

LOCAL PLANNING AUTHORITY'S RESPONSE TO THE APPELLANT'S APPLICATION FOR AN AWARD OF COSTS

PINS reference: 6016777

LPA reference: PL/2026/05466

Site Address: Little Langford Farm, Little Langford, Salisbury, SP3 4NP

1. Introduction

This statement constitutes the Local Planning Authority's response to the application for a full award of costs submitted by the Appellant.

The Appellant alleges that the Local Planning Authority unreasonably misinterpreted Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended, and thereby prevented or delayed development which should clearly have been permitted.

The Local Planning Authority rejects the assertion that it behaved unreasonably or that its conduct directly caused the Appellant to incur unnecessary or wasted expense in the appeal process.

The dispute concerns the proper interpretation and application of Class A.1(e) of Part 6 of the GPDO to substantial excavation and engineering works proposed to form an earth-banked slurry and irrigation store. The Local Planning Authority reached a reasoned interpretation of the relevant provision, supported that interpretation within the delegated officer report (provided in APPENDIX A), considered the arguments advanced on behalf of the Appellant and maintained its position following further review.

The Local Planning Authority respectfully submits that a genuine disagreement concerning the interpretation of an ambiguously worded provision does not amount to unreasonable behaviour merely because the Appellant has a different interpretation.

2. Basis for an award of costs

Planning Practice Guidance advises that parties to planning appeals normally meet their own expenses. An award of costs may be made where:

a party has behaved unreasonably, whether procedurally or substantively; and

that unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.

Both elements of the test must therefore be satisfied. The outcome of the substantive appeal does not, by itself, establish that either party has behaved unreasonably.

The Local Planning Authority considers that neither element of the costs test is satisfied in this case.

3. Response of the local planning authority

This costs application concerns a genuine disagreement concerning the interpretation of the GPDO.

The Appellant's costs application is founded principally on the assertion that the Local Planning Authority's interpretation of Class A.1(e) is wrong.

The Local Planning Authority does not accept that the interpretation advanced by the Appellant is the correct interpretation of the relevant provision. In the Local Planning Authority's view the wording of criterion (e) discusses different forms of development arising from "engineering operations". The appeal scheme involving 'works' arising from engineering operations. The lagoon itself covers an area of 2,800 square metres, when the area inclusive of the earth banks and safety fencing is included the total area is 6,100 square metres. Even the lower of these two areas clearly exceeds the very generous size limitations of this criterion and as such the works cannot benefit from the permitted development provisions; and require planning permission.

The delegated officer report did not merely assert that the development fell outside the scope of permitted development. It:

- set out the relevant wording of Class A.1(e);
- identified the physical extent and characteristics of the proposed development;
- considered the Appellant's interpretation;
- explained why the Local Planning Authority considered that works arising from the engineering operations were subject to the applicable ground-area limitation;
- considered the alternative argument relating to the characteristics of the completed slurry and whether if this was considered a building it would fall within the 1500 square metre limitation of (e) (ii).
- expressly acknowledged that criterion (e) is not clearly drafted.

The Local Planning Authority concluded that the proposal comprised substantial engineering operation works involving excavation, earth banking and associated works extending materially beyond the ground-area limitations set out in both (e) i and ii. This conclusion was explained fully within the officer report and formed a reasoned basis for the first reason for refusal.

The appeal therefore concerns a genuine dispute about statutory interpretation and the application of the GPDO to the particular development proposed. The fact that the Appellant disagrees with the Local Planning Authority's interpretation does not demonstrate that the decision was irrational, unsupported or unreasonable.

4. Consideration of the appellant's case

The Local Planning Authority did not ignore the Appellant's submissions or simply repeat the earlier decision without reconsideration.

The resubmitted application was accompanied by a covering letter setting out the Appellant's interpretation of the GPDO. Further correspondence was submitted during the determination period, including references to an appeal decision and other prior notification decisions relied upon by the Appellant. No arguments were put forward by the appellant, at either application stage or as part of this appeal, concerning the previous second reason for refusal in terms of the need for prior approval of the siting and design of the proposed development and that reason therefore remained unchallenged.

The arguments concerning criterion (e) and the first reason for refusal were fully considered by the Local Planning Authority in its updated officer report. The application and its planning history were also discussed with senior officers. Following that review, the Local Planning Authority remained of the view that the proposal did not comply with criterion (e); and that prior approval issues still arose concerning the siting and design of the development.

The correspondence preceding the decision (see APPENDIX B) made the Local Planning Authority's position clear and explained the basis upon which officers disagreed with the Appellant's interpretation. The decision was therefore reached following active consideration of the arguments submitted, rather than through a failure to engage with them. APPENDIX B also contains an email from the case officer to the agent, regarding the previous application PL/2026/04118, explaining why that application was subsequently refused. This explains the same reason for refusal also used on the refusal of the application subject to appeal.

5. Other decisions relied upon by the appellant

The Appellant refers to two prior notification decisions in which the Local Planning Authority reached a different conclusion in respect of lagoon development exceeding the identified ground-area threshold and its adherence with criterion (e).

However the Local Planning Authority does not accept that those decisions establish that the appeal proposal should clearly have been permitted or that a differing decision in this case amounts to unreasonable behaviour. Whilst the Local Planning Authority tries to be consistent in its approach it is a large authority area with differing site contexts and designations.

The Local Planning Authority has equally previously applied the same interpretation of criterion (e) as to this appeal decision, in this part of the County. Most notably on a scheme for a comparable excavation and lagoon development, on a nearby farmstead in the same landscape area/National Landscape (ref: PL/2023/06523 at Berwick St Leonard), details of which have been provided in APPENDIX C of this cost rebuttal.

The comparable decisions demonstrate that the Local Planning Authority has considered criterion (e) when assessing comparable agricultural development. The existence of another decision in which an officer reached a different conclusion does not require the Local Planning Authority to repeat that conclusion where, following review, officers consider it to have been based on incorrect interpretation of the GPDO.

An earlier decision does not determine the correct interpretation of the legislation, nor does it make the Local Planning Authority's reasoned interpretation in this case unreasonable.

It should also be noted that the 2 applications for prior approval submitted for this appeal site/scheme (including the latest scheme that is the subject of this appeal,) followed a withdrawn application for *full planning permission* for the identified lagoon storage structure but on a different part of this same farmstead (Considered under ref: PL/2025/00566). That application was submitted by a planning agent that is very familiar with rural/agricultural policy (Woolley & Wallis) and clearly demonstrates that the Local Planning Authority are not the only party that considers this work to require planning permission that do not constitute permitted development. It is not clear why that stance has since changed.

6. Second reason for refusal

The Appellant's costs application focuses primarily on the Local Planning Authority's interpretation of criterion (e) of Class A and the first reason for refusal. However, the application was also refused for a separate and independent reason relating to the siting and design of the proposed development and the need for prior approval.

The proposal comprises a substantial earth-banked slurry and irrigation store within the Cranborne Chase National Landscape. The submitted details showed extensive excavation and engineering works, earth banks rising to approximately 4.2 metres above existing ground levels and a perimeter safety fence. The Local Planning Authority considered that

development of this scale and form had the potential to materially affect the character and appearance of the National Landscape and that further consideration of the siting and design of the proposal was therefore required.

In its costs application, the Appellant has not demonstrated that the Local Planning Authority acted unreasonably in reaching this conclusion. The Appellant's position is largely founded on the contention that the proposal constitutes permitted development and that the prior notification submitted sufficient information to satisfy the requirements of Part 6 of the GPDO.

The Local Planning Authority reached its conclusion having regard to the scale, siting and design of the proposed development and its location within a designated National Landscape. The submitted prior notification did not include any substantive assessment demonstrating that the proposed earth-banked structure, associated landform alterations and perimeter fencing would not adversely affect the character or appearance of the National Landscape, such as via a LVIA or similar. In those circumstances, it was entirely reasonable for the Local Planning Authority to conclude that prior approval was required and that the information submitted was insufficient to satisfactorily address those matters.

The Appellant may disagree with that judgement, but disagreement does not amount to unreasonable behaviour. The second reason for refusal reflects a reasoned planning judgement based on the information available to the Local Planning Authority at the time the decision was made.

Furthermore, the second reason for refusal would have remained even if the Local Planning Authority had accepted the Appellant's interpretation of criterion (e). The parties' disagreement regarding the requirement for, and acceptability of, prior approval would therefore still have required resolution through the appeal process. Therefore, even if it is deemed that criterion (e) has been met, and the Local Planning Authority's interpretation is incorrect, the works would still require the approval of their siting and design. The approval would still have therefore been refused and the appeal would still have been required in any event. It is not therefore considered that the Council has acted unreasonably in this regard or to have resulted in wasted or unnecessary expense as a result of its decision making.

7. Unnecessary or wasted expense

The Appellant must demonstrate not only unreasonable behaviour but also that the identified behaviour directly caused unnecessary or wasted expense in the appeal process.

For the reasons set out above, the Local Planning Authority does not accept that it has behaved unreasonably. The first element of the costs test is therefore not satisfied.

In addition, the existence of the second reason for refusal means that the Appellant would have needed to pursue the appeal in any event if it wished to challenge the Local Planning Authority's decision.

The Appellant has not demonstrated which appeal costs were incurred solely because of the Local Planning Authority's interpretation of criterion (e), rather than as ordinary costs associated with challenging the decision as a whole, including the separate issue arising under the second reason for refusal.

The necessary direct causal connection between the alleged unreasonable behaviour and identifiable unnecessary or wasted appeal expense has therefore not been established.

8. Conclusion

The Local Planning Authority assessed the proposal against the relevant provisions of the GPDO, considered the Appellant's submissions, discussed the interpretation and thrust of criterion e of Part 6 Class A, and provided detailed reasons for its conclusions in the delegated officer report.

The appeal concerns a genuine disagreement about the interpretation and application of the GPDO. The Local Planning Authority's position was reasoned and supported by an assessment of the wording of the GPDO, the characteristics and scale of the proposed development and relevant previous decisions.

The fact that other officers or decision-makers may previously have reached different conclusions does not establish that the Local Planning Authority acted unreasonably in this case. Nor would a decision by the Inspector to prefer the Appellant's interpretation retrospectively render the Local Planning Authority's conduct unreasonable.

Furthermore, the application was subject to a separate second reason for refusal. The appeal would therefore have been required in any event, and the Appellant has not demonstrated that unnecessary or wasted appeal expense was directly caused by the conduct alleged.

Accordingly, the Local Planning Authority submits that the Appellant's costs application fails to satisfy either element of the costs test. The Inspector is respectfully requested to refuse the application for an award of costs.

APPENDIX A

CASE OFFICER'S REPORT

Application Reference:	PL/2026/05466
Application Type:	Prior Notification – Excavation/waste material

Site Address:	Little Langford Farm, Little Langford, Salisbury, SP3 4NP
Proposal:	Proposed Excavation to Form Earthbank Slurry and Irrigation Store for the Dairy Herd and Arable Crops
Recommendation:	REFUSE

ASSESSMENT OF RESUBMISSION:

Officers note that this is a resubmission of a recently refused Prior Notification application – PL/2026/04118 – which was refused for the following two reasons:

- 1) *The proposed development fails to comply with criterion (e) of Class A.1 of Part 6 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). The proposed slurry lagoon would have a footprint of approximately 2,800 square metres, with the application form stating that the total area of the proposed works is approximately 6,100 square metres. The Local Planning Authority considers that the proposal comprises substantial engineering operations involving excavation together with associated works extending well beyond the size limitations set out in this criterion, which restrict the scale of development that may benefit from permitted development rights. Whether assessed under criterion (e)(i) as works arising from engineering operations, or under criterion (e)(ii) as the creation of a building, the proposal far exceeds the relevant 1,000/1,500 square metre size limitations prescribed by Class A. The development therefore fails to meet all the permitted development criteria set out in Class A of Part 6 of Schedule 2 of the GPDO and planning permission is required.*
- 2) *The proposed development, by virtue of its siting, design, size and appearance would constitute major development which has potential to significantly impact the character, setting and visual amenities of the area, which is situated in a National Landscape. The siting, design and appearance of the proposals therefore need detailed approval in line with Condition A.2, criterion 2 (i) of Class A of Part 6 of Schedule 2 of the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GDPO).*

The covering letter submitted as part of the current application argues:

The proposed development is an excavation to form a slurry and irrigation lagoon. It does not constitute works or a structure for accommodating livestock, and although an engineering operation is involved, no plant or machinery arises from it. The proposals do not involve the erection or extension of a building. It is therefore clear that the 1,000 square metre ground area limit is not applicable in this instance.

The agent has also since confirmed that:

'The proposals are identical. The application has been resubmitted because the previous case officer misinterpreted the provisions of the GPDO (as set out in the covering letter which accompanied the submission, attached for reference). We've resubmitted because it's quicker than appealing, but if we do have to go down that route then we will, and will be applying for a full award of costs'.

However, The Council does not agree with the above interpretation of the Class 6 provisions; and maintains its previous interpretation of the GPDO, set out in detail in the previous report and reprovided below.

In summary however, the following points should be noted. Criterion (e) of Class 6 of the GPDO reads as follows:

- e) *the ground area which would be covered by—*
 - (i) *any works or structure (other than a fence) for accommodating livestock or any plant or machinery arising from engineering operations would exceed 1,000 square metres; or*
 - (ii) *any building erected or extended or altered by virtue of Class A would exceed 1,500 square metres,**calculated as described in paragraph D.1(2)(a) of this Part;*

It is considered that clause (e)(i) features 3 types of development that are connected by 'or'. Whilst the Council accepts that the proposals do not involve a '*structure...for accommodating livestock*', or any '*plant or machinery*', it is considered that the proposal relates to '*works*' that will arise from '*engineering operations*', as further confirmed by the agent in the covering letter. Such works are then limited, as per the rest of criterion (e)(i), to 1,000 square metres in size. The proposed works in this instance consist of between 2,800 and 6,100 square metres of excavation and associated works and therefore significantly exceed the allowance set out in this criterion; and indeed the increased allowances set out in (e)(ii) regarding new buildings if such a definition could be considered to apply. The Council therefore maintains that the proposals do not constitute permitted development and require full planning permission accordingly.

The Applicant has pointed to a previous case considered by the Local Planning Authority, where the excavation of over 1,000 square metres of chalk on a dairy farm in North Wilshire was considered to comply with criterion (e)(i) (ref: PL/2025/02073). However equally there are other instances where the Local Planning Authority has found the excavation of soil to create a slurry/digestate lagoon to be caught by criterion (e). In the nearby village of Berwick St Leonard, the excavation of 2,400 square metres of farmland to create a digestate lagoon, in the same National Landscape was found to conflict with criteria (e)(i) and (ii) (ref: PL/2023/06523). This is a comparable scheme to the current application given the intended purpose of the proposed excavation works and given its location in the same landscape setting. Also to note with this latter prior notification refusal, the subsequent planning application ran into difficulties and was withdrawn because of significant highway and landscape issues identified with the proposals given their size and position in this sensitive landscape.

The Council acknowledges that criterion (e) of Class 6 is poorly worded. However it does not agree with the Applicant's interpretation of the criterion, as it would otherwise allow engineering works of *unlimited* extent to be undertaken under permitted development rights across *all* farmland regardless of its position in the countryside or in a sensitive landscape/National Landscape, provided that the works took the form of an 'excavation'. The Local Planning Authority does not consider this to reflect either the purpose or the correct interpretation of this part of Class 6; and if it were the interpretation it is not clear what type of development would actually be caught by this criterion or thus the need for this criterion at all given the existence of criterion (e)(ii). The Council therefore reconcludes that its previous interpretation of criterion (e) is correct and the previous refusal reasons are still apply.

Also of note, this and the last prior notification applications have followed the submission and withdrawal of a full planning application for this slurry lagoon on this farm and so the applicant has previously considered it to require planning permission. It is not therefore clear why their position has changed; or why they now deem it to be permitted development.

In any event, even if the Council were to reconsider its interpretation of criterion (e), the siting and design of the proposals was previously refused as part of the consideration of the previous decision (Reason 2), as set out in the previous officer report below. No discussion about this reason for refusal has been provided as part of the current application; and the Council maintains that the scheme would still require prior approval for the siting and design of the current, identical proposals.

Therefore, the Council has no option but to refuse the current identical application on the same grounds as the previous decision, and reassert that full planning permission would be required for the proposed works. The Council however acknowledges the applicant's intention to appeal the decision, as is their right, and will continue to defend its position at any such appeal in due course. The previous Officer report and recommendation is set out below, which is considered to equally apply to this identical application and should therefore be read in defence of the Local Planning Authority's decision for this current application. It identifies the full reasoning behind this decision; the Council's interpretation of the relevant criterion in more detail; and sets out why the siting and design of the proposals would in any event be required.

POLICIES:

The Town and Country Planning (General Permitted Development) (England) Order 2015 (As Amended), Schedule 2, Part 6, Class A (GPDO).

ISSUES:

The issues for consideration within this application are the Permitted Development Criteria and if the development would constitute permitted development; and then whether the proposed siting, design and external appearance of the proposed slurry lagoon, are acceptable and do not need prior approval from the Local Planning Authority.

THE PROPOSAL:

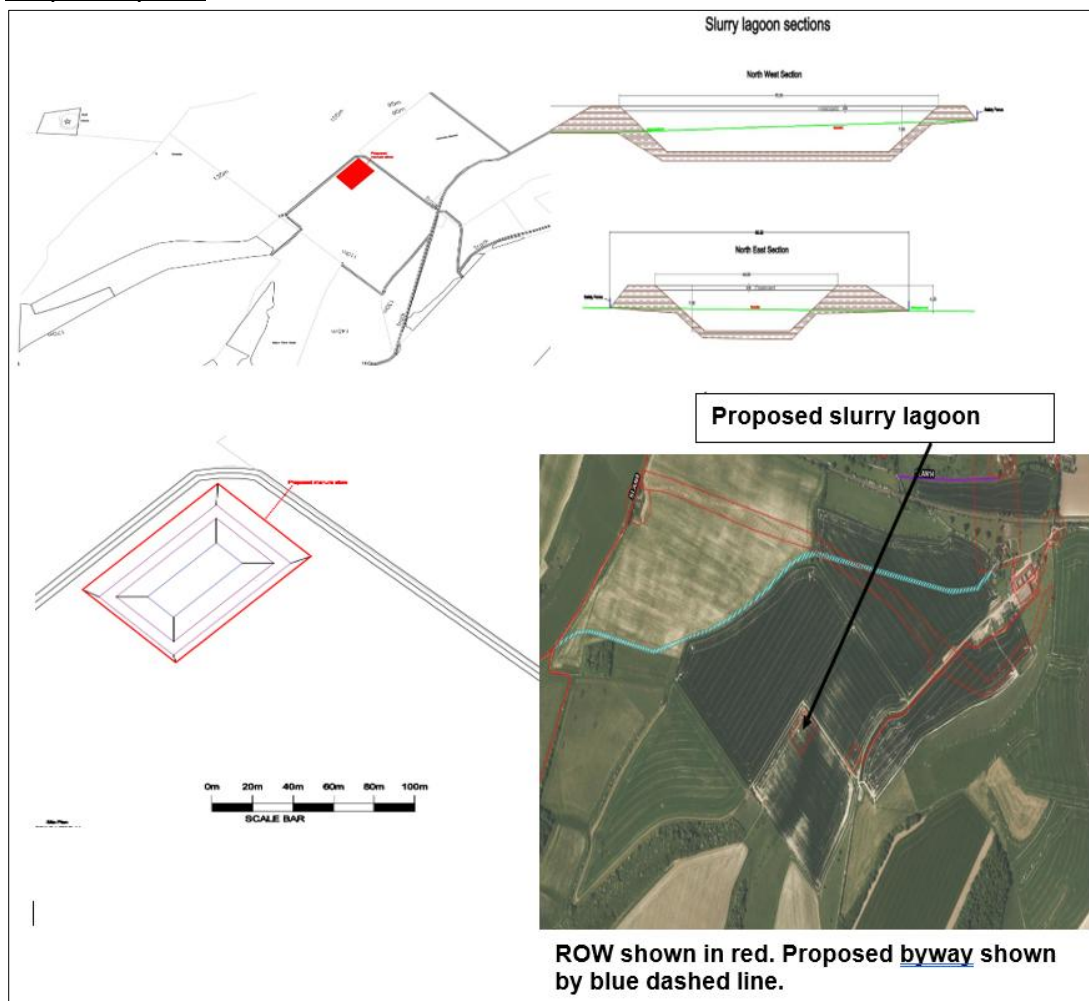
This is an application seeking to notify the Local Planning Authority (LPA) about a proposed earthbank lagoon for the storage of slurry manure produced by the dairy herd. The slurry stored will be used as fertiliser for adjacent arable fields within the agricultural unit. The proposed slurry lagoon would measure approximately 70 metres in length and 40 metres in width, resulting in a footprint of approximately 2,800 square metres. The application form states that the 'total area of the proposed works' is approximately 6,100 square metres. These figures reflect two different measurements of the same development.

The 2,800 square metre figure relates to the area covered by the lagoon itself, as agreed by the case officer and agent, whereas the 6,100 square metre figure stated within the application form includes the surrounding earth banks, safety fencing and associated works within the submitted site plan red line boundary. There is no dispute regarding the dimensions of the proposal; the different figures simply reflect different methods of measuring its extent.

The slurry lagoon would comprise a substantial earth-banked structure. The surrounding earth banks would extend up to 4.2 metres above existing ground levels, and the lagoon would have a depth of approximately 7 metres. A 2 metre high safety fence would be provided around the perimeter. The submitted plans indicate that the lagoon would comprise a base, sides and a cover above, together with a concrete access ramp and pad. The area proposed for the lagoon is characterised by undulating countryside. As a consequence of the changing land levels across the site, sections of the lagoon are likely to appear more prominent than others, with some parts requiring greater earth banking than others. This is supported by the submitted cross-sectional drawings, which demonstrate a noticeable change in ground levels along the north-west section of the site.

This application follows the withdrawal of a previous full planning application for a slurry lagoon on an adjacent field known as 'Opposite 8 Acre'. Whilst similar in nature, the previously proposed lagoon was of a smaller scale and was positioned further upslope than the development currently under consideration.

Proposed plans



SITE AND ITS SURROUNDINGS:

The site is situated to the south of the villages of Steeple Langford and Hanging Langford, both of which are defined as Small Villages with no settlement boundary by Wiltshire Core Strategy (WCS) policies CP1 (Settlement Strategy), CP2 (Delivery Strategy) and CP4 (Amesbury Community Area). The site is outside of any defined settlement boundary and is therefore in designated countryside. The site is surrounded on all sides by agricultural fields, all within the same agricultural unit. The site of the proposed slurry lagoon is specifically within a field known as 'Pennings' which is within a wider field network known as 'Cummins Bottom'. The surrounding landscape can be described as open and undulating land with notable wooded areas to the south west and south east.

The field in which the lagoon is proposed to be sited, known as Pennings, is characterised by undulating topography. Ground levels generally rise from west to east across the site, with two distinct undulations present along the southern part of the field. The boundaries of the fields typically comprise of hedgerows and trees. Approximately 920 metres to the north east of the proposed slurry lagoon are the farm buildings associated with Little Langford Farm.

A Right of Way (ROW) (ref: SLAN8), which splinters into another ROW (ref: SLAN13) is located to the west of the proposed site. Immediately to the north of the site is a proposed restricted byway, this splinters off from SLAN8 to the west and continues east toward Little Langford Farm buildings. A view of the proposed lagoon is likely from certain vantage points along the proposed byway.

The site is located wholly within the Cranborne Chase National Landscape and the catchment of the River Avon Special Area for Conservation (SAC). An archaeology monument line runs through the proposed location of the slurry lagoon.

The application site forms part of a wider agricultural unit of 561 hectares (Ha), as stated in the application form.

ASSESSMENT:

Need:

The proposed slurry lagoon would be located in the north corner of the arable field known as 'Pennings', which forms part of the wider agricultural unit extending to 561 hectares. The supporting information confirms that the agricultural unit comprises a dairy herd and arable land. The lagoon would be used to store slurry produced by the dairy herd before it is applied as fertiliser to fields within the same agricultural unit.

The supporting information states that the proposed location has been selected due to its proximity to arable fields within the holding where the stored slurry will be utilised.

Having regard to the scale and nature of the agricultural unit, and the intended use of the lagoon for the storage of slurry produced on the holding and subsequently applied to land within the same holding, the Local Planning Authority is satisfied that the proposal is reasonably necessary for the purposes of agriculture and would be used for agricultural purposes. The assessment therefore turns to whether the proposal complies with the limitations and conditions of Class A of Part 6 of Schedule 2 of the GPDO.

Permitted Development Criteria:

The applicant has confirmed that the agricultural unit within which the proposed slurry lagoon is to be located is a unit of 561 Ha in size. Therefore, the proposed development needs to be checked against the criteria of Class A of Part 6 of the GPDO, which allows for excavation or engineering operations that are reasonably necessary for the purposes of agriculture within agricultural units of 5 Ha or more, subject to the following criteria:

Development would not be permitted under the following criteria:***(a) the development would be carried out on a separate parcel of land forming part of the unit which is less than 1 hectare in area;***

The development would be carried out within the established agricultural unit of 561 Ha, and positioned in an arable field enclosed within a wider network of fields forming the agricultural unit. The site does not constitute a separate parcel of land and is an integral part of the agricultural unit. This criterion is therefore satisfied.

(b) it would consist of the erection or extension of any agricultural building on an established agricultural unit (as defined in paragraph X of Part 3 of this Schedule) where development under Class Q or S of Part 3 (changes of use) of this Schedule has been carried out within a period of 10 years ending with the date on which development under Class A(a) begins;

The agricultural unit has not been subject to any development under Class Q or S of Part 3 of the GPDO in the past 10 years. This criterion is therefore satisfied.

(c) it would consist of, or include, the erection, extension or alteration of a dwelling;

The proposals involve the creation of a slurry lagoon which has been found to be necessary for the purposes of agriculture. The proposals do not involve the provision of, or works to a dwelling. This criterion is therefore satisfied.

(d) it would involve the provision of a building, structure or works not designed for agricultural purposes;

The LPA is satisfied that the proposed slurry lagoon is for agricultural purposes. Slurry manure generated by the dairy herd, within the same agricultural unit, will be stored and used to fertilise adjacent arable fields. This criterion is therefore satisfied.

(e) the ground area which would be covered by—***(i) any works or structure (other than a fence) for accommodating livestock or any plant or machinery arising from engineering operations would exceed 1,000 square metres; or******(ii) any building erected or extended or altered by virtue of Class A, would exceed 1,500 square metres, calculated as described in paragraph D.1(2)(a) of this Part;***

Criterion (e) of Class A places limitations on the scale of development that may be undertaken under these permitted development rights. Under criterion (e)(i), the GPDO restricts the ground area which would be covered by any 'works' 'arising from engineering operations' to 1,000 square metres. Criterion (e)(ii) similarly limits the size of buildings erected, extended or altered under Class A to 1,500 square metres. The purpose of criterion (e) is therefore to limit the scale of development that can be undertaken under Class A before a full planning application is required. It is noted that the size limitations in this part are relatively generous.

The proposed slurry lagoon would measure approximately 70 metres in length and 40 metres in width, resulting in a footprint of approximately 2,800 square metres. The application form alternatively states that the total area of the proposed works is approximately 6,100 square metres when the surrounding earth banks, safety fencing and associated works are included. Regardless of which measurement is applied, the proposal substantially exceeds both the 1,000 square metre threshold contained within criterion (e)(i) and the 1,500 square metre threshold contained within criterion (e)(ii).

The applicant has suggested that the proposal comprises excavation works and is therefore not subject to the size limitations contained within criterion (e). The Local Planning Authority does not agree with this interpretation. Criterion (e)(i) expressly refers to engineering operations. If excavations and engineering operations were not intended to be subject to any size limitation, there would be little purpose in the inclusion of criterion (e)(i) within Class A. Such an interpretation would otherwise allow engineering works of unlimited extent to be undertaken under permitted development rights provided they took the form of an excavation. Whilst it is acknowledged that the wording of criterion e as a whole is not very clear, the Local Planning Authority does not consider this to reflect either the purpose or the correct interpretation of this provision.

The proposed development comprises substantial engineering operation works involving excavation together with the associated works required to create the slurry lagoon. The submitted plans indicate that these works would include extensive excavation, earth banking, a concrete access ramp and pad, and associated infrastructure. The Local Planning Authority therefore considers that the proposal falls within the scope of criterion (e)(i). Given that the ground area covered by the works arising from the engineering operations would significantly exceed 1,000 square metres, the Local Planning Authority thereby considers that the proposal fails to comply with criterion (e)(i) of the permitted development provisions.

Furthermore, the Local Planning Authority considers there to be a reasonable argument that the completed slurry lagoon could itself be regarded as a building for the purposes of Class A. The submitted plans show that the lagoon would comprise a permanent structure with a base, sides and a cover, together with associated infrastructure including a concrete access ramp and pad. Whilst the lagoon would be partially below existing ground level as a consequence of the excavation required to create it, planning legislation expressly contemplates development and building operations occurring in, on, over or under land. The Town and Country Planning Act 1990 defines a building as including any structure or erection. In this case, the completed development would result in a substantial and permanent covered slurry storage facility with clearly defined structural components. The fact that part of the development would sit below existing ground level does not necessarily prevent it from being regarded as a building for the purposes of Class A.

Indeed, if the same structure were positioned wholly above ground level, it would readily display the physical characteristics commonly associated with a building. Were this interpretation to be applied however, the development would also exceed the 1,500 square metre limitation contained within criterion (e)(ii), given the lagoon footprint of approximately 2,800 square metres.

The Local Planning Authority therefore concludes that the proposal fails to comply with criterion (e) of Class A. Whether assessed under criterion (e)(i) as works arising from engineering operations, or under criterion (e)(ii) as the creation of a building, the scale of the proposed development far exceeds the limitations prescribed by this criterion in Class A. The proposal is not therefore considered to constitute permitted development and planning permission would be required for the proposed works.

(f) the height of any part of any building, structure or works within 3 kilometres of the perimeter of an aerodrome would exceed 3 metres;

The proposed slurry lagoon is not within 3km of an aerodrome. This criterion is therefore satisfied.

(g) the height of any part of any building, structure or works not within 3 kilometres of the perimeter of an aerodrome would exceed 12 metres;

The earth bunds, these being the highest part of the slurry lagoon as a result of the works, are a maximum of 4.2 metres in height, this criterion is therefore satisfied.

(h) any part of the development would be within 25 metres of a metalled part of a trunk road or classified road;

The nearest classified road is the A36 and this is approximately 1.4km to the north of the site. This criterion is therefore met.

(i) it would consist of, or include, the erection or construction of, or the carrying out of any works to, a building, structure or an excavation used or to be used for the accommodation of livestock or for the storage of slurry or sewage sludge where the building, structure or excavation is, or would be, within 400 metres of the curtilage of a protected building;

The proposals are for the storage of slurry. However, the nearest protected building is to the north of the site, this being the dwelling house known as Bilbury, which is approximately 750m from the site. This exceeds the minimum distance requirement of 400 metres. This criterion is therefore satisfied.

(j) it would involve excavations or engineering operations on or over article 2(4) land which are connected with fish farming;

The proposals do not involve works connected with a fish farm and therefore this criterion does not apply.

(k) any building for storing fuel for or waste from a biomass boiler or an anaerobic digestion system—

(i) would be used for storing waste not produced by that boiler or system or for storing fuel not produced on land within the unit; or

(ii) is or would be within 400 metres of the curtilage of a protected building; or

The proposed slurry lagoon does not seek to store fuel for or waste from a biomass boiler or an anaerobic digestion system. This criterion is therefore satisfied.

(l) the erection or extension of a building would be carried out on land or a building that is, or is within the curtilage of, a scheduled monument.

The site is not within a scheduled monument nor within the curtilage of a scheduled monument. This criterion is therefore satisfied.

Summary

Having assessed the proposal against the criteria set out within Class A of Part 6 of Schedule 2 of the GPDO, it is considered that the development would comply with all relevant criteria with the exception of criterion (e).

The proposed slurry lagoon is considered to be reasonably necessary for the purposes of agriculture and would be used for the storage of slurry produced by the existing dairy herd before being applied to land within the same agricultural unit. The Local Planning Authority is therefore satisfied that the proposal is for agricultural purposes and that the development would otherwise comply with the relevant limitations and conditions of Class A.

However, the proposed slurry lagoon would have a footprint of approximately 2,800 square metres, whilst the application form states that the total area of the proposed works is approximately 6,100 square metres. Regardless of which measurement is applied, the scale of the development substantially exceeds the thresholds contained within both parts of criterion (e) of Class A.

The Local Planning Authority considers that criterion (e) exists to limit the scale of development that may benefit from permitted development rights. The proposal comprises substantial engineering operations involving excavation together with associated works extending well beyond 1,000 square metres. As such, the development far exceeds the limitations prescribed by criterion (e)(i). Furthermore, there is a reasonable argument that the completed lagoon could also be regarded as a building for the purposes of Class A, in which case it could benefit from the greater size allowance set out in (e)(ii). However, the proposals would also far exceed the limitation contained within criterion (e)(ii).

The Local Planning Authority therefore concludes that the proposal fails to comply with criterion (e) of Class A. Whether assessed under criterion (e)(i) as works arising from engineering operations, or as the creation of a building under criterion (e)(ii), the scale of the proposed development exceeds the limitations prescribed by the GPDO. The proposal does not therefore constitute permitted development and cannot be approved under the prior notification procedure. Planning permission will therefore be required for the proposed works.

It is also worth noting at this point that this application follows a recent withdrawn scheme that involved an application for full planning permission for a new slurry lagoon on this agricultural holding. That slurry lagoon (considered under ref: PL/2025/00566) was for a smaller lagoon which was to be positioned elsewhere on the unit closer to the access track linking it to the existing farmyard, but still within the National Landscape. The fact that planning permission was previously applied for this structure however suggests that the applicant also previously considered it to require planning permission rather than constituting permitted development. It was withdrawn due to a lack of information and due to concerns raised about the potential landscape impact that required further assessment; not because there was any understanding that the development would constitute permitted development. The Local Planning Authority is therefore surprised that the resubmission has been made in the form of a prior notification application rather than a revised planning application or as a continuation of previous discussions.

Siting & Design:

Whilst the proposal is not considered to constitute permitted development under Class A of Part 6 of Schedule 2 of the GPDO, the application has been submitted to determine whether prior approval is required. It is therefore appropriate for the Local Planning Authority to assess the siting, design and external appearance of the development in accordance with Condition A.2(2)(i) of the GPDO.

The proposed slurry lagoon, earth banks and safety fencing would have a total area of approximately 6,100 square metres. The proposal would involve substantial engineering operations to create a large earth-banked slurry storage lagoon with perimeter banks extending up to 4.2 metres above existing ground level and a 2 metre high safety fence around its perimeter. The scale of the development is therefore significant.

The Local Planning Authority considers that the size limitations contained within criterion (e) of Class A exist to restrict the scale of development that may proceed under permitted development rights without the scrutiny afforded through the full planning application process. In this instance, the scale of the proposed lagoon substantially exceeds those limitations. The requirement for a full planning application instead enables wider planning considerations, including landscape impact, to be properly assessed.

The site lies within the Cranborne Chase National Landscape where great weight should be given to conserving and enhancing natural beauty. Whilst the lagoon would not be readily visible from the public highway, there is a reasonable likelihood that it would be visible from the nearby proposed restricted byway and other elevated vantage points within the wider landscape. By reason of its scale, the extent of the engineering operations required, the 4.2 metre high earth banks, any associated regrading of land levels and the 2 metre high perimeter fence, the development would introduce a substantial engineered feature into what is presently an open and attractive rural landscape.

The Cranborne Chase National Landscape Planning Protocol identifies as major development, amongst other things, development with a floorspace exceeding 1,000 square metres. The proposed lagoon would have a footprint of approximately 2,800 square metres and is therefore of a scale that materially exceeds the benchmark commonly associated with major development. More importantly, having regard to its nature, scale, setting and potential impact on the special qualities of the National Landscape, the Local Planning Authority considers that the proposal raises issues that can only be appropriately assessed through a full planning application. As was originally going to be the case under the previously withdrawn application.

On the information submitted, it has not been demonstrated that a slurry lagoon of this scale, together with the associated earthworks, perimeter fencing and landscape intervention, would conserve the character and appearance of this part of the National Landscape. Prior approval is therefore required and would not be granted in respect of the siting and design of the development.

On the basis of the information currently before the Local Planning Authority, it has not been demonstrated that a slurry lagoon of this scale could be accommodated within this sensitive landscape without adverse effects on the character and appearance of the National Landscape. A full planning application, supported by an appropriate Landscape and Visual Impact Assessment or other suitable landscape evidence, would be required to properly assess the effects of the development and any mitigation measures proposed.

Accordingly, whilst the proposal falls outside the scope of permitted development, the Local Planning Authority considers that the scale of the development gives rise to significant landscape considerations which warrant full assessment through the planning application process. It is therefore considered that prior approval of the siting and design of the proposals should be refused in any event.

CONCLUSION

The proposed slurry lagoon, as described within the submitted application form and accompanying plans and documents received on 1 July 2026, has been assessed against the criteria set out within Class A of Part 6 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Whilst the Local Planning Authority is satisfied that the proposal is reasonably necessary for the purposes of agriculture and would be used for agricultural purposes, it has been concluded that the development fails to comply with criterion (e) of Class A.

The proposed slurry lagoon would have a footprint of approximately 2,800 square metres, whilst the application form states that the total area of the proposed works is approximately 6,100 square metres. Regardless of which measurement is applied, the scale of the development substantially exceeds the size limitations contained within criterion (e). The Local Planning Authority considers that the proposal comprises substantial engineering operations involving excavation together with the creation of a permanent slurry storage structure. Accordingly, the ground area covered by the works arising from the engineering operations far exceeds the 1,000 square metre limitation prescribed by criterion (e)(i). Furthermore, there is a reasonable argument that the completed lagoon could also be regarded as a building for the purposes of Class A, and the additional provision of up to 1,500 square metres set out in criterion (e)(ii) could therefore be justified. However, the proposals would similarly far exceed the limitation contained within criterion (e)(ii) too.

The proposed lagoon would also represent a substantial engineered feature comprising extensive earthworks, earth banks of at least 4.2 metres in height and a 2 metre high perimeter fence. Given the scale of the development and its location within the Cranborne Chase National Landscape, the Local Planning Authority considers that wider planning considerations, including landscape and visual impacts, would warrant detailed assessment and that if the scheme were found to constitute permitted development prior approval of the proposed siting and design of the lagoon should be refused in any event.

The Local Planning Authority therefore concludes that the proposal does not accord with all of the criteria required by Class A of Part 6 of Schedule 2 of the GPDO and does not benefit from permitted development rights. Prior approval cannot therefore be granted and it is recommended that the application be refused. Should the applicant wish to pursue the development, a full planning application would be required in order for the proposal to be fully assessed against the Development Plan and all other material considerations.

RECOMMENDATION:

Refusal:

- 1) The proposed development fails to comply with criterion (e) of Class A.1 of Part 6 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). The proposed slurry lagoon would have a footprint of approximately 2,800 square metres, with the application form stating that the total area of the proposed works is approximately 6,100 square metres. The Local Planning Authority considers that the proposal comprises substantial engineering operations involving excavation together with associated works extending well beyond the size limitations set out in this criterion, which restrict the scale of development that may benefit from permitted development rights. Whether assessed under criterion (e)(i) as works arising from

engineering operations, or under criterion (e)(ii) as the creation of a building, the proposal far exceeds the relevant 1,000/1,500 square metre size limitations prescribed by Class A. The development therefore fails to meet all the permitted development criteria set out in Class A of Part 6 of Schedule 2 of the GPDO and planning permission is required.

- 2) The proposed development, by virtue of its siting, design, size and appearance would constitute major development which has potential to significantly impact the character, setting and visual amenities of the area, which is situated in a National Landscape. The siting, design and appearance of the proposals therefore need detailed approval in line with Condition A.2, criterion 2 (i) of Class A of Part 6 of Schedule 2 of the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GDPO).

Informative

- 1) The plans considered for reaching the decision are as follows:
 - Location plan – ref: (LLManureStore_001.dwg) – date received: 27/08/2026
 - Farm plan – showing extent of the agricultural unit – date received: 27/08/2026
 - Site plan – ref: (LLManureStore_002.dwg) – date received: 27/08/2026
 - Sections – ref: (LLManureStore_003.dwg) – date received: 27/08/2026

APPENDIX B - PART 1

From: [Amy Houldsworth](#)
To: [Daniel Jacobs](#)
Subject: FW: PL/2026/05466 : Little Langford Farm, Little Langford, Salisbury, SP3 4NP
Sent: 07/10/2026 10:17:03

Here you go Dan....

From: Houldsworth, Amy
Sent: 23 September 2026 10:09
To: Jon Imber <Jon@jmiplanning.com>
Subject: RE: PL/2026/05466 : Little Langford Farm, Little Langford, Salisbury, SP3 4NP

Good morning,

Thank you for your email and for setting out your continued insistence that the council has misinterpreted the provisions of criterion (e) but having reassessed the application I am afraid that I concur with the previous interpretation and thus the application is heading for refusal on the same two grounds as the previous decision.

The proposed excavation works arise from engineering operations which far exceed the 1,000 sqm allowance set out in (e)(i); and whilst the council is not suggesting it is a building, it acknowledges that an argument could be made that the structure is a building as it has sides and a bottom but if it were so construed, the works would still exceed the even more generous 1,500sqm allowances of (e)(ii) too. Your interpretation would suggest that there is no restriction or size limit on the amount of excavation that can take place on farmland/countryside which the Council simply does not agree to be the case. Criterion (e)(i) catches all other works other than a building (which is covered by criterion (e)(ii)) and whilst it allows for some such works it reasonably provides a very generous size limitation for such works. Your proposals involve between 2,800 and 6,100sqm of excavation/engineering works which far exceeds these allowances. The council therefore stands by its interpretation that the proposals fail the very generous allowances of criterion (e) and are not therefore permitted development.

In any event, the council also considers that the siting and design of the proposed structure will require approval and thus the previous second reason for refusal also still stands.

The council therefore does not agree with your interpretation and will continue to refuse the application on the two grounds. A decision will be issued later today. It is therefore suggested that you apply for full planning permission for the works so that they can be considered accordingly. However, we are also aware that you have a right of appeal and the council will robustly defend this decision should you choose to appeal it.

Kind regards

Amy

From: Jon Imber <Jon@jmiplanning.com>
Sent: 23 September 2026 09:38
To: Houldsworth, Amy <Amy.Houldsworth@wiltshire.gov.uk>
Subject: RE: PL/2026/05466 : Little Langford Farm, Little Langford, Salisbury, SP3 4NP

Morning Amy,

Can I ask on what grounds you would be minded to refuse please? Last time the case officer took the view that Part 6 restricts engineering operations to an area no greater than 1,000m². We have shown that this is only the case where plant or machinery arises from the engineering operations, which is not the case here.

The case officer also took the view that in any event the lagoon constitutes a building. However, as we have set out Part 6 specifically excludes anything arising from engineering operations from the definition of a building.

The previous decision was based on misinterpretation, and this application was submitted as a chance for the LPA to resolve its error and avoid an appeal and associated costs application. I am keen to avoid that route and would appreciate the chance to discuss your reasoning before the decision is issued please.

Kind Regards

Jon Imber MRTPI
Director

Phone: 01889 566107

Website: www.jmiplanning.com
[JMI Planning Ltd](#) | [LinkedIn](#)



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From: Houldsworth, Amy <Amy.Houldsworth@wiltshire.gov.uk>
Sent: 22 September 2026 17:23
To: Jon Imber <Jon@jmiplanning.com>
Subject: RE: PL/2026/05466 : Little Langford Farm, Little Langford, Salisbury, SP3 4NP

Thanks Jon,

I note the points raised within the covering letter. However, I have discussed the application and the history with a senior officer and officers concur with the conclusion made by the previous officer. Therefore, I will be proceeding with refusing the application.

Kind regards

Amy

From: Jon Imber <Jon@jmiplanning.com>
Sent: 22 September 2026 12:36
To: Houldsworth, Amy <Amy.Houldsworth@wiltshire.gov.uk>
Subject: RE: PL/2026/05466 : Little Langford Farm, Little Langford, Salisbury, SP3 4NP

Hi Amy,
Thanks for your email. The proposals are identical.
The application has been resubmitted because the previous case officer misinterpreted the provisions of the GPDO (as set out in the covering letter which accompanied the submission, attached for reference).
We've resubmitted because it's quicker than appealing, but if we do have to go down that route then we will, and will be applying for a full award of costs.

Kind Regards

Jon Imber MRTPI
Director

Phone: 01889 566107

Website: www.jmiplanning.com
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From: Houldsworth, Amy <Amy.Houldsworth@wiltshire.gov.uk>
Sent: 22 September 2026 11:38
To: Jon Imber <Jon@jmiplanning.com>
Subject: RE: PL/2026/05466 : Little Langford Farm, Little Langford, Salisbury, SP3 4NP

Thanks Jon,

So, I've been checking the mapping system and history for the site, and I note that planning reference PL/2026/04118 (Prior notification) was recently refused. Are you able to confirm to me what the difference is between the current submission and that refused, as they appear similar to me and obviously, I would therefore be refused to refuse the current application for the same reasons.

Many Thanks

Amy

From: Jon Imber <Jon@jmiplanning.com>
Sent: 22 September 2026 11:22
To: Houldsworth, Amy <Amy.Houldsworth@wiltshire.gov.uk>
Subject: RE: PL/2026/05466 : Little Langford Farm, Little Langford, Salisbury, SP3 4NP

You don't often get email from jon@jmiplanning.com. [Learn why this is important](#)
Hi Amy,

Does this plan help?

Kind Regards

Jon Imber MRTPI
Director

Phone: 01889 566107
[REDACTED]

Website: www.jmiplanning.com
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From: Houldsworth, Amy <Amy.Houldsworth@wiltshire.gov.uk>
Sent: 22 September 2026 11:12
To: Jon Imber <Jon@jmiplanning.com>
Subject: RE: PL/2026/05466 : Little Langford Farm, Little Langford, Salisbury, SP3 4NP

Hi Jon,

Thank you for your email. Just looking into this one.

Do you have a plan at all to illustrate the proposed position of the store in the wider context at all please so I can ensure I am pinning the correct location on our mapping system?

A plan with the location marked on in the context of any nearby dwellings etc.

Thanks
Amy

From: Jon Imber <Jon@jmiplanning.com>
Sent: 17 September 2026 16:14
To: Houldsworth, Amy <Amy.Houldsworth@wiltshire.gov.uk>
Subject: RE: PL/2026/05466 : Little Langford Farm, Little Langford, Salisbury, SP3 4NP

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Hi Amy,

Any thoughts on this one please?

Kind Regards

Jon Imber MRTPI
Director

Phone: 01889 566107
[REDACTED]

Website: www.jmiplanning.com
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From: Jon Imber
Sent: 10 September 2026 15:19
To: 'amy.houldsworth@wiltshire.gov.uk' <amy.houldsworth@wiltshire.gov.uk>
Subject: FW: PL/2026/05466 : Little Langford Farm, Little Langford, Salisbury, SP3 4NP

Dear Amy,

Hope all is well.

Appreciate this one has not been with you long, but are there any concerns at this stage?

Would appreciate the opportunity to discuss any issues including compliance with the GPDO before a decision is issued.

Kind Regards

Jon Imber MRTPI
Director

Phone: 01889 566107

Website: www.jmiplanning.com
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From: Wiltshire Council <planning@sf.wiltshire.gov.uk>
Sent: 01 September 2026 14:16
To: Enquiries <enquiries@jmiplanning.com>
Subject: PL/2026/05466 : Little Langford Farm, Little Langford, Salisbury, SP3 4NP

Application No:	PL/2026/05466
Application Type:	Prior notification: Excavation/waste material
Proposal:	Proposed Excavation to Form Earthbank Slurry and Irrigation Store for the Dairy Herd and Arable Crops
Site Address:	Little Langford Farm, Little Langford, Salisbury, SP3 4NP
On behalf of:	Mr Nick Helyer

Dear Sir/Madam

Acknowledgement of your Planning Notification

I am writing to acknowledge receipt of your application and fee of £ 249.00.

The application was received as valid on 27/08/2026. The Planning Officer dealing with your application is Amy Houldsworth

Please be aware that supporting documentation for the application will be available to view online within 24 hours.

Legally, you are entitled to appeal to the Secretary of State if your application has not been determined by 24/09/2026. You may appeal to the Secretary of State within 6 months of this date. Details of this are set out at the foot of this letter.

Your application will be subject to a period of consultation, in which time those parties consulted will have the opportunity to comment on your proposal.

It may be necessary to post a Site Notice (or Notices) in relation to your application. This would be posted in a public position on or near your property. Your assistance in this matter will allow the consultation period to commence as soon as the notice is displayed and thus any delay in visiting the site by the case officer will be avoided for publicity purposes. Any such notice will include a date and a period during which the Notice must be displayed. It would be very helpful if, after that period, you were carefully to remove the Notice. Your assistance in this matter would be much appreciated by this Council.

Yours faithfully,

Head of Development Management

Making an appeal should be a last resort as it may take several months to determine. Details of how to lodge an appeal are available from the Planning Inspectorate here: <https://acp.planninginspectorate.gov.uk/>

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[ref:a0iQ300000NogI9IAJ;420a6632cb218f74af8c05acafc10460:ref]

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APPENDIX B - PART 2

From: [Jacobs, Daniel](#)
To: [REDACTED]@thedairygroup.co.uk'
Subject: PL/2026/04118 - Little Langford Farm, Little Langford, Salisbury, SP3 4NP
Sent: 24/07/2026 13:44:13

Good afternoon Tim,

Thank you for your emails confirming the size of the slurry lagoon, and the extent of the agricultural unit.

Having reviewed the proposal against the permitted development criteria of Class A of Part 6 of the GPDO, I have concluded that the development is caught by criterion (e) and therefore does not benefit from permitted development rights. As a result, the proposal cannot be determined under the prior notification procedure and would instead need to be submitted as a full planning application.

The purpose of criterion (e) is to place limits on the scale of development that can be undertaken under Class A. Under sub-paragraph (i), the GPDO restricts the ground area of structures for accommodating livestock, plant or machinery and the extent of engineering operations to 1000 sqm. Sub-paragraph (ii) similarly limits the size of buildings to 1,500 square metres.

We are agreed that the proposed slurry lagoon would have a footprint of approximately 2,800 square metres. However, I do not agree with the interpretation set out in your previous email that excavations undertaken under permitted development are subject to no area limitation. If that interpretation were correct, engineering operations, which are expressly referred to within criterion (e)(i), could be carried out on an unlimited scale provided they took the form of an excavation. In my view, that is not the intention of the provision nor is it a reading that can readily be reconciled with the wording of criterion (e)(i), which specifically seeks to limit the extent of engineering operations.

I also consider there to be a reasonable argument that the lagoon could be regarded as a building in the context of Part 6. The completed development would comprise a permanent structure with a base, sides and a roof covering. Even if one takes the view that the excavation itself constitutes the engineering operation, the resultant lagoon would still appear to be a structure in its own right rather than merely an excavation. Ultimately the proposal exceeds the size limitations regardless of whether criterion (e)(i) or (e)(ii) is applied.

The proposed lagoon substantially exceeds the 1,000/1,500 square metre threshold. Accordingly, whether the lagoon is viewed as a structure arising from engineering operations for the purposes of criterion (e)(i), or whether it is properly regarded as a building for the purposes of criterion (e)(ii), the proposal exceeds the relevant limitations within Class A. On either interpretation, the development would therefore fall outside the scope of permitted development and thus the works require planning permission.

I have therefore recommended this application for refusal and will be issuing you with a decision imminently.

A further a full assessment of the application is contained within my officer report which I will also share with you.

Kind regards,

Dan Jacobs
Planning Officer
Development Management (South)
Planning, Economy, and Climate

Wiltshire Council

Tel: 01249706646
Email: daniel.jacobs@wiltshire.gov.uk
Web: www.wiltshire.gov.uk
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CASE OFFICER'S REPORT

Application Reference: PL/2023/06523
Address: Land South Of A303, Berwick Farm, Berwick St.
Leonard, Wiltshire
Date site notice posted: N/A
Date of press notice: N/A

POLICIES:

The Town and Country Planning (General Permitted Development) (England) Order 2015 (As Amended), Schedule 2, Part 6, Class A (GPDO).

ISSUES:

The issues for consideration within this application are twofold: the Permitted Development Criteria and if the development would constitute permitted development; and whether the proposed siting, design and external appearance of the proposed development are acceptable or need prior approval from the Local Planning Authority.

SITE AND ITS SURROUNDINGS:

The site is situated in the countryside to the immediate south of the A303 trunk road; approximately 2.8 kilometres to the north east of the Small Village of Fonthill Bishop; and 2.5 kilometres to the north west of the Small Village of Chilmark, as defined by Wiltshire Core Strategy (WCS) policies CP1 (Settlement Strategy), CP2 (Delivery Strategy) and CP27 (Tisbury Community Area). The site forms part of a wider farm holding known as Berwick Farm which forms part of the Fonthill Farms Estate. The site is situated within the Cranborne Chase & West Wiltshire Area of Outstanding Natural Beauty (AONB). It is also within the catchment of the River Avon Special Area for Conservation (SAC); and is within the 6 kilometre buffer area for the Chilmark Bat SAC.

This site is situated adjacent to the northern boundary of an existing field. The wider field is accessed on its northern boundary via a field gate and crossing junction from the A303 Trunk Road. A further access track feeds the site from Fonthill Bishop to the south west. The land falls away from the A303 into the valley floor towards the villages of Fonthill Bishop and Chilmark. A network of public right of ways exist in the vicinity of the site including Bridleway STOC10 (approximately 360 metres to the north); Restricted Byway FBIS2 (approximately 648 metres to the south); and Bridleway CHIL9 (approximately 677 metres to the east). Mature trees/woodland define part of the wider field with the A303 and other incidental field boundaries. However, the access point and adjacent public parking area, serving users of the A303, has a fairly open boundary with the wider field within which the site sits. This site and wider field are currently in arable production.

The supporting documentation to this application confirms that the overall holding known as Fonthill Farms Estate encompasses approximately 3,400 hectares of land, consisting of 1,700 arable production and 595 hectares of grassland. It is also confirmed that the land has been farmed for in excess of 100 years.

THE PROPOSAL:

This is an application seeking to notify the Local Planning Authority about the intention to install a digestate storage lagoon on this existing agricultural field. The proposed lagoon is to measure approximately 83 x 33 metres in area (although the submitted forms confirm that the site area is 2,400 square metres) and will have capacity to store up to 10,000 cubic metres of digestate. It is confirmed that the base of the lagoon will be approximately 1-1.5 metres below existing ground levels on its northern edge (closest to the A303). Material from the excavation works will be used to create bunds around the lagoon, but as a result of the falling land levels in this part of the field, approximately 25,000 cubic metres of additional spoil will be moved from elsewhere to help create the bunds. The application form confirms that in places the height of the proposed lagoon will reach 5 metres; whilst the submitted sections show that in places the bunds will be 7 metres above existing ground levels. A 1.1 metre high stockproof post and wire fence is also to be erected around the base of the bunds. It is confirmed that the outer slopes of the bunds will be graduated and seeded with a wildflower mix. A floating cover is also to be installed, as required by law to minimise the amount of gas and product escaping into the atmosphere.

It is confirmed that access to the new lagoon will be served via the existing farm track which runs parallel to the A303 to the west of the site. This track is within the applicant's ownership and leads through farmland to the nearby village of Fonthill Bishop. It is not suggested that access to this lagoon will be served from the existing A303 access to the immediate north of the site.

It is confirmed that the farm holding is working to adopt a regenerative form of farming and is currently transitioning from a fully synthetic nutrition system to a hybrid one with an increasing use of digestate and a year on year decrease in the use of artificial fertiliser. Digestate is currently imported to the site when needed and this leads to intensive periods of vehicle movements. The applicant therefore seeks to install this storage lagoon in order to allow on-holding storage of digestate and to provide a wider application window throughout the year for the crops. This will greatly increase the flexibility and efficiency of farming operations at the holding, allowing further deployment across the business, while reducing the peak demand for haulage of the product. It is confirmed that the digestate will be derived from multiple local anaerobic digestion plants.

ASSESSMENT:

Need:

The proposed development is to be located on an existing farm holding that has been in agricultural/farming use for in excess of 100 years. The lagoon is to be used for the storage of digestate in association with this enterprise. The Council is satisfied that the new facility is to be used and is required for the purposes of agricultural.

Permitted Development Criteria:

The applicant has confirmed that the agricultural holding within which the proposed lagoon is to be located is a unit of approximately 3400 hectares in size. Therefore, the proposed development needs to be checked against the criteria of Class A of Part 6 of Schedule 2 of the GDPO, which allows works for the erection, extension or alteration of a

building; and any excavation or engineering operation, which is reasonably necessary for the purposes of agriculture within agricultural units of 5 hectares or more. This is however subject to the following criteria:

(a) the development would be carried out on a separate parcel of land forming part of the unit which is less than 1 hectare in area;

The identified site is within an overall farm holding which is over 1 hectare in size. This criterion is therefore satisfied.

(b) it would consist of the erection or extension of any agricultural building on an established agricultural unit (as defined in paragraph X of Part 3 of this Schedule) where development under Class Q or S of Part 3 (changes of use) of this Schedule has been carried out within a period of 10 years ending with the date on which development under Class A(a) begins;

No developments have been applied for under Class Q or S on this unit in the past 10 years.

(c) it would consist of, or include, the erection, extension or alteration of a dwelling;

The proposals do not involve the provision of, or works to a dwelling. This criterion is not therefore applicable.

(d) it would involve the provision of a building, structure or works not designed for agricultural purposes;

A site plan and sectional plans are provided with the application, which confirm the design of the proposed lagoon. It is considered that the design of the proposed lagoon is suitable for the purpose outlined and the size meets government restrictions for such a facility. The proposals are therefore considered to satisfy the requirements of this criterion.

(e) the ground area which would be covered by—

(i) any works or structure (other than a fence) for accommodating livestock or any plant or machinery arising from engineering operations; or

(ii) any building erected or extended or altered by virtue of Class A, would exceed 1,000 square metres, calculated as described in paragraph D.1(2)(a) of this Part;

The submitted documentation confirms that the site area involved in the creation of this lagoon is 2,400 or 2,739 square metres which either way, far exceeds the size limitations imposed by this criterion. However, the applicant's agent has confirmed that the proposals do not involve any works or structures to accommodate livestock; or any plant or machinery arising from engineering operations; and is not a building. The agent has

therefore suggested that the size restriction outlined in this criterion is not applicable to this proposal.

However the wording of this criterion is not entirely clear. For instance it is not clear what plant or machinery would arise from engineering operations. It could also be read that 'any works' in part (i) should be applied independently of 'or structures for accommodating livestock' and therefore engineering 'works', as proposed in the excavation and regrading of this field in order to create a digestate lagoon, would constitute 'any works'.

In addition, the legal definition of an agricultural building is '*A structure designed to house farm implements, hay, grain, poultry, livestock or other agricultural products*' (www.lawinsider.com). The proposed lagoon is considered to meet this definition because although it does not have a roof, it does have walls and a base and is a structure that is designed to house agricultural products (in this case digestate). The proposals are therefore also considered to be caught by point (ii) of this criterion.

The Local Planning Authority therefore consider that the proposals are caught by this criterion and given the size of the development proposed, do not satisfy it. The Local Planning Authority therefore considers that the proposals do not constitute permitted development and instead require planning permission.

The applicant's agent has confirmed that this application is not seeking the Local Planning Authority's confirmation that the proposals are permitted development and/or that they satisfy the criteria set out in this part of the GDPO, as that is for the applicant to consider and satisfy themselves. They have confirmed that this application is merely submitted in line with the requirements of Condition 2 (i) of this Class, which requires the applicant to notify the Council of their intentions to build.

However, the Local Planning Authority considers that to provide confirmation that prior approval of the siting, appearance and design of the proposals is/is not required when it is not considered that the proposals being considered meet the relevant permitted development criteria in the first place, would be a flawed approach. It is therefore important to first undertake this assessment as part of the consideration of the prior notification application. As the proposals are not considered to satisfy all of the permitted development criteria of this Class, the prior notification application should therefore be refused.

(f) the height of any part of any building, structure or works within 3 kilometres of the perimeter of an aerodrome would exceed 3 metres;

Whilst there is an airfield in the vicinity of the site (at Stockton), this is over 3 kilometres from the site. This criterion does not therefore apply.

(g) the height of any part of any building, structure or works not within 3 kilometres of the perimeter of an aerodrome would exceed 12 metres;

The proposed works are to extend to a maximum height of 7 metres and will therefore comply with the height restriction identified in this criterion.

(h) any part of the development would be within 25 metres of a metalled part of a trunk road or classified road;

The supporting documentation confirms that the site is 25 metres to the south of the A303 trunk road. The applicant's agent has further clarified that the site is not within 25 metres of the 'metalled' part of the adjacent road. Scaling from the plans, the proposed bunding around the lagoon is shown to be exactly 25 metres away from the metalled edge of the adjacent dual carriageway, at its nearest point. This criterion is therefore satisfied.

(i) it would consist of, or include, the erection or construction of, or the carrying out of any works to, a building, structure or an excavation used or to be used for the accommodation of livestock or for the storage of slurry or sewage sludge where the building, structure or excavation is, or would be, within 400 metres of the curtilage of a protected building;

As is discussed above, the proposals are considered to constitute a building in line with the legal definition of an agricultural building; and also involves excavation works in association with a new storage lagoon for digestate, which is a form of slurry. However there are no protected buildings situated within 400 metres of the site. The proposals therefore also satisfy this criterion.

(j) it would involve excavations or engineering operations on or over article 2(4) land which are connected with fish farming; or

The proposals do not involve works connected with a fish farm and therefore this criterion does not apply.

(k) any building for storing fuel for or waste from a biomass boiler or an anaerobic digestion system—

(i) would be used for storing waste not produced by that boiler or system or for storing fuel not produced on land within the unit; or

(ii) is or would be within 400 metres of the curtilage of a protected building.

As is established above, the proposals involve the creation of an agricultural building. In addition, the supporting documentation confirms that the lagoon will be used to store digestate produced from multiple local Anaerobic Digestion Plants. It does not however clarify that these plants are all situated on land within the agricultural unit. The Local Planning Authority is not currently able to confirm therefore if the proposals satisfy this criterion.

The proposed development is not considered to comply with all of the criteria set out in Class A of Part 6 of Schedule 2 of the GPDO and *is not* therefore considered to be permitted development. The application is therefore recommended for refusal on that basis and an application for planning permission will need to be submitted in order for the proposals to be considered.

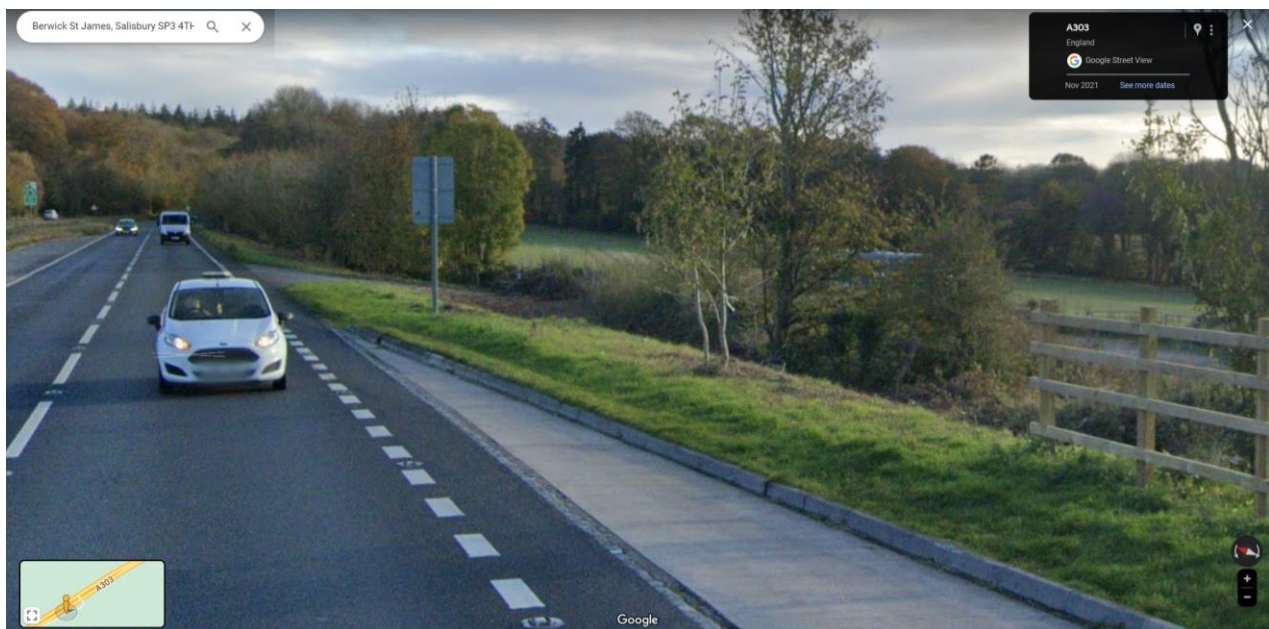
Siting & Design & External Appearance:

Whilst it is considered that the proposals do not represent permitted development under Class A of Part 6 of Schedule 2 of the GPDO, the applicant has applied to the Local Planning Authority for confirmation that prior approval is not required. It is therefore considered to be appropriate for the Council to still assess the proposed siting, design and external appearance of the proposals in line with Conditions A.2 (2) (i) of Class A, Part 6 of the GPDO.

In this instance, the site is situated in the AONB and on relatively high ground in this undulating topography. The proposed development is also of significant size and massing consisting of a development of 2,400/2739 square metres in size and extending to 7 metres in height. It therefore has potential to cause a significant impact in this sensitive landscape setting.

The submitted documentation suggests that the site is well screened in the landscape with a mature tree belt along the A303 providing complete screening to the north; and only longer distance views being afforded from the wider public right of way network to the south. In the longer distance views, the new lagoon will be softened by the grassy bunds and will in any event be seen against the backdrop of the A303 and existing landscaping on rising ground. It is also suggested that the bunds and additional landscaping could be implemented to further soften and screen the development in the landscape, although no landscape plan has been submitted with the application.

However, a site visit confirms that immediately adjacent to the existing farm access on to A303, there is a public parking layby. The boundary between this public parking area and the site consists of ad hoc small trees and a post and rail fence. The parking area otherwise benefits from wide reaching views down into the valley and the beauty of the AONB can be fully appreciated from this vantage point. As can be seen from the two Google Street View images below (and confirmed by the site visit), the parking area also has quite a public aspect over the proposed site so it is clear that from this close by public vantage point, the proposed development will be seen in profile.



It is therefore considered that the proposed siting, design and appearance of the new lagoon will be fairly prominent in the public domain and the potential implications for the character and setting of the AONB need to be carefully managed. If this proposal were considered to be permitted development, the Local Planning Authority would have confirmed that prior approval would be required so that the potential impact for the AONB and area could be properly considered. A submission of a Landscape Visual Impact Assessment and detailed landscape plan would also be appropriate.

In addition, whilst the proposals suggest that all traffic visiting the site would approach from the nearby village of Fonthill Bishop along the existing access track that runs across the agricultural holding's own land and parallel to the A303; as is identified above, another site access directly onto the A303 also exists immediately adjacent to this site. No information has been submitted with the prior notification application to confirm the likely vehicle numbers or types of vehicles that will visit the site throughout the year as a result of this proposal; and it is not clear how the use of the existing access on to the A303 will be restricted/prevented.

Furthermore, whilst it is suggested that the lagoon is to be fed from multiple local anaerobic digestion plants, no information has been submitted to confirm how many digestion plants this entails; how many different sites; where they are located; or if they are all positioned on the holding or are instead on surrounding neighbouring farms. It is also suggested that the stored digestate will be used on this whole 3,400 hectare estate, which according to the submitted site plan, also continues on the other side of the A303. It is therefore likely that the access onto the A303 will also be used to serve and service this proposed storage lagoon.

In the absence of any transport assessment or details about exactly how the operation will work, the Local Planning Authority cannot therefore be confident that the proposed siting of the new lagoon would not have significant implications for the free flow, use and users of the A303.

Overall the Local Planning Authority therefore has serious concern about the siting, design and appearance of the proposed lagoon; and were the proposals be found to be Permitted Development, the prior approval of the details would be required.

Other Matters,

Whilst not a consideration for Part 6 of the GDPO, the site is situated within the catchment of the River Avon SAC and within 6 kilometres of the Chilmark Bat SAC and has potential to have an adverse effect upon the integrity of these European sites. This means that the proposed development cannot be lawfully commenced, even if it were to be found to be permitted development, until the local planning authority, along with the appropriate nature conservation body (Natural England), has undertaken an Appropriate Assessment of the implications for the European site(s) under the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 (Habitat Regulations); and can confirm that the proposals will not adversely affect the integrity of the site(s).

It is therefore considered that, should the applicant decide to pursue these proposals via the submission of a full planning application; any such application will need to be accompanied by an assessment detailing the potential impact of these proposals for these nearby sensitive ecological designations.

CONCLUSION

The proposed digestate lagoon, as described on the submitted application form; and as shown on the submitted plans received 2nd August 2023, is not considered to accord with all of the criteria of Part 6, Class A of the GDPO 2015 (as amended) and does not

therefore constitute permitted development.

It is also considered that the proposed siting, design and appearance of the proposed lagoon, as a result of its size and position, are likely to have a significant impact on the landscape character and setting of the AONB; the visual amenities of the area; and highway safety. Full details of the proposals would therefore need to be submitted for approval.

It is therefore recommended that this prior notification application should be refused; and should the applicant wish to pursue the proposed works, a full planning application would need to be submitted accordingly.

RECOMMENDATION:

Refusal:

- 1) The proposed development, by virtue of its proposed size, is not considered to satisfy criterion (e) of part A.1 of Class A of Part 6 of Schedule 2 of the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GDPO). Insufficient information has also been submitted to confirm that the proposals satisfy criterion (k) of part A.1 of this Class of the GDPO. The proposals are not therefore considered to benefit from the provisions of this agricultural permitted development right and instead planning permission would be required accordingly.
- 2) The proposed development, by virtue of its siting design, size and appearance has potential to significantly impact the character, setting and visual amenities of the area, which is situated in an Area of Outstanding Natural Beauty. The proposed development also has potential to adversely affect the free flow of traffic; and the use of and users of the adjacent A303 trunk road. The siting design and appearance of the proposals therefore needs detailed approval in line with Condition A.2, criterion 2 (i) of Class A of Part 6 of Schedule 2 of the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GDPO).

The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

Prior notification: Excavation/waste material - Refused

Application Reference Number: PL/2023/06523

Decision Date: 17th August 2023

Applicant: Mr P Durnford
Fonthill Estate Office, The Old Dairy, Fonthill Bishop, SP3 5SH

Particulars of Development: Construct Digestate Storage Lagoon
At: Land South Of A303, Berwick Farm, Berwick St. Leonard, Wiltshire

I refer to your application for a determination as to whether the prior approval of the local planning authority will be required for this development. The local planning authority has determined in this case that the proposals do not satisfy the criteria listed in Class A of Part 6 of Schedule 2 of the Town & Country Planning (General Permitted Development)(England) Order 2015 (as amended) and they do not constitute permitted development. Planning permission is therefore required.

It is also considered that the prior approval of the siting, design and appearance of the proposals are required. The application is therefore **REFUSED** for the following reason(s):

Refusal Reason(s): (2)

- 1 The proposed development, by virtue of its size, is not considered to satisfy criterion (e) of part A.1 of Class A of Part 6 of Schedule 2 of the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GDPO). Insufficient information has also been submitted to confirm that the proposals satisfy criterion (k) of part A.1 of this Class of the GDPO. The proposals are not therefore considered to benefit from the provisions of this agricultural permitted development right and instead planning permission is required accordingly.
- 2 The proposed development, by virtue of its siting, design, size and appearance has potential to significantly impact the character, setting and visual amenities of the

area, which is situated in an Area of Outstanding Natural Beauty. The proposed development also has potential to adversely affect the free flow of traffic; and the use and users of the adjacent A303 trunk road. The siting, design and appearance of the proposals therefore need detailed approval in line with Condition A.2, criterion 2 (i) of Class A of Part 6 of Schedule 2 of the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GDPO).

Parvis Khansari - Corporate Director, Place