



## Appeal Decisions

Site visit made on 7 July 2025

by **H Nicholls MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 05 August 2025

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### **Appeal A Ref: APP/Q1153/W/25/3362551**

#### **Bickham Farm, Yelverton, Plymouth PL6 7BJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr J Allen of Maristow Farms against the decision of West Devon Borough Council.
  - The application Ref is 2103/24/FUL.
  - The development proposed is proposed siting of an earth bank lined slurry lagoon.
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### **Appeal B Ref: APP/J9497/W/25/3362548**

#### **Bickham Farm, Yelverton, Plymouth PL6 7BJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr J Allen of Maristow Farms against the decision of Dartmoor National Park Authority.
  - The application Ref is 0336/24.
  - The development proposed is proposed siting of an earth bank lined slurry lagoon.
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### **Decision**

1. Appeal A is dismissed.
2. Appeal B is dismissed.

### **Applications for costs**

3. Applications for costs were made by the appellant against West Devon Borough Council (WDBC) and Dartmoor National Park Authority (DNPA) in respect of both Appeals A and B. These applications are subject of separate decisions.

### **Preliminary Matters**

4. The appeal site intended to receive the slurry lagoon and track extension into the field is largely situated within the Borough of West Devon. However, those areas are accessed via an existing track from the public highway which is partly within the Dartmoor National Park. As such, the proposal was subject of duplicate applications made to both WDBC and DNPA. A single site visit was undertaken and I have produced one decision covering the separate matters under the respective linked appeals.
5. The fifth reason for refusal of Appeal A omits specific reference to 'carbon reduction' measures, though the accompanying Delegated Report and Statement of Case clarify that the absence of detail of carbon emissions and associated reduction measures sit behind this ground for refusal. As such, I have clarified the wording of the main issue on the basis of the evidence before me.

6. A revised plan was submitted with the appeal which shows the removal of the proposed extension to the existing access track and for a shorter connection to be made to the existing access track to the west. Where amendments are proposed, regard should be had to the principles established in the Holborn Studios case<sup>1</sup> which expanded upon those established in Wheatcroft<sup>2</sup>, in terms of the materiality of the change and whether anyone who should have been consulted on the changed development would be deprived of that opportunity. As the plan detail relatively minor amendments, and the nature of concerns of those who would normally have been consulted are clear from consultation on the original plans, I do not consider that their interests would be prejudiced if I take the amended plan into account. I shall therefore determine the appeal on the basis of the plans referred to on the decision notice, as well as the additional amended plan.

### **Main Issues**

7. The main issues in respect of Appeal A are:
- the effects of the proposal on Best and Most Versatile agricultural land;
  - whether the proposal would conserve and enhance the Tamar Valley National Landscape;
  - the effects of the proposal on the Shaugh Prior Woods Site of Special Scientific Interest (SSSI), South Dartmoor Woods Special Area of Conservation (SAC), Tamar Tavy Estuary Site of Special Scientific Interest (SSSI), Plymouth Sound and Estuaries Special Area of Conservation (SAC) and Grenofen Wood and West Down Site of Special Scientific Interest (SSSI) (referred to collectively as the SACs and SSSIs);
  - whether the proposal would be served by adequate means of surface water drainage; and
  - whether the proposal would incorporate adequate carbon reduction measures.
8. The main issue in respect of Appeal B is whether the development would be justified in the Dartmoor National Park (National Park).

### **Reasons**

9. The appeal site forms a part of Bickham Farm which is an established dairy farm covering over 180 hectares and a part of the wider Maristow Estate farming enterprise. The farmyard and agricultural buildings are situated to the south of the appeal site. The unmade access track serving the farm also runs to the southern boundary of the specific field subject of the appeal and continues along the boundary of an adjoining field to the west. The farmhouse, Bickham House, is a Grade II listed building situated on a lower elevation over the ridge from the appeal site and some approximate 350 metres away.
10. The proposal is to construct an open, earth-banked slurry lagoon relatively centrally within the subject field. The lagoon would be around 56m by 45m along the inside top banks and 31m by 20m at the base, a depth of 5m with a 750mm freeboard. A safety fence would also be constructed around its outer edges. The lagoon would have a total volume of around 7,400 cubic metres, allowing for the calculated slurry storage needs and rainfall over the 6 month storage periods.

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<sup>1</sup> Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823

<sup>2</sup> Wheatcroft Ltd V SSE [1982]

### *Best and Most Versatile (BMV) Land*

11. The lagoon itself would cover an area of around 0.3 hectares. Its function would be linked to the ongoing dairy farming operations. Whilst not extensively detailed in a site selection exercise, the evidence details that other locations have been considered, but that given its proximity to key buildings and access for machinery, the site is the preferred and most suitable site. On my site visit I noted the logical link between the appeal site and farmyard, accesses, physical constraints and existing slurry facilities such that the site's selection by the appellant is understood.
12. The evidence of the parties on the classification of the land is inconclusive, and in the absence of cogent evidence to the contrary, I have assumed that the site constitutes BMV agricultural land, albeit my view is that it would not be of the highest Grades 1 or 2 and the limited evidence does not suggest otherwise.
13. The area excavated for the lagoon would be taken out of use for low yield crops or pasture for the milking herd, though the field would retain sufficiently wide margins to allow for continued grazing. With appropriate enclosure, separation between the lagoon and any grazing livestock could be achieved. As such, I do not agree that the creation of the lagoon would remove the entire field from purposeful agricultural use.
14. The reversibility of the scheme beyond its useful lifetime is also a matter disputed between the parties. The appellant has not detailed the expected serviceable lifetime of the slurry lagoon, nor how it would be reclaimed and infilled to return the land to its current use. A condition is invited by the appellant given the absence of a management plan or exit strategy. Whilst the site's eventual restoration would be a desirable outcome in the event of any permanent cessation of use of the lagoon, I have too little information on the potential for site restoration to assume that any related condition would be reasonable or enforceable.
15. However, in view of the scale, nature and location of the site within the context of the wider holding, the proposal would not result in harmful effects on the BMV agricultural land resource. The proposal would therefore avoid conflict with Policies SPT1 (3) (iv), DEV2 (6) and TTV26 (2) (v) of the adopted *Plymouth and South West Devon Joint Local Plan 2014-2034* (JLP) (adopted 2019). These Policies seek for the long term potential of best and most versatile agricultural land to be safeguarded and for it to be put to agricultural uses.

### *Effects on Tamar Valley National Landscape*

16. The site falls within the Tamar Valley National Landscape (NL) (formerly Area of Outstanding Natural Beauty). The special qualities of the NL are broadly defined in the *Tamar Valley Area of Outstanding Natural Beauty Management Plan 2014 – 2019* (Management Plan) as:
  - An unspoiled valley and water landscape – with lower tidal mudflats contrasting with expansive waterscapes at high tide, dramatic middle valleys with steep fringing woodlands, high cliffs juxtaposed with gentle meandering stretches of pastureland and gentle rolling pastoral land on the higher plateau areas;
  - A landscape of exceptional visual quality – with an intimate feel in the enclosed areas contrasted with long, expansive views of the patchwork agricultural landscape from high points, including Kit Hill;

- A landscape with a diversity of wildlife habitats – supporting notable species;
  - An unspoilt medieval and post-medieval settlement pattern – with distinctive mining features and evidence of the importance of the river as a former industrial and trading route that influenced its evolution;
  - A landscape with a strong local identity in farming, forestry and mining communities to which artists and writers are drawn.
17. The appeal site is part of the patchwork of pastureland on the higher areas of the NL which offers panoramic views to the surrounding landscape at lower levels. The site and the wider surroundings in which it is experienced are clearly of a high visual quality and support the easy identification of the landscape as one largely related to farming. The appellant does not dispute that the site contributes positively to the scenic qualities of the designated landscape, though the extent of its positive contribution or the visual changes that would be brought about by the proposal have not been detailed in a specific appraisal or landscape and visual impact assessment. A number of photographs of similar installations has been provided to illustrate the ability of such installations to assimilate within an agricultural landscape context.
18. The omission of the extended access track down the field would reduce the proposal's overall landscape and visual effects. Owing to its indiscreet siting within the field away from the farmyard, and in an elevated position, combined with the scale, form and features of the proposal, including its fencing, there would be a degree of landscape change and visual harm from the proposal. The visual harms would be greatest in close range to the site, including from the nearby Public Right of Way, despite the intention to increase the height of field hedgerows as a screening measure. The effects would be more limited in longer views, with hues of a naturalised colour, relatively typical of a patchwork agricultural landscape. These landscape and visual changes would result in a degree of erosion of the special qualities of the NL, which whilst modest, would not further the purposes of conserving and enhancing the natural beauty of the National Landscape in accordance with Section 85 of the Countryside and Rights of Way Act 2000<sup>3</sup>.
19. The appellant's suggestion that the spreading of slurry is a landscape enhancement measure that has many other associated environmental benefits is not a persuasive argument, as the slurry will be spread whether with or without the lagoon, but just at different intervals, locations and in different quantities. It may avoid land being churned up through slurry spreading activities at inclement times of the year, but the landscape and visual effects of such are relatively limited and temporary in any event. The outcomes secured by the proposal would therefore not amount to a notable enhancement of the special qualities of the NL.
20. In view of the above, the proposal would not conserve and enhance the Tamar Valley National Landscape and therefore raises conflict with Policies TTV26(2)(vi), DEV23 and DEV25 of the JLP which seek to enhance the immediate setting of the site and give great weight to conserving landscape and scenic beauty in the protected landscapes. For similar reasons, the proposal would not adhere to the Management Plan, specifically objective 3.4.1 and policy 8.5.1 which seek to conserve and enhance landscape character and support land management

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<sup>3</sup> As amended by the Levelling-up and Regeneration Act 2023

systems that are compatible with the landscape character and purposes of the landscape designation.

*Effects on the SACs and SSSIs*

21. The appeal application was submitted with an Odour Study<sup>4</sup> and an Ammonia Report<sup>5</sup>. The Odour Report focusses on the potential odour effects on the nearby residential receptors, to which the Council's Environmental Health Officer has not raised an objection. Whilst protected by different legislation based on their national or international level of designation, the SSSIs and SACs have the potential to be affected by emissions of ammonia through its toxicity to certain plant species and the deposition of nitrogen which promotes the accelerated growth of some species at the expense of others.
22. Natural England responded to the appeal application twice, once on the 9 August 2024 and separately on the 6 September 2024. The initial response indicates that most slurry storage improvement projects have a reductive effect on nutrient pollution though additional information was requested to allow a substantive response to be provided. The latter response, from a different author to the first, refers specifically to the submitted Ammonia Assessment and acknowledges that the proposal would not, on its own, generate ammonia contributions of equal to or greater than the 1% critical level at any of the sensitive SACs or SSSIs.
23. However, the Natural England response highlights that an in-combination assessment is necessary to understand the impact of the proposal with any other projects that would generate impacts of a similar nature when taken together. Such an in-combination assessment should draw information from various sources. There is no evidence that these sources have been assessed to identify any plans or projects that would add emissions to consider in combination with those that would be generated by the appeal proposal.
24. Though I may be the competent authority responsible for undertaking a Habitats Regulation Assessment at the appeal stage, I have insufficient information to conclude that in-combination effects would not occur or would not harm integrity.
25. Furthermore, whilst it is suggested that the appellant would be willing to cover the lagoon, I have limited detail on the effect of such on the emissions and does not alter the fact that I have insufficient information on which to reach a conclusion on the potential in-combination effects. As such, I have treated the appeal proposal on the basis of the submission which is for an uncovered lagoon.
26. Thus, drawing all of the above together, in the absence of cogent information to the contrary, and taking a precautionary approach, I must conclude that the proposal would affect the integrity of the internationally designated South Dartmoor Woods SAC and Plymouth Sound and Estuaries SAC, and would also harm the SSSIs. The proposal would therefore conflict with policies DEV2 and DEV26 of the JLP which respectively seek to avoid harmful environmental impacts arising from soil, air, water, land, or noise pollution or land instability and give the highest level of protection to European Sites and a high level of protection to sites of national significance for nature conservation.

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<sup>4</sup> AS Modelling and Data, 25 January 2024

<sup>5</sup> AS Modelling and Data, 26 January 2024

### *Surface Water Drainage*

27. The appeal proposal is for an uncovered lagoon. The capacity of the lagoon has been devised to take account of the rainfall that it would intercept over the months of slurry collection and storage. Locally specific rainfall data has been used to calculate the relevant volume with some allowance for climate change effects. The rainwater also collected over the surface area would mix with the slurry and would be spread over surrounding farmland at specified intervals. As such, any further detail necessary on the lining or otherwise, and specific means of surface water management, could be resolved by way of planning condition.
28. In view of the above and subject to a condition, no conflict would arise with Policy DEV35 of the JLP which seeks to ensure that development incorporates sustainable water management measures to reduce water use, and increase its reuse, minimise surface water run-off, and ensure that it does not increase flood risks or impact water quality elsewhere.

### *Carbon Reduction*

29. Policy DEV32 of the JLP sets out that the need to deliver a low carbon future should be considered in the design and implementation of all developments, identifying opportunities to minimise the use of natural resources in the development over its lifetime, such as water, minerals and consumable projects, by reuse or recycling of materials in construction and by making best use of existing buildings and infrastructure. The *Plymouth and South West Devon Climate Emergency Planning Statement* (the CEPS) was also adopted in 2022 and is a material consideration in the determination of planning applications that seeks to further the aims of JLP Policy DEV32.
30. I understand the aim of the slurry lagoon to assist with simplifying the storage and handling of slurry, which would, in principle, be likely to result in carbon savings. However, despite its intended purpose to decarbonise the milk production processes, there is limited quantification of the actual carbon savings that would be generated when taking account of the proposal as a whole, including soil movements, materials and the transportation of slurry.
31. As such, in the absence of cogent evidence to the contrary, the proposal conflicts with Policy DEV32 of the JLP and fails to have sufficient regard to the CEPS.

### *Whether justified within the National Park*

32. An identical application for development was made to DNPA as is required of proposals that cross the boundary of two neighbouring authorities. All of the operational development would fall within the Borough of West Devon, with only part of the existing access track to serve the appeal site and wider farm within the National Park. Apart from any construction traffic, the proposal would not result in a significant increase in traffic movements that would have an impact on the amenity of the area.
33. DNPA has confirmed that the proposal would not have an undue impact on the special qualities of the National Park given the well screened nature of the site by topography and vegetation. It is also accepted that surface water run off would also naturally fall away from the National Park. As such, DNPA takes no issue with the minimal extent of the development within the National Park boundary arising

primarily from any limited vehicle movements along the access track. I find no reason to reach different conclusions in these regards.

34. However, in the absence of any alternative joint working arrangement or having delegated its decision making responsibilities to WDBC in this case, DNPA has refused permission on the basis of the issues with the wider development as detailed in WDBC's decision notice. Though the Council consider it perverse to grant planning permission given the views of WDBC, no harm within the National Park has been identified that gives rise to a conflict with the development plan.
35. As such, the development would not result in any harm or associated conflict with Policies SP1.1 and SP1.2 of the Dartmoor Local Plan (adopted 2021). These policies seek to support development that furthers National Park purposes, such as the conservation and enhancement of the natural beauty, wildlife and cultural heritage of the area.

### **Other Matters**

36. A number of objections have been submitted in respect of the potential odour emissions and concerns about the robustness of the assessment of the same. As the appeal is failing for other reasons, this matter is not determinative.
37. I note the support from the dairy business that receives the produce generated by the appeal farm and appreciate the need to support a valuable farming operation which faces operational challenges and regulatory non-compliance issues on the basis of its current slurry storage infrastructure. These aspects attract weight in support of the proposal.
38. I also note that the proposal would generate a biodiversity net gain (BNG) of around 35% which exceeds the statutory 10% BNG requirement.
39. The appellant's position is that more information would have been provided to minimise the issues in dispute if permitted to do so. Be that as it may, I have determined the appeals on their respective merits and I address any alleged unreasonableness in the separate costs decisions.

### **Planning Balance and Conclusions**

40. Insofar as the proposal would fail to preserve or enhance the Tamar Valley National Landscape, harm the SACs and SSSIs, and fail to secure adequate carbon savings, the scheme under Appeal A would conflict with the development plan when taken as a whole.
41. Having taken account of the benefits and considerations advanced in favour of the scheme, including any limited construction phase economic benefits, even taken collectively, they do not outweigh the conflict with the development plan such as to indicate that a decision should be taken other than in accordance therewith. Consequently, Appeal A should be dismissed.
42. Absent of the operational development comprising the formation of the slurry lagoon under Appeal A, the use of the access track would continue as at present. No construction traffic or vehicle movements associated with its operational phase would arise. Thus, whilst there would be no harm or conflict with the development plan, as the related operational development under Appeal A is failing, granting permission for Appeal B would serve no purpose. The direct relationship with

Appeal A and B and the unimplementability of the latter is a matter that indicates that a decision should be made other than in strict accordance with the development plan in this case.

43. For the reasons outlined above, Appeal B should also be dismissed.

*H Nicholls*

INSPECTOR