

**Item 4a**                    **12/00643/FUL**

**Case Officer**            **Caron Taylor**

**Ward**                      **Lostock**

**Proposal**                **Proposed new earth banked slurry store/lagoon**

**Location**                **Land 170M West Of Oak View Leyland Lane Ulnes Walton  
Lancashire**

**Applicant**                **Mr Andrew Deacon**

**Consultation expiry: 16 May 2013**

**Application expiry: 20 August 2012**

Members will recall that this application was reported to Development Control Committee on 21<sup>st</sup> May 2013 with a recommendation that planning permission should be granted. Members deferred the application for a site visit which took place on 28<sup>th</sup> May. The recommendation remains as per the original report wherein it is recommended that planning permission should be granted. The contents of the addendum presented at the Development Control Committee meeting have been incorporated into this report and the additional condition recommended has been added to the list of recommended conditions.

#### **Proposal**

1. Proposed new earth banked slurry store/lagoon.

#### **Recommendation**

2. It is recommended that this application is granted planning approval.

#### **Main Issues**

3. The main issues for consideration in respect of this planning application are:
  - Principle of the development
  - Background information
  - Impact on the neighbours
  - Ecology
  - Safety

#### **Representations**

4. 21 letters of objection have been received on the following grounds:
  - It is too close to residential properties and would be harmful to their amenity;
  - Concerns over threats to health;
  - The Council need to assess whether an EIA is required;
  - The site is close to a watercourse which flows into the River Lostock via Holker Brook therefore any seepage of spillage will impact on the environment;
  - Concern over construction and design in relation to the permeability of the ground. Will it be line? No leakage system is incorporated.
  - There will be HGVs coming and going;
  - Concerned about TB;
  - Will it be close enough to the farm to be properly monitored?;
  - It will increase the fly population;
  - Screening of the plot should be imposed;
  - Their health conditions requires them to breathe clean fresh air;
  - The lagoon will result in toxic airborne compounds harmful to health;
  - Impact on ecology. Water voles are known to have been sited previously in Holker Brook. Has an ecological assessment been undertaken to assess their current population at the site to assess the impact of the development?;

- The lagoon appear larger than necessary;
- Rodents will be attracted;
- Safety – people and wildlife may fall in and drown.
- Is there contingency for overflow should flooding occur?
- The proposal will only be 130m from their property which is not sufficient for odour and insect pollution not to cause severe amenity harm;
- It could cause a fly infestation;
- Best farming practice indicates it should be close to the point of production i.e. the farm buildings;
- It will contribute to global warming;
- Agencies may have to issue an abatement notice;
- The proposal would be contrary to the Environmental Protection Act 1990, the Environment Act and British Standard and DEFRA Code of Agricultural Practice;
- Proximity to a public rights of way;
- Good practice dictates the lagoon should be close to the point of slurry arisings and more than 400m away from residential areas and amenities, which is not the case here;

One letter is an objection with conditions. It states that a correctly designed and managed holding facility could offer an opportunity to solve a long standing issue. If the farmer could demonstrate an overall vast reduction in odour, residents would be more inclined to welcome a well-planned and managed application.

5. A petition signed by 32 people has also been received asking that the application be refused on the grounds of pollution and environmental risks.
6. Following a re-notification to neighbours (notifying them of the Odour Assessment) a further four letters of objection have been received on the following grounds:
  - ADAS who carried out the report is a private company offering services to the agricultural community, they therefore question its impartiality;
  - They question the comparison with an assessment of a dairy farm in Pembrokeshire, for a planning application whose outcome is yet to be fully determined;
  - Other applications in Pembrokeshire have been refused on nuisance caused by odours;
  - At Boys Farm the properties are in the path of the prevailing wind;
  - What if the management necessary referred to is not kept to?;
  - They are more worried about the likelihood that the prevailing winds will carry flying insects from the slurry to their garden and home that the threat of stronger smells
  - Best practice puts slurry storage close to its source, within the confines of the farmyard area and 400m from buildings. There do not seem to be any extenuating circumstances that exclude Boys Farm from this consideration;
  - The report suggests that the extraction of slurry would only occur and spring and would be emptied by the end of May and only returned to use in autumn. However, slurry spreading at Boyes Farm is all year round and therefore will not be short term as suggested;
  - Only by the use of tanks where input and extraction is always below surface can the recommended management conditions be met;
  - Where will slurry be stored during May to October when the lagoon is not in operation?;
  - The farm is not in an NVZ as was originally implied, therefore there is no legal requirement for such slurry storage;
  - Have the Environmental Health Department been consulted;
  - The Council appears to be cherry picking and being selective in what it accepts or doesn't accept as part of what should be a public consultation;
  - The Odour Assessment seems to be a delayed recognition on the part of the applicant that odour is something which may well constitute a concern to residents and explains why it is proposed that the slurry be placed as far as possible form the farm house [it should be noted the Odour Assessment has been commissioned by the Council and has not been submitted by the applicant].
  - It is stated by a local resident that they fail to see that residents may draw comfort form the late submitted report which tries to mitigate just one of the many objections raised previously by residents. DEFRA's best practice for farmers is obviously being disregarded as if the lagoon is justified it should be closer to the point of slurry production near the farmhouse.

7. A further letter received from the Chairman of the Friends of the River Yarrow can be summarised as follows:

- Concern about the dangers to the nearby water course Holker Brook, which runs into the River Yarrow further west. The group have worked with the Council to improve the river habitat and indeed have had sightings of sea trout up beyond Birkacre. There is nothing in the report that reassures them that pollutants will not run off into Holker Brook. Who will monitor that? It would seem that one half of the Council is seeking to undo what the other half is doing;
- As a resident they state the possibility of 1.2 Million Gallons being "lagooned" in the open just round the corner less than 150metres from people's homes fills them with dread;
- Justification of the lagoon seems to rely on a study commissioned from a company called ADAS who generally work for the farming community (hardly independent). A study based on an application in Pembrokeshire which is still not approved by the local authority and where the topography is completely different; A study which notwithstanding the above "suggests" there will be no problems for neighbours or no "unacceptable odour impact" PROVIDED the "lagoon " is managed in accordance with good practise" Can someone advise me exactly who in Chorley's slim line workforce will monitor this "good practise"; A study which talks of "short term odour impacts" when the "lagoon " is emptied "when the wind is blowing to the nearest dwelling" How short is short term? How does one measure an odour impact?; A study which states that the "lagoon" must not be stirred or agitated when to function effectively it MUST be stirred and agitated; A study which says that the "lagoon" "should be completely emptied each year by the end of May" Presumably so that the 1.2 million gallons can be spread on the fields .in summer when flies abound!; Slurry is already spread in Autumn and spring so residents are going to be faced with the inevitable smell, flies etc. all year round;
- The Planning Authority seem to ignore the following; The Environmental Protection Act 1990 which suggests no slurry storage within 400m of a residential building. This lagoon is less than 200m away from a residence; There is evidence from Government that slurry can cause nuisance not just by odours but by harmful gases such as Ammonia, Carbon Dioxide, and Methane; Lancashire County Council suggestion that there are other (and better) sites to create the "lagoon" within the applicants land holding equally well served by tracks. Why can't the applicant use consider these. perhaps it's inconvenient; Other advice very well researched and documented by nearby residents giving very clear evidence of why this should be refused; The decision of Lancaster City Council who have refused a similar application on the grounds of loss of amenity and odour nuisance to nearby residents; The possibility of the applicant being encouraged to invest in some proper modern slurry storage tanks closer to where he keeps his cows; Or perhaps a more modern way by way of aerobic digestion. Again ,perhaps a solution with cost implications but one which might have benefits to the Community rather than inflicting "odour impacts" on residents all year round

8. Ulnes Walton Parish Council

Object to the planning application on the following grounds:

- Concern as to where the waste could potentially leak and the potential risk of pollution to local watercourses such as tributaries of the River Lostock;
- Concern was raised with regards to noxious odours that would emanate from the slurry lagoon on a permanent basis. The Parish Council consider this to be a loss of well-being to local residents by the fact that many will be unable to open their windows and doors;
- Concern was raised that the slurry lagoon would create a fly pollution and this would cause a nuisance to local residents resulting in a loss of well-being. The Parish Council suggest that guidance is sought from Environmental Health in this regard;
- Concern was raised with regards to heavy rain flooding the area and the slurry escaping. The River Lostock has recently flooded at Ulnes Walton Lane and if this occurred again in the future, slurry may potentially end up on the public highway and surrounding land;
- There is a public right of way which is nearby to the proposed site. There is no security or fencing considered in the application and concern was raised with regards to children approaching the slurry lagoon;

- Concern was raised as protected and endangered species such as water voles and great crested newts are known to have been sited in the area. The Parish Council suggest an ecological assessment be completed to assess the position;
- There is a potential of noise and impact to neighbouring residents from the machinery - agitator in slurry lagoon;
- Extreme concern was raised regarding the slurry lagoon producing toxic airborne compounds and other gasses such as methane which would impact the health and environment. The Parish Council would strongly suggest a full environment assessment be undertaken with substantial consultation with the Environment Agency;
- The Parish Council would request the applicant look at alternative designs for the storage of slurry;
- Concern was raised regarding vehicle access and emptying of the tank which potentially could cause highway safety issues. The risks of spills and leakage was also of concern;
- There is a lack of landscaping considerations in the proposal;
- There is lack of consideration in the proposal for the breakdown of the slurry lagoon and the possibility of it overflowing and the implications and remedies that would need to be undertaken.

9. A second letter of objection has been received from Ulnes Walton Parish Council:

- The Parish Council wishes to reiterate its original objections to the application and would ask whether the Environmental Health Department has been consulted and whether an environmental assessment has been conducted in consultation with the Environment Agency.
- With reference to the Odour Assessment the Parish Council has grave concerns that, what appears to be a desktop study, is being presented as hard evidence in this instance. The purported 'similar application in Pembrokeshire' is also as a modelling study and it would appear there is little firm evidence presented to support the Assessment. Furthermore there is no reference to climate and topological differences between the two sites.
- The Parish Council would also query whether the provision in planning regulations which 'normally prevent livestock waste storage facilities to be located within 400m of a protected building (i.e. a building normally occupied by people which are not part of the agricultural building)' remains in force.

10. Ulnes Walton Residents Group

Object to the application on the following grounds:

- Boyes Farm is not in an NVZ and therefore there are no legal obligations to store slurry other than the recommendations provided by DEFRA that advises a requirement of 4 months;
- The proposal is purely a cost saving exercise;
- The majority of the land cannot be serviced by an umbilical spreading system and therefore negates the reason stated to the position of the lagoon;
- The proposal does not accord with any of the relevant guidelines provided by the agricultural industry advisory bodies;
- The size of the lagoon is in excess of the applicant's requirement and is not proportionate to the herd size.

11. **The Environment Agency**

Have no objection in principle to the proposed development but make the following comments:

12. The proposed development must fully comply with the terms of The Water Resources (Control of Pollution) (Silage, Slurry and Agricultural Fuel Oil) (England) Regulations 2010 and The Code of Good Agricultural Practice (COGAP) for the protection of water, soil and air (produced by DEFRA).
13. They are committed to reducing both point source and diffuse pollution from agriculture through compliance with legislation such as The Nitrate Pollution Prevention Regulations 2008 and Code of Good Agricultural Practice and by encouraging best farming practice and the use of both nutrient management and manure management plans.

14. The construction of lagoons in natural in situ clay requires a permeability test to be carried out. The results of this test should be submitted to us to demonstrate that the clay is suitably impermeable and fit for purpose. This test has been carried out and the results show the permeability of the clay in situ to be  $1.6 \times 10^{-10}$  metres per second which is suitable for the construction of an earth banked lagoon for the storage of slurry produced on the farm. The permeability test and letter from us dated 9 December 2011 confirming the suitability of the ground have been submitted as part of the planning application.
15. The published geological mapping for this area shows the site to be located above mudstones at rockhead. These are mapped as being overlain by superficial deposits with glacial till shown to occur at surface. We have no logs in the area that give us an indication of the thickness of the drift, but there does seem to be ponding on the OS mapping in the general area and this is a reasonable indication that the clay is of low permeability and could provide good in-situ containment.
16. We have no records of any groundwater supplies in the area and the site can be considered as being low risk from a groundwater perspective.
17. The store should incorporate sufficient capacity to allow for annual rainfall, stock numbers and any yard areas and effluent or washing collection systems which are not collected separately and drain to the slurry system such as silage effluent and dairy washings. It is good practice to have a certain amount of excess capacity that will offer added security should regulations change or stock numbers increase in the future.
18. All land drains in the area of the lagoon should be diverted by means of a ring drain set 10 metres away from the edge of the lagoon banks to prevent water ingress and a pathway for slurry to escape.
19. Concrete pads should be used to protect the base where stirring prior to spreading is to be employed at designated stirring points and any access ramps should also be concrete to prevent damage to the structure but allow machine access for cleaning or maintenance. A solid barrier to protect the bank where the inlet pipe is situated will also help prevent bank erosion.
20. They must be informed of a new, reconstructed or enlarged slurry store, silage clamp or fuel stores at least 14 days before the structure is brought into use. Further guidance is available on our website and the applicant will need to complete form WQE3 'New or improved agricultural structures form which can be obtained from the Environment Agency'. The lagoon will be inspected before being put into use under the requirements of the Water Resources (Control of Pollution) (Silage, Slurry and Agricultural Fuel Oil) (England) Regulations 2010.
21. **County Council Land Agency**
22. The applicant and his family have been farming Boys Farm for over 50 years.
23. The principal enterprise of the unit is that of a commercial dairy herd consisting of approximately 275 milking cows with a further 250 followers on site of which 160 are heifer replacements. The applicant's bull calves are sold at a young age. In addition to the dairy herd, the applicant allows sheep to graze his land over the winter months.
24. The applicant advises them that the earthed bank slurry store is required for a number of reasons, including the need to meet his requirements for slurry storage under Government guidelines, to provide a greater degree of storage to cope with the expansion of his herd, to replace the existing deteriorating slurry storage facilities located at the farm and to facilitate a longer storage period for slurry, therefore allowing the applicant to spread his manure at the most effective time of year.
25. There has been significant expansion over recent years in the scale of the applicant's dairy herd operations which has been facilitated by new cattle accommodation. Whilst this new cattle accommodation has provided some additional slurry storage area i.e. underfloor storage, it is evident that this, together with the slurry storage currently available upon the unit, does not

provide sufficient storage for the number of cattle kept or for the duration required. As such, they consider that a storage facility is justified as adding extra capacity as well as replacing his existing above ground ring store located with the farmstead. Clearly this is an aged facility and one which they feel will soon be approaching the end of its design life. As such, they feel it reasonable to plan towards replacing the existing facility and feel the applicant's decision for a single facility will be down to cost.

26. Such extra storage capacity is required as a large proportion of the farm is situated in a Nitrate Vulnerable Zone (NVZ) [see the section on background information below for more information on the current NVZ position], with Government guidelines stipulating that farms within NVZs must provide at least 5 months storage capacity for slurry. They therefore consider that further storage upon the unit is necessary to meet this obligation.
27. In addition to meeting his obligations, the applicant's ability to store a greater volume of slurry for longer, within a purpose built facility, will permit him to spread manure at appropriate times of year, therefore possibly reducing fertiliser costs upon the unit and improving the effective use of his slurry.
28. They consider the size of the storage proposed is necessary upon the unit and they consider that it is proportionate to the applicant's herd size.
29. In terms of design, a slurry lagoon is one type of facility suitable for the storage of slurry. Other facilities include a slurry tower, underground lagoons and concrete lagoons. Whilst a slurry tower, such as that situated upon the unit, is a typical facility for the storage of slurry, with the significant growth of the applicant's herd over the past few years, this type of facility, in their opinion, is no longer suitable given that the storage capacity of a slurry tower is far less than a lagoon.
30. In considering other alternative storage facilities, in view of the storage capacity required by the applicant, they consider that an earth banked slurry lagoon is the most economically viable method for the storage of slurry upon the unit, with an underground storage chamber or concrete lagoon of the size needed to be disproportionately expensive.
31. They state the advice of the Environment Agency should be sought with regard to the siting and design of the lagoon, e.g. in connection to the soil permeability and whether a membrane is required.
32. The applicant advised that the position of the lagoon was due to its proximity to the majority of the land as they intend to use an umbilical system to spread the manure and he believes the siting of the lagoon would better facilitate this method of spreading.
33. Due to the design of an earth banked slurry lagoon, having wide banking and a fairly shallow depth, a large area is required for such a facility, limiting its ability to be sited upon the farmstead, unlike a slurry tower. This therefore means that the proposed development would have to be sited upon a greenfield site.
34. Whilst not operationally inappropriate, the proposed development, in their opinion, is not restricted to the position put forward and there are alternative greenfield sites upon the unit, including some nearer the main farmstead, where the proposed lagoon could be sited and which are equally well serviced by existing farm tracks.
35. **Environmental Health**  
In order to assess the potential of odour nuisance being caused to nearby residential properties from the proposed slurry lagoon, a report was commissioned by Chorley Council from Steve Peirson, Principal Odour Consultant at the Agricultural Development and Advisory Service (ADAS).
36. The potential odour impact of the proposed lagoon is assessed by comparing it with a lagoon of a similar type and size, located at a farm in Pembrokeshire, which ADAS have recently carried out a detailed odour assessment for.

37. The report concludes that the proposed lagoon will not result in unacceptable odour impact, provided that the lagoon is managed in accordance with DEFRA guidance. The report states that there may be some short term odour impacts when the lagoon is emptied at spring time, however short term impacts would not normally constitute a statutory nuisance under the provisions of the Environmental Protection Act 1990.
38. It is emphasised that the most important factors in minimising odour emissions from cattle slurry lagoons relate to the formation of a natural “crust” on the surface of the lagoon, ensuring that the crust is not disturbed until the store is emptied and that the lagoon is managed in accordance with DEFRA guidance.
39. An informal discussion took place between Chorley Council and Barbara Bell, Principal Environmental Consultant at ADAS and specialist entomologist, with a view to commissioning a report on flies/insects. We were informed that in her experience, issues with flies or other insects connected with slurry lagoons were rare and that a report may be of limited value, therefore a decision was made not to proceed with the report.
40. Issues arising from flies or insects at industrial, trade or business premises can be controlled using the statutory nuisance provisions of the Environmental Protection Act 1990.
41. They accept the recommendations contained within the odour report which are that a management plan should be agreed by the planning authority with the applicant to ensure that:
- The lagoon is managed to ensure that crust is formed and maintained each year, with no stirring or agitation until the lagoon is to be emptied.
  - The lagoon is filled at low level to avoid surface disturbance of the lagoon contents.
  - The lagoon is completely emptied each year by the end of May unless, in exceptional circumstances, otherwise agreed in writing with the Authority.
  - The lagoon and slurry applications should be managed in accordance with the DEFRA Code of Good Agricultural Practice
42. **United Utilities**  
Have no objection to the proposed development.

### **Applicant's Case**

43. Further to the recent modernisation and expansion of the existing dairy unit there is a requirement for increased capacity/storage of slurry effluent to service the expanding dairy unit. The current range of dairy/livestock buildings provides for accommodation for approximately 280 adult cows, with associated dairy/parlour building incorporating wash rooms, chemical room and office etc. In terms of farm acreage, the Deacon family has direct control via tenancy/ownership of 334 acres, in addition to which they have cropping agreements with various neighbours to provide up to an additional 75-80 acres, providing a total acreage of well over 400 acres.
44. The proposal is for a new earth banked slurry store/lagoon which will provide sufficient capacity to accommodate the expanding needs of the dairy unit, and provide storage of slurry in accordance Environment Agency and DEFRA regulations. The applicants existing ring type slurry store is no longer adequate to accommodate the slurry/dirty wash down water requirements of the dairy unit.
45. The existing tower does not provide enough storage. The issue is the lack of storage leads to over topping structures during winter months (closed period or inappropriate spreading conditions). The result can be pollution. An additional issue can therefore be land spreading in inappropriate conditions resulting in pollution, crops not taking up nutrients and is also a wasted resource (to buy fertiliser is about £300 tonne).

### **Assessment**

#### Principle of the development

46. The proposal relates to agricultural development which is appropriate in the Green Belt in accordance with the National Planning Policy Framework and Local Plan Policy DC1.

### Background Information

47. Spreading of natural fertilisers on land reduces the use of artificial fertilisers and is, therefore, a normal part of good agricultural practice.
48. The proposed lagoon is required to provide a greater degree of storage to cope with the expansion of the herd, to replace the existing deteriorating slurry storage facilities located at the farm and to facilitate a longer storage period for slurry, therefore allowing the farmer to spread manure on the land at the most effective time of year.
49. Too much nitrate in fresh water can cause a wide range of harmful effects to rivers, streams and lakes. The EU Nitrates Directive recognises that most of the nitrate in fresh water (between 50% and 60% in England) comes from agricultural sources. So where there is too much nitrate, farmers need to do things in ways which reduce the risk that nitrates will pollute watercourses. The measures apply in designated Nitrate Vulnerable Zones (NVZs) – locations where the threat of run-off into watercourses is most severe.
50. In a NVZ there is a mandatory requirement for five months slurry storage.
51. At the time the application was made approximately 50% of the farm was in an NVZ, however from the 15<sup>th</sup> May 2013 the farm will come out of such a zone.
52. However, even if a farm is outside an NVZ, it is still a good practice to follow DEFRA's Code of Good Agricultural Practice to keep nitrate levels down and make it less likely the farm will be designated as an NVZ in the future.
53. Even if the farm is wholly outside an NVZ the Water Resources (Control of Pollution, Silage, Slurry and Agricultural Fuel Oil) Regulations 2010 (SSAFO) require any new or substantially enlarged facility to have at least four months slurry storage.
54. Therefore the difference of being in an NVZ and outside one is the requirement for five rather than four month's storage. The County Land Agent has advised that it would be good practice for farmers building a new slurry store to build it to hold five rather than four months slurry as NVZ areas are reviewed and therefore a farm may be put back into and NVZ in the future and require a farmer to have five months storage.
55. The Environment Agency advise that even if the farm is completely outside an NVZ, although a farmer does not have to comply with the NVZ rule on storage, they are still strongly advised to do so to maximise the value of nitrogen in the livestock manure; minimise nitrogen loss to groundwater and surface water and avoid the risk of a pollution incident.
56. The NVZ storage rules are therefore seen as best agricultural practice.

### Impact on the neighbours

57. The main issue with the proposal is possible impact on the surrounding properties.

### Odour

58. To some extent smells are an inevitable consequence of living in a rural community but order to assess the potential of odour nuisance being caused to nearby residential properties from the proposed slurry lagoon, a report was commissioned by Chorley Council from Steve Peirson, Principal Odour Consultant at the Agricultural Development and Advisory Service (ADAS).
59. The consultant assessed the potential odour impact of the proposed lagoon by reference to a comparable and detailed odour impact assessment recently carried out for a similar application in Pembrokeshire. This was also for a dairy farm slurry lagoon of a size more or less equivalent to the proposed slurry lagoon at Boyes Farm. It is thus reasoned that the Pembrokeshire modelling assessment provides a good odour analogy for the proposed lagoon at Boyes Farm. It was proposed that the Pembrokeshire lagoon would be filled more than once each year, so that the odour modelling was based on continuous odour emissions around the year. Therefore scenario was more testing than at Boyes Farm as the Boyes Farm lagoon will be emptied in the

spring and completely after first cut silage in May, it will then be empty of slurry over the summer before being returned to use during the autumn and winter each year. This means that the Boyes Farm lagoon will be empty of slurry during the higher odour risk summer months. Therefore the all year round odour emissions modelled for the Pembrokeshire lagoon can be expected to predict an appreciably higher odour impact than will occur from the proposed Boyes Farm lagoon.

60. The target odour exposure or impact standard for modelling the odour impact of agricultural odour sources is widely recognised as a 98th percentile annual hourly mean odour exposure of 3.0 ouE/m<sup>3</sup>, as set out in the Keeston Hill report. The impact of the proposed lagoon at Boyes Farm has been assessed, by analogy, using this benchmark.
61. The proposed lagoon at Boyes Farm is approximately 130m metres from the closest residential dwellings or receptors which are situated to the East of the application site.
62. It can be scaled from Figure 5 of the report at Annex 1 that at Keeston Hill the odour contour representing the 98th percentile, 3 ouE/m<sup>3</sup> odour exposure extends, at most, up to approximately 100m from the centre of the lagoon towards the south east. If the 3 ouE/m<sup>3</sup> odour contour extends a similar distance (100m) from the Boyes Farm lagoon, but as a worst case in the direction of the closest dwellings to the East, then a contour with a “radius” of 100m will not reach the dwellings. Thus, by comparison, it is concluded that the proposed lagoon will not result in unacceptable odour impact, providing the lagoon is managed in accordance with good practice guidelines. The potential for off-site impact further is minimised, as the lagoon is to be emptied each spring and then not re-filled over the summer months.
63. There may be some short term odour impacts when the lagoon is emptied each spring as slurry is disturbed and spread to land, but these events will be of limited duration and when practicable should be undertaken when the wind is not blowing towards the closest dwellings as set out in the CoGAP. Slurry removal (from the lagoon) and land applications should in any case be managed in compliance with the CoGAP guidance to minimise the impact of these activities.
64. The consultant’s report concludes that the proposed lagoon will not result in an adverse odour impact providing that it is managed in accordance with DEFRA guidance.
65. The most important management factors in minimising odour emissions are establishing and maintaining a floating “crust” on the lagoon each year and ensuring that the lagoon is effectively emptied each spring in accordance with DEFRA guidance.
66. The report states that there may be some short term odour impacts when the lagoon is emptied at spring time, however short term impacts would not normally constitute a statutory nuisance under the provisions of the Environmental Protection Act 1990. Although the planning authority needs to consider the issue of amenity rather than the more stringent statutory nuisance test its impact is considered acceptable subject to a management plan being agreed with the Council to ensure that:
  - a) The lagoon is managed to ensure that crust is formed and maintained each year, with no stirring or agitation until the lagoon is to be emptied;
  - b) The lagoon is filled at low level to avoid surface disturbance of the lagoon contents;
  - c) The lagoon is completely emptied each year by the end of May unless, in exceptional circumstances (abnormal circumstances could arise in the rare event of, for example, a notifiable disease outbreak or very exceptional weather conditions), otherwise agreed in writing with the Authority;
  - d) The lagoon and slurry applications should managed in accordance with the DEFRA Code of Good Agricultural Practice
67. It is therefore considered that subject to conditions controlling appropriate management of the lagoon the proposal is acceptable in terms of odours.

### Flies/Insects

68. An informal discussion took place between Chorley Council and Barbara Bell, Principal Environmental Consultant at ADAS and a specialist entomologist, with a view to commissioning a report. The Council were informed that in her experience, issues with flies or other insects connected with slurry lagoons were rare and that a report would be of limited value, therefore a decision was made not to proceed with the report.
69. Issues arising from flies or insects at industrial, trade or business premises can be controlled using the statutory nuisance provisions of the Environmental Protection Act 1990.

### Ecology

70. It is not considered the proposal will have an unacceptable impact on ecology. The site of the lagoon is currently managed grassland that will have low ecological value. In addition, it will be accessed by tracks already in place.
71. The comments raised in representations regarding water voles in Holker Brook are noted, however the whole point of the application is to prevent pollution to watercourses through slurry being spread at unsuitable times of year and therefore preventing run-off. The proposal should therefore improve the quality of the surrounding water courses in terms of ecology.

### Safety

72. Public Footpath 10 runs north to south approximately 35m to the west of the field where the lagoon will be situated.
73. The Health and Safety Executive have produced guidance on preventing access to effluent storage and similar areas on farms which gives assistance on the standards of fencing recommended to deter access by unauthorised people, in particular children, into areas used for storing slurry on farms. This requires fencing to have an overall minimum height of 1.3 m including at least two strands of barbed wire spaced 100 - 150mm apart at the top and two strands of barbed wire at the bottom to prevent it being pushed up from the bottom by stock. If barbed wire is not used at the top, the fence should be 2m high.
74. The applicant has agreed to implement the 1.3m plus barbed wire fencing around the lagoon as recommended by the Health and Safety Executive. The application is therefore considered acceptable in relation to safety subject to a condition controlling this.

### Traffic and Transport

75. The lagoon will be accessed via an existing access track from the farm.

### Other Issues

76. A neighbour has questioned the impartiality of the consultant's that carried out the assessment as they are involved with the industry. However this has been commissioned and paid for by the Council. It is considered essential that such a report is carried out by a company with experience in such matters.
77. A neighbour raises the issue that the report suggests that the extraction of slurry would only occur and spring and would be emptied by the end of May and only returned to use in autumn. However, slurry spreading at Boyes Farm is all year round and therefore will not be short term as suggested. To respond to this, the reason that spreading currently occurs all year round is because there is not enough slurry storage at the farm at present.
78. Neighbours have stated that regulations stage slurry storage cannot be within 400m of a protected building (a building not associated with the farm holding). However, this relates to the Town and Country Planning General Permitted Development Order which sets out, amongst other things, what development farmers can carry out without the need for planning permission. The 400m distance is one of the criteria for when development associated with the accommodation of livestock or for the storage of slurry or sewage sludge requires planning permission.

79. During May to October slurry will be spread on the fields as it is now. The lagoon is to store slurry at times of year when it is not appropriate to spread it on the land.

80. The Council have considered whether the proposal requires an Environmental Impact Assessment under The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 and have concluded it does not.

### **Overall Conclusion**

81. The application is recommended for approval subject to conditions.

82. In addition the Environment Agency will inspect the lagoon before it is brought into use and the applicant is required to give them 14 days' notice to allow this to take place. An informative note will be placed on any permission informing the applicant of this.

### **Planning Policies**

The National Planning Policy Framework

Local Plan Policy DC1

### **Recommendation: Permit Full Planning Permission Conditions**

1. The proposed development must be begun not later than three years from the date of this permission. *Reason: Required to be imposed by Section 51 of the Planning and Compulsory Purchase Act 2004.*

2. Any land drains within 10m of the lagoon banks should be diverted by means of a ring drain set 10 metres away from the edge of the lagoon banks. *Reason: To prevent water ingress and a pathway for slurry to escape and therefore prevent pollution of watercourses and in accordance with the National Planning Policy Framework.*

3. Before the development commences details of concrete pads to protect the lagoon base where stirring prior to spreading is to be employed at designated stirring points shall be submitted to and approved in writing by the Local Planning Authority. The development shall then only be carried out in accordance with the approved details. *Reason: To protect the lagoon base and therefore minimise damage to it and prevent pollution to watercourses and in accordance with the National Planning Policy Framework.*

4. The access ramp to the lagoon hereby permitted shall be constructed of concrete. *Reason: To prevent damage to the structure but allow machine access for cleaning/maintenance and in prevent pollution to watercourses and in accordance with the National Planning Policy Framework.*

5. Before the development hereby permitted commences a Management Plan should be submitted to and agreed in writing by the Local Planning Authority detailing the following:

- a) How the lagoon will be managed to ensure that crust is formed and maintained each year, and that no stirring or agitation will take place until the lagoon is to be emptied;
- b) How the lagoon will be filled at low level to avoid surface disturbance of the lagoon contents;
- c) Confirmation that the lagoon will be completely emptied each year by the end of May, unless in exceptional circumstances. Such exceptional circumstances shall be notified in writing to the Local Planning Authority in advance quoting this application number.

The development shall then only be carried out in accordance with the approved details and shall be maintained in accordance with them at all times thereafter.

*Reason: To minimise odour emissions from the lagoon in relation to surrounding properties and in accordance with the National Planning Policy Framework.*

6. Before the lagoon is filled the fencing shown in the position as shown on drawing ref: BS\_11-037/02 Rev A shall be erected and shall be maintained at all times thereafter. The fencing shall be erected in accordance with Figure 1 of the Health and Safety Executive Information Sheet

'Preventing access to effluent storage and similar areas on farms' (copy attached). It shall have overall minimum height of 1.3m (with a maximum height of 2m) including at least two strands of barbed wire spaced 100 to 150mm apart at the top and the same specification of two strands of barbed wire at the bottom. *Reason: To ensure safety and prevent unauthorised access to the lagoon and in accordance with the National Planning Policy Framework.*

7. The hereby permitted shall be carried out in accordance with the following approved plans:

<b>Title</b>	<b>Drawing Reference</b>	<b>Received date</b>
Location Plan	BS.11-037/01 Rev A	25 <sup>th</sup> June 2012
Proposed Site Plan	BS.11-037/02 Rev A	25 <sup>th</sup> June 2012
Proposed Plan, Section & Elevation	BS.11-037/03 Rev A	25 <sup>th</sup> June 2012

*Reason: For the avoidance of doubt and in the interests of proper planning.*

8. The slurry lagoon/store hereby permitted shall only be used for the storage of slurry generated by Boys Farm. No slurry or associated waste shall be brought in from any other farm or source. *Reason: The size of the proposal has been considered in terms of the need for slurry storage for Boyes Farm, it would not be acceptable for additional waste to be brought in from other sources that may leave the farm without sufficient storage and have highway implications, and in accordance with the National Planning Policy Framework.*