

Delegated Decision

Sign off Sheet

Ref. No:	DM/24/2958	Case Officer:	Hamish Evans
Application Type:	Agricultural Prior Not. - Excav/Waste		
Proposal:	Engineering works to create a clean water storage lagoon to provide off mains drinking water for the cattle housed at the unit. Works include the excavation and stockpiling of topsoil and carrying out of cut and fill operations to create the lagoon. The stored topsoil will be spread over the area of the works.		
Site:	Holmbush Farm, Isaacs Lane, Haywards Heath, West Sussex, RH16 4RY, , ,		
Validation Date	3 Dec 2024	Overall Expiry Date:	3 Jan 2025
Pre-Commencement Conditions Required:		Pre-Com Conditions Date Agreed:	
Recommendation:	Prior Approval Is Not Required	Recommendation Date:	26 Feb 2025
Target Date:	31 Dec 2024	Recommendng Officer Signature:	Hamish Evans

Date Legal Agreement Completed: (if applicable)		No of Representations:	0
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Signed and Agreed By:	Stephen Ashdown	Date:	26 Feb 2025
Comments:			

MID SUSSEX DISTRICT COUNCIL

DM/24/2958

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Mr C Burgoyne

SUMMARY OF REPRESENTATIONS

No third-party representation letters have been received in respect of this application.

SUMMARY OF CONSULTEES

MSDC Contaminated Land Officer

No objection, recommend discovery condition.

MSDC Flood Risk and Drainage Team

Recommend consulting with Environment Agency as the higher authority.

WSCC Newt Officer

No objection, recommend informative.

WSCC Highways

No objection.

Environment Agency

No objection.

PARISH COUNCIL OBSERVATIONS

Ansty and Staplefield Parish Council

No comment.

INTRODUCTION

The application is to determine if prior approval is required for engineering works to create a clean water lagoon at Holmbush Farmhouse Isaacs Lane Haywards Heath RH16 4RY.

RELEVANT PLANNING HISTORY

DM/21/4161. Construction of an earth banked slurry storage lagoon. Permission.

DM/21/3656. Existing topsoil will be excavated and stockpiled on site for re-use in final landscaping, subsoil will be excavated and used in compacted layers to construct the banks of the lagoon, imported subsoil material will be incorporated into these layers until final approved levels are achieved. the previously excavated topsoil will then be re-used for final landscaping. Refused.

SITE AND SURROUNDINGS

The site is located within the countryside and is an existing agricultural unit with several agricultural buildings and open fields within the site. The location of the proposed lagoon is within an open field to the southeast of the main agricultural buildings. The ground level of the existing field slope from north to south by some 8.0 metres. The existing boundary treatment consists of some 2.0 metre high hedgerows and significant tree lines surrounding the site. A private lane is located to the north and west of the site, Valebridge Road is located to the east of the site and open countryside is located to the south of the site.

APPLICATION DETAILS

The proposed works consists of engineering works to create a clean water lagoon. The proposed seeks to excavate the topsoil and then undertake a cut and fill operation to form the lagoon. The submitted documents state that additional material will be imported and incorporated into the proposal to make up for insufficient materials available on site. The applicant has also provided statement advising that *"All materials brought onto site will be tested and certified recycled aggregates and locally sourced CL:aire DoWCoP suitable naturally occurring non waste mineral material.*

POLICY CONTEXT

The proposal falls to be assessed against Part 6, Class A of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended):

Class A - agricultural development on units of 5 hectares or more

Permitted development

A. The carrying out on agricultural land comprised in an agricultural unit of 5 hectares or more in area of—

- (a) works for the erection, extension or alteration of a building; or
- (b) any excavation or engineering operations, which are reasonably necessary for the purposes of agriculture within that unit.

Development not permitted

A.1 Development is not permitted by Class A if—

- (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;
- (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;
- (c) it would consist of, or include, the erection, extension or alteration of a dwelling;
- (d) it would involve the provision of a building, structure or works not designed for agricultural purposes;
- (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;

- (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;
- (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;
- (h) any part of the development would be within 25 metres of a metalled part of a trunk road or classified road;
- (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;
- (j) it would involve excavations or engineering operations on or over article 2(4) land which are connected with fish farming; or
- (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.
- (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.

Conditions

A.2— (1) Development is permitted by Class A subject to the following conditions—

- (a) where development is carried out within 400 metres of the curtilage of a protected building, any building, structure, excavation or works resulting from the development are not used for the accommodation of livestock except in the circumstances described in paragraph D.1(3) of this Part or for the storage of slurry or sewage sludge, for housing a biomass boiler or an anaerobic digestion system, for storage of fuel or waste from that boiler or system, or for housing a hydro-turbine;
- (b) where the development involves—
 - (i) the extraction of any mineral from the land (including removal from any disused railway embankment); or
 - (ii) the removal of any mineral from a mineral-working deposit, the mineral is not moved off the unit;
- (c) waste materials are not brought on to the land from elsewhere for deposit except for use in works described in Class A
 - (a) or in the provision of a hard surface and any materials so brought are incorporated forthwith into the building or works in question.

(2) Subject to sub-paragraph (3), development consisting of—

- (a) the erection, extension or alteration of a building;
- (b) the formation or alteration of a private way;
- (c) the carrying out of excavations or the deposit of waste material (where the relevant area, as defined in paragraph D.1(4) of this Part, exceeds 0.5 hectares); or

(d) the placing or assembly of a tank in any waters,

is permitted by Class A subject to the following conditions—

- (i) the developer must, before beginning the development, apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the siting, design and external appearance of the building, the siting and means of construction of the private way, the siting of the excavation or deposit or the siting and appearance of the tank, as the case may be;
- (ii) the application must be accompanied by a written description of the proposed development and of the materials to be used and a plan indicating the site together with any fee required to be paid;
- (iii) the development must not begin before the occurrence of one of the following—
 - (aa) the receipt by the applicant from the local planning authority of a written notice of their determination that such prior approval is not required;
 - (bb) where the local planning authority give the applicant notice within 28 days following the date of receiving the applicant's application of their determination that such prior approval is required, the giving of such approval; or
 - (cc) the expiry of 28 days following the date on which the application under subparagraph (2)(ii) was received by the local planning authority without the local planning authority making any determination as to whether such approval is required or notifying the applicant of their determination;
- (iv) where the local planning authority give the applicant notice that such prior approval is required, the applicant must—
 - (aa) display a site notice by site display on or near the land on which the proposed development is to be carried out, leaving the notice in position for not less than 21 days in the period of 28 days from the date on which the local planning authority gave the notice to the applicant; and
 - (bb) where the site notice is, without any fault or intention of the applicant, removed, obscured or defaced before the period of 21 days referred to in sub-paragraph (iv)(aa) has elapsed, the applicant is treated as having complied with the requirements of that subparagraph if the applicant has taken reasonable steps for protection of the notice and, if need be, its replacement;
- (v) the development must, except to the extent that the local planning authority otherwise agree in writing, be carried out—
 - (aa) where prior approval is required, in accordance with the details approved;
 - (bb) where prior approval is not required, in accordance with the details submitted with the application; and
- (vi) the development must be carried out—
 - (aa) where approval has been given by the local planning authority, within a period of 5 years from the date on which approval was given;
 - (bb) in any other case, within a period of 5 years from the date on which the local planning authority were given the information referred to in paragraph (d)(ii).

(3) The conditions in sub-paragraph (2) do not apply to the extension or alteration of a building if the building is not on article 2(4) land except in the case of a significant extension or a significant alteration.

(4) Development consisting of the significant extension or the significant alteration of a building may only be carried out once by virtue of Class A(a).

(5) Where development consists of works for the erection, significant extension or significant alteration of a building and—

(a) the use of the building or extension for the purposes of agriculture within the unit permanently ceases within 10 years from the date on which the development was substantially completed; and

(b) planning permission has not been granted on an application, or has not been deemed to be granted under Part 3 of the Act, for development for purposes other than agriculture, within 3 years from the date on which the use of the building or extension for the purposes of agriculture within the unit permanently ceased, then, unless the local planning authority have otherwise agreed in writing, the building or, in the case of development consisting of an extension, the extension, must be removed from the land and the land must, so far as is practicable, be restored to its condition before the development took place, or to such condition as may have been agreed in writing between the local planning authority and the developer.

(6) Where an appeal has been made, under the Act, in relation to an application for development described in sub-paragraph (5)(b), within the period described in that paragraph, that period is extended until the appeal is finally determined or withdrawn.

(7) Where development is permitted by Class A(a), within 7 days of the date on which the development is substantially completed, the developer must notify the local planning authority in writing of that fact.

ASSESSMENT

In order to benefit from the above prior notification process and be considered permitted development, the local planning authority must be satisfied that the proposed works 'are reasonably necessary for the purposes of agriculture within that unit.'

The site is located within the existing farming unit and the proposal seeks to increase the water storage capacity to provide clean drinking water for the existing 500 dairy cows within the unit. As such the local planning authority are satisfied that the proposed works are reasonably necessary for the purposes of agriculture within the existing farming unit.

Furthermore, condition A2 (c) states:

'waste materials are not brought on to the land from elsewhere for deposit except for use in works described in Class A(a) or in the provision of a hard surface and any materials so brought are incorporated forthwith into the building or works in question.'

The submitted application documents state that '*All materials brought onto site will be tested and certified recycled aggregates and locally sourced CL:aire DoWCoP suitable naturally occurring non waste mineral material.*' The CL:AIRE initiative is a scheme that has been adopted by the Environment Agency and local authorities to allow suitable soil to be imported onto sites for use with engineering works, without the material being classified as waste. Details of how the proposed materials will comply with the CL:AIRE protocol have been submitted. If other materials are imported for the above use and they do not comply with the CL:AIRE protocol then it may be considered a waste operation which would be a matter for WSCC as the Mineral and Waste Authority.

It has been shown that the site is within an existing agricultural unit that exceeds 5 hectares and does not relate to the extension or erection of an agricultural building or residential dwelling.

The proposed works are not within 3km of an aerodrome, they are not within 25 metres of a trunk or classified road and the site is not located within Article 2(4) land.

The proposal is not for the accommodation of livestock, for the storage of slurry or sewage sludge, the housing of a biomass boiler or an anaerobic digestion system, for the storage of fuel or waste from that boiler or system, or for the housing a hydro-turbine.

Condition (i) requires an assessment to be by the Local Planning Authority of the:

'siting, design and external appearance of the building, the siting and means of construction of the private way, the siting of the excavation or deposit or the siting and appearance of the tank, as the case may be'.

The proposed development site is to be located within a natural low point within the landscape. Whilst it is acknowledged that there would be some views to the site, for example when facing the area directly from the access road, wider views would be screened by the wider landscape as the surrounding topography changes. In addition the lake has been designed to have a natural appearance and consideration has been set out, within the application, as to how it would integrate into its surroundings.

It is therefore concluded that the proposed lake has been sited within a logical position, given the surrounding landscape and supporting information, and the development would therefore be acceptable in this regard.

Taking into account the above the proposal is considered to comply with Class A of Part 6 to Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

The recommended condition from the Land Contamination Officer is noted however given the nature of the application a condition is not able to be imposed. An informative can be imposed instead.

CONCLUSION

It has been satisfactorily demonstrated that the proposal is reasonably necessary for the purposes of agricultural and complies with the requirements of Part 6, Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Furthermore the siting is appropriate and considered acceptable.

It is therefore considered that the proposal is permitted development under Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Prior approval is not required and the development can therefore proceed in accordance with the submitted details.

Decision: Prior Approval Is Not Required

Case Officer: Hamish Evans