren Horton

Senior Planning
Enforcement Officer