
F/YR18/0648/F

Applicant: Biocow

**Agent : Mr S Smith
RSK ADAS**

Anaerobic Digestion Plant, Somerset Farm, Cants Drove, Murrow

Formation of a digestate lagoon with a 4.5m high surrounding earth bund and a 1.2m high chain-link fence

Reason for Committee: Level of objections received and officer recommendation being at variance to that of the Parish Council

1 EXECUTIVE SUMMARY

The scheme proposes the construction of an additional digestate lagoon to serve the established Biocow enterprise operating at Cants Drove, Murrow.

The additional lagoon is required to provide seasonal storage of liquid digestate which arises as a product of the AD process, which also occurs on the site.

The NPPF supports a prosperous rural economy and highlights that decisions should enable sustainable growth and expansion of all types of business in rural areas, including the development and diversification of agricultural and other land-based rural businesses. Similarly the need to increase the use and supply of renewable energy sources is also supported by the NPPF and as the digestate is a by-product of such an activity it may be inferred that the scheme also achieves policy compliance in this regard.

Whilst the concerns identified by local residents have been duly considered the NPPF is clear that the focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively.

In land use planning terms there are no grounds to withhold consent. Odour management has been fully considered within the submission and there are appropriate safeguards in place through environmental protection legislation.

2 SITE DESCRIPTION

- 2.1 The site is located off Cants Drove to the south of Murrow off the B1187 (Murrow Bank). The total site area is 2.5 hectares. Access to the site is via Cants Drove. The access to Somerset Farm from the public highway will remain unchanged. However, a new access track on site (within the red line boundary) will be developed along the eastern site boundary.
- 2.2 The existing lagoon is situated circa 240 metres south of Cants Drove which is characterised by sporadic dwellings and agricultural fields and structures.

Visually the lagoon sits comfortably in the landscape and whilst the bund is apparent from views from the highway it is not unduly dominant and located against the backdrop of the anaerobic digester and structures associated with the farming operation and the Biocow offices.

3 PROPOSAL

- 3.1 The proposal itself consists of a single digestate lagoon measuring 125 m x 112 m with a maximum depth of 6m. It is adjacent to an existing lagoon of the same dimensions. An earth bund 4.5m in height is proposed to provide a level of landscaping around the lagoon with a 1.2 m chain-link fence.
- 3.2 The earth bund and fence dimensions are the same as the existing lagoon. The lagoon lining and cover will also be of the same materials,
- 3.3 The proposed lagoon is intended to provide seasonal storage of liquid digestate which arises as a product of the AD process. This digestate has value as a fertiliser and for crop irrigation. Currently, such materials are spread seasonally on the applicant's own land, and by sale to neighbouring land-owners. Spreading can typically only take place during the drier months of the years and therefore some form of digestate storage is required during the wetter, winter months. The proposed lagoon is designed to provide this function.
- 3.4 Supporting information included within the application notes that the proposed lagoon is designed to provide this storage function, and it would be filled during the autumn and winter by pipeline from the adjacent AD plant and emptied for spreading on the land during spring and summer on an annual basis. Spreading of the digestate will be by a tractor and tanker(s), which will access the lagoon through the AD plant. The tanker(s) will be filled from the lagoon by suction, and once filled will then leave by the same route and travel directly to the point of spreading.

Full plans and associated documents for this application can be found at:

<https://www.fenland.gov.uk/publicaccess/simpleSearchResults.do?action=firstPage>

4 SITE PLANNING HISTORY (most recent)

F/YR16/0583/F	Variation of condition 1 of planning Permission F/YR14/0964/F to allow continued siting of mobile homes until 7 July 2019	Granted 01/09/2016
F/YR14/0970/F	Erection of a 2-storey building for office use	Granted 29/01/2015
F/YR14/0964/F	Variation of condition 3 of planning permission F/YR14/0397/F relating to occupation of caravans and flood warning and evacuation plan	Granted 23/01/2015
F/YR14/0397/F	Change of use of land and siting of 5 no mobile homes for use by farm workers	Granted 07/07/2014

F/YR13/0868/F	Formation of a dirty water storage lagoon with 1.2 metre high chain link fence/gates and extension of existing access roadway	Granted 25/02/2014
F/YR12/0838/F	Installation of 2 x dirty water storage tanks and extension to existing 2.0m high earth bund	Granted 21/12/2012
F/YR12/0397/AG1	Erection of an agricultural storage building	Further Details Not Required 09/08/2012
F/YR12/0381/F	Erection of an agricultural storage building	Granted 10/07/2012
F/YR11/2011/CCC	Screening Opinion: Proposed anaerobic Digestion plant	Further Details Not Required 07/12/2011
F/YR11/2015/CCC	Installation of 500kW agricultural anaerobic digester and associated infrastructure comprising primary and secondary digester; digester storage tanks; silage pit; CHP unit; effluent store; solid separator; internal roadways and hardstanding loading and turning area	Raise no objection 24/10/2011

5 CONSULTATIONS

5.1 **Parish Council:** *Recommend Refusal: The noise/smell/pollution generated has been detrimental to residents. Substandard vehicular access - existing roads are incapable of carrying increased traffic without suffering damage resulting in noise/pollution. Cumulative impact - The existing operation has been detrimental to the environment and lives of local residents due to noise/smell/pollution and damage to roads, the number of vehicle movements must be limited in number and restricted to day time hours. Any expansion is recommended for refusal.*

5.2 **Cambridgeshire County Council Highways Authority:** Originally commented that *'The applicant will need to provide a trip generation assessment for the existing use vs the proposed use. The applicant should also provide details of the construction traffic, i.e. numbers of vehicles to and from site, route to and from site etc.'*

Following the submission of additional information the LHA confirm that:

Based on the agent comments [...] regarding vehicle movements, it is evident that once the secondary lagoon has been constructed, there will be a reduction in vehicle movements and a lesser impact on the highway network. I can therefore raise no highway objection to this application.

5.3 **Designing Out Crime Officers:** Comment that *'this is an area of low vulnerability to crime and there have been no incidents reported in relation to*

this location. This is proposed to be designed the same as the previous lagoon in relation to perimeter security - I therefore have no objection or other comment at this stage and support the application',

- 5.4 **FDC Scientific Officer (Land Contamination):** *'The main issue concerning the proposed application is off site odorous material having adverse impact on residential properties around the application site. The applicant has submitted an impact appraisal based on the Institute of Air Quality Management (IAQM) guidance that sets out various parameters for odour impact at sensitive receptor location for planning purposes. The report considers a variety of source in the context of source partway receptor and concludes that possibility of adverse odour impact is 'low' We agree with this assessment, however it is recommended that any approval given considers the precautionary odour management measures recommended in page 7 of the report by means of a planning condition if necessary.*

In terms of potential noise impact, agrees with statement contained within the Design and Access statement that loss of amenity by reason of noise disturbance is unlikely as it is considered that the nearest noise sensitive receptor is at considerable distance from any noise generating process at any location of proposed development.

Lastly, the applicant may require an Environmental Agency Permit which can be applied for directly by them.'

- 5.5 **CCC (Lead Local Flood Authority):** Originally raised objection to the grant of planning permission for the following reason:

The Design and Access Statement refers to 'a new drainage outlet constructed around the lagoon'. This 'outlet' is not identified on the submitted plans and further explanation of the functionality of this outlet is required. Details about the location, depth and potential discharge rate are required.

They go on to note that *if the applicant provides the above information we will look to review our response*, in addition they note that the site falls within the NLIDB district.

Following re-consultation on amended details now indicate that as *Lead Local Flood Authority (LLFA) [they] we have no objection in principle to the proposed development*. Noting that the submitted documents demonstrate that there will be no discharge of surface water into the adjacent watercourse. Request conditions relating to implementation of surface water drainage scheme and informatives relating to IDB and Land Drainage Act 1991.

- 5.6 **North Level Internal Drainage Board:** Identify that *'My Board's number 6 drain forms the southern boundary of the site and our byelaws therefore prohibit any structure to be constructed within 9 metres of the brink of this watercourse. Provided this is adhered to my Board will have no objections to the proposal.'*
- 5.7 **Environment Agency:** *The site is situated within Flood Zone 3 (high risk) of the Environment Agency's Flood Map. According to the National Planning Policy Framework, the proposal is considered as 'less vulnerable'. Therefore, we have no objection to the planning application.*

We have reviewed the submitted proposal against tidal and designated main river flood risk sources only. The site is located within a North Level Internal Drainage Board district and the Drainage Board should be consulted with regards to flood risk associated with their watercourses and any surface water drainage proposals.

Pollution Prevention

- *The operator should construct the earth-banked lagoon to the standards specified by CIRIA 126 'Farm waste storage guidelines'.*
- *Any liners that are used to make the lagoon impermeable should be carefully selected to ensure that they are suitable for the intended use.*
- *A freeboard of 750mm must be in existence at all times from the top of the lagoon.*
- *We strongly advise that leak detection systems are installed as part of the initial design.*
- *The proposal must adhere to the Silage, Slurry and Agricultural Fuel Oil (SSAFO) Regulations 2010 and as amended 2013 when constructing the earth-banked lagoon.*
- *Appropriate spill containment and capture should be in place near to any transfer pumps which are used to remove digestate for onward transport.*
- *A program of inspection and maintenance should be established once constructed to prevent critical failures.*
- *Odours should be kept to a minimum by ensuring appropriate pre-treatment in the AD plant and ensuring the cover remains intact and in place at all reasonable times.*
- *The operator should check with the Environment Agency whether the existing AD permit will require a variation to cover this proposed additional lagoon.*

5.8 **PCC Wildlife:** Recommend that further information is provided by the applicant in relation to potential air quality impacts to the Nene Washes, as requested by Natural England, prior to determination. Notwithstanding the above issue being satisfactorily addressed, I would likely have no objection subject to the use of appropriate conditions. Detailed comments below:

Designated Sites:

The Nene Washes International Site is located in relative close proximity to the site and I note that Natural England has requested that further information is submitted in relation to air quality. This assessment should be provided by the applicant, setting out any necessary mitigation measures prior to determination of the application.

Protected Species:

Due to the nature of the site being predominantly arable farmland, I consider that impacts to protected species are unlikely. There is a water course located to the south of the site which has the potential to support water voles, however provided that a minimum 9m undeveloped buffer is provided (as required by the IDB), I am satisfied that no further measures would be required in relation to protected species.

Landscaping:

I would recommend that the proposed earth bund is sown with an appropriate native wild-flower seed mix, the detail of which may be provided via a suitably worded condition.

5.9 **Natural England:** *The application site is within ~3km of the Nene Washes European designated site (also commonly referred to as Natura 2000 sites) and therefore has the potential to affect the interest features of this site. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2010, as amended (the 'Habitats Regulations'). The Nene Washes is also listed as a Ramsar site¹ and is notified at a national level as Site of Special Scientific Interest (SSSI).*

Further information required to determine impacts to the Nene Washes internationally designated site. As submitted, the application could have potential significant effects on the Nene Washes Special Area of Conservation (SAC), Special Protection Area (SPA), Ramsar site and Site of Special Scientific Interest (SSSI). Natural England requires further information in order to determine the significance of these impacts and the scope for mitigation. The following information is required:

Consideration of potential air quality impacts on the above site and details of any mitigation measures required to address adverse impacts.

Following receipt of further information notes that:

The letter from ADAS (5 September 2018) confirms that the proposed lagoon will be covered by a high density polyethylene (HDPE) liner, designed to be airtight so that there is no exchange of gas between the lagoon surface and the external atmosphere. We note that the gas generating potential of the digestate is extremely minimal and that this is verified by the experience of the existing lagoon on site, where typically only very low quantities of nitrogen are observed to collect under the cover and this is trapped within the cover to allow it to be reabsorbed into the natural fertiliser. We trust that monitoring data is available to demonstrate this.

On this basis, Natural England accepts the statement from ADAS that there will be no fugitive emission of gas from the lagoon surface and hence no impact to statutorily designated sites, including the Nene Washes SAC, SPA and Ramsar site. We are satisfied that no further assessment of emissions to air is required and we have no objection to the proposed development.

5.10 **CCC Archaeology:** *The Anaerobic Digestion Plant is positioned within a network of roddons (infilled tidal creeks) visible on surface modelling data and on LiDAR imagery (2015), where differential erosion leaves strips of drier land raised out of the fens and which frequently attracted settlement along their length. The proposed digestate lagoon lies 250m to the north-west of an extensive area of settlement features including enclosures, trackways and ring-ditches of probable Romano-British date which are visible as cropmarks in open land on both sides of Gull Drove (Cambridgeshire Historic Environment Record references 03900, 09436). Evidence of another area of Romano-British settlement exists to the north of the application area north of Cants Drove (09441) and these settlements may have formerly related to an upstanding earthwork complex beside the River Nene to the south (MCB17827) which is cut by the former course of Mortons Leam. The earthwork complex pre-dates Mortons Leam (MCB17919 - constructed c. 1490) and was subject to topographical survey and trial trench evaluation and interpreted as a possible small inland harbour site of late Iron-Age or Romano-British date, consistent with the date of the settlement cropmarks to the north (ECB546, ECB2065). I am also concerned that the digestate lagoon proposed under current application*

ref F/YR18/0648/F appears to be located directly to the east of another similar lagoon feature for which I cannot see an associated planning reference on the portal. There is one earlier application ref F/YR13/0868/F which overlaps it but this appears to be for a substantially smaller red line area.

Collectively these two large lagoons/reservoirs (existing plus proposed) extend the digestive plant - for which we raised no objection against earlier app ref F/YR11/2015/CCC - substantially (c.500m) closer to the cropmark networks to the south-east as detailed above.

We therefore do not object to development from proceeding in this location but consider that the proposed new lagoon site should be subject to a programme of archaeological investigation secured through the inclusion of a negative condition, such as the example condition approved by DCLG:

5.11 Local Residents/Interested Parties: 8 letters of objection have been received which may be summarised as follows:

Residential amenity:

- Proximity to property
- Noise
- Smell: the facility has a track record of producing grossly offensive and intrusive smells (the subject of complaints to Fenland DC last summer)
- Stench from lagoon when disturbed and field spraying, invade house and makes washing put out to dry smell so it has to be washed again
- Creation of a similar lagoon in addition to that in place will inevitably increase the potential for further smells causing a nuisance to nearby properties
- question whether adequate measures are presently in place to minimise the escape of odours, and whether the proposals are in themselves adequate; is the liner double membrane?
- If permission is allowed a double membrane should be conditioned
- Air is polluted from the stench of BioCow and possibly dairy farm on A47 in summer are unable to enjoy life outside or have windows open
- Lived in Bedford as a child and if the wind was in the wrong direction they had the smell of the sewage works, 'now in the twilight of my life I seem to have come full circle
- Appreciate facility has permission but hope that the existing air pollution could be reduced by retrospective improvements
- Prevalence of flies
- When the slurry is being agitated the smell is quite sickening, have had to leave house on several occasions
- Was a resident before BioCow

Traffic or Highways

- Property lies on a single access track not designed for repetitive use by heavy traffic
- Present lagoon stores sufficient waste to keep up to 30 tankers busy on a a daily basis
- Once this lagoon is built who knows how many tankers will be needed to empty it
- Regular damage to the road surface, dips, pot holes and eroded surfaces; vibrations and reported damage cracks to adjacent properties
- Tankers speed along Front Road Murrow leaving a smell and shaking their property

- When originally planned they were told no more than 16 vehicle movements per day; 24 now is the norm - add the tractors transporting slurry and this can amount to nearer 50 per day; 7 days per week - 364 days a year from before 6am to after 8pm
- Whilst the staff are thoughtful and respectful the contract drivers speed and have 'your worst nightmare motorway lorry driver attitude'
- This is an industrial operation using an unsuitable access road
- Creation of a duplicate lagoon with double potential for traffic, which is already at unacceptable levels and inexplicably is allowed to traverse Cants Drove towards Guyhirn rather than making use of the A47
- If permission is allowed it should be conditioned that traffic use the A47
- Grass triangle at the junction of Cants Drove and B1187 has only just been refurbished due to damage from tankers and bulkers
- There was a horrific accident when a cattle float overturned in May 2018 killing cattle
- Tankers pull in using property frontages as passing places disturbing residents and pets and causing deterioration of grass verges etc
- Younger drivers have no regard for residents or other road users; have had conversations with the farm re vehicle speeds to no avail
- Passing points are no longer usable
- Traffic weight restriction should be placed on Gull Road end of Cants Drove
- Cants Drove should be renamed Pot Hole Road

Other Matters:

- Visual impact
- Strongly opposed to any further development at the farm
- Queried the original PP for the AD and was told the person they spoke to at CCC seemed to think traffic would reduce and didn't appear interested
- Most houses down this drove are suffering some sort of damage, one house has serious subsidence; damage to underground water supplies from constant heavy traffic
- Building work started before notice of application which makes me think this is a foregone conclusion
- Devaluation
- Environmental Concerns
- Think a public meeting should be held for affected residents, stakeholders, the farm, the Council and Local MP
- When fertilising land the pipes are run along the edge of the drove and a pipe crossed the drove covered by ramps with no warning signage
- Would like the farm to think of its neighbours and its impact on everyone

In respect of the re-consultation two further letters have been received which may be summarised as follows:

- Umbilical pipes are challenging, how far from the road will they be positioned . Have been instances of pipes splitting and covering part of the road with waste product. Also concerns regarding frequency of use and impact on road use, closeness to residential properties and closeness of farm machinery to residential properties.
- Suggest face to face discussions held
- At a loss re the further details, as far as I can see, it doesn't matter that the road is wrecked, our lives blighted by the noise of the traffic and smell from the effluent being sprayed everywhere - in fact as far as the "expert" is concerned there will

only be a small increase in traffic & the lagoon doesn't smell - The expert is lucky he doesn't live here.

- Is the increase in traffic just one way; from my observations what goes to the farm, comes back, therefore doubling the traffic increase.
- The road is not fit for purpose and was not built to take that sort of traffic.
- Smell - one of the tankers stopped outside my house for a few minutes - the smell was awful.
- Notes that stench from tractors spraying in the field opposite my house blows straight into my house by the wind and make me ill. It is not acceptable that at a time when most families are sitting down to an evening meal they should be subjected to this sort of pollution.
- The smell is unbelievable and nothing like what "normal" fertiliser smells like.
- I still ask that the application is declined.

6 STATUTORY DUTY

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires a planning application to be determined in accordance with the Development Plan unless material planning considerations indicate otherwise. The Development Plan for the purposes of this application comprises the adopted Fenland Local Plan (2014).

7 POLICY FRAMEWORK

7.1 National Planning Policy Framework (NPPF)

Paragraph 2 - Applications must be determined in accordance with the development plan unless other material considerations indicate otherwise

Paragraph 10 - Presumption in favour of sustainable development.

Paragraph 47 - Planning applications should be determined in accordance with the development plan unless other material considerations indicate otherwise.

Chapter 6 - Supporting a strong, competitive economy

Para 83 - supporting a prosperous rural economy

Chapter 9 - Promoting sustainable transport

Para 108 - in assessing specific applications it should be ensured that (a) appropriate opportunities to promote sustainable transport modes can or have been taken up, given the type of development and its location (b) safe and suitable access can be achieved for all users (c) any significant impacts from the development on the transport network (in terms of capacity or congestion), or on highways safety can be cost effectively mitigated to an acceptable level.

Para 109 - development should only be prevented or refused on highway grounds if there would be any unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Para 111 - all developments that will generate significant amounts of movement should be required to provide a travel plan, and applications should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed.

Chapter 14 - Meeting the challenge of climate change, flooding and coastal change

Chapter 15 - Conserving and enhancing the natural environment

Para 180 - Planning decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.

Para 183 - the focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities.

Chapter 16 - Conserving and enhancing the historic environment

7.2 National Planning Policy Guidance (NPPG)

7.3 Fenland Local Plan 2014

LP1 - A Presumption in Favour of Sustainable Development

LP2 - Facilitating Health and wellbeing of Fenland residents

LP3 - Spatial Strategy, the settlement hierarchy and the countryside

LP6 - Employment, Tourism, Community facilities and retail

LP12 - Rural Areas Development Policy

LP14 - Responding to climate change and managing the risk of flooding in the Fenland

LP15 - Facilitating the creation of a more sustainable transport network in Fenland

LP16 - Delivering and Protecting High Quality Environments across the District

LP18 - The Natural Environment

LP19 - The Historic Environment

8 KEY ISSUES

- **Background**
- **Principle of Development**
- **Character and visual amenity**
- **Residential amenity**
- **Transport and access**

9 BACKGROUND:

- 9.1 A 500kW agricultural anaerobic digester and associated infrastructure comprising primary and secondary digester; digester storage tanks; silage pit; CHP unit; effluent store; solid separator; internal roadways and hardstanding loading and turning area was granted planning permission by the County Council as Waste Planning Authority on 5th January 2012. In granting the consent the County Council noted that:

‘The principle of the proposed anaerobic digestion plant accorded with both government policy and policies in the development plan. It was considered that the land use planning impacts of the proposed plant will [would] be minimal and that any potential amenity issues such as noise or odour pollution will [would] be controlled by an environmental permit for the site.

The proposal was compliant with policies CS18 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy DPD (2011) as the development will [would] facilitate agricultural waste recycling.

Initial objections to the proposal on flood risk and surface water disposal were resolved and the proposal was therefore compliant with PPS25. Policy CS39 of

the Cambridgeshire and Peterborough Minerals and Waste Core Strategy DPD (2-11) and Policy PU1 of the Fenland District Wide Local Plan (1993)'.

- 9.2 Following on from the installation of the anaerobic digester planning permission was granted for a digestate lagoon on the site; it has been noted that the lagoon as constructed does not reflect the planning permission in terms of the size and positioning of the lagoon, albeit there is an overlap. Discussions with the operator indicate that following the grant of planning permission other permitting considerations required revisions to the lagoon design; it was an oversight on their part to not refer the matter back to the LPA as they believed securing the Environment Agency consent regularised it in planning terms also. It has been indicated that they are to take steps to regularise this through the submission of a retrospective planning application.

10 ASSESSMENT

Principle of Development

- 10.1 The NPPF supports a prosperous rural economy and highlights that decisions should enable sustainable growth and expansion of all types of business in rural areas, including the development and diversification of agricultural and other land-based rural businesses, albeit caveated under Para. 84 with the need to ensure that proposals do not have an unacceptable impact on local roads.
- 10.2 The need to increase the use and supply of renewable energy sources is also supported by the NPPF and as the digestate is a by-product of such an activity it may be inferred that the scheme also achieves policy compliance in this regard.
- 10.3 Whilst significant weight may be given to the above factors, consideration must also be given to the likely impacts on the environment in terms of visual amenity and any potential harm arising from the proposal in terms of residential impact. However it is clear from the NPPF that the planning considerations should not seek to replicate other legislation or indeed seek to address issues for which other control measures and permitting processes are in place.

Character and visual amenity

- 10.4 The lagoon will be sited some distance from the main highway adjacent to the existing facility. It is evident, from viewing the existing installation that the additional lagoon will have any adverse impact on the character of the area. In glimpse views from the main road it will appear slightly higher than the existing landform but it will not be unduly prominent and will sit amongst the established Biocow enterprise. Accordingly there are no issues to address with regard to Policy LP16 of the Fenland Local Plan (2014).

Residential amenity

- 10.5 The submission notes that it is proposed that the lagoon will be covered with a floating reinforced "plastic" sheeting material to prevent the ingress of rainwater and also to exclude other materials such as leaves, branches etc. Prevention of water ingress will prevent dilution of the digestate with water and will thereby help minimise the vehicle movements. The cover sheeting will also have material benefits from an odour perspective by preventing surface "evaporation" and wind stripping of odours from the lagoon surface.

- 10.6 The neighbour consultation responses all indicate issues with odour from the facility however these appear largely to relate to the associated activities of spreading slurry and there is nothing to indicate that the lagoon itself is the source. As indicated in the policy framework section above the planning considerations should be restricted to the land use considerations, whilst residential amenity is a factor it is clear that there are environmental control mechanisms available through other legislation. There has been no objection raised by the FDC Environmental Health team, and the odour statement and further supporting information has been accepted by Natural England. Against this backdrop there would be no grounds for the LPA to withhold consent on the grounds of residential amenity.
- 10.7 In light of the level and nature of complaints received from residents relating to odour, noise and traffic disturbance there has been further engagement with the Environmental Health team who have advised that there
- 'have been complaints dating from 2012 to recent times relating to odour and noise as a result of muck spreading, noisy machinery and tanker arrivals/departures at early hours and throughout the day. Officers have written to the complainants, giving them diary sheets to fill in but it would appear little or no response has been received. Somerset Farm apparently held a land-spreading permit and a mobile plant permit for spreading waste (permit no EPR-PB3833DD), which was historically used for spreading digestate produced by the AD plant on the farm. However, in 2015 it was determined the feedstocks going into the AD plant (farm yard manures and crop residues) were not considered to be waste matter along with the digestate, and so this material is not spread under the permit.*
- 10.8 It is clear therefore that whilst there is anecdotal evidence of complaints being received this has not translated into formal complaints which would be the precursor to appropriate action. In the absence of substantiated complaints the Local Planning Authority is unable to give significant weight to the residential amenity concerns highlighted during the consultation process. Notwithstanding this there remains the mechanism to deal with nuisance under Environmental Protection legislation.

Transport and access

- 10.9 It is noted that the original consent for the anaerobic digester did not place any obligation on the operators in terms of routing or deliveries; with the supporting transport statement submitted with the application stating that
- Based on the present level of traffic, there will be a decrease in vehicular movements associated with the installation of an Anaerobic Digester. Traffic levels will fall as the use of manure and other products produced on site through the rearing of cattle will be used to create bio-gas with over 100 fewer movements required to takeaway manure to other sites.*
- 10.10 Whilst it is clear that residents are experiencing issues relating to the use of the highway network the supporting information appears to indicate that there will be reduction in vehicle numbers as a result of the additional lagoon; the reasoning behind this is contained within the following supporting information submitted by the applicant's agent:

' the reason for the forecast reduction in vehicle numbers is that the new lagoon in combination with the construction of additional tanks forming part of the approved development will allow for more of the site-sourced cattle manure and bedding to be treated through the digesters. At present a proportion of this material is exported from the site by road, it is the displacement of these movements that provides the forecast long-term reduction in traffic as detailed. Whilst there still is a need for spreading of digestate, the volumes are reduced in comparison with the untreated manure due to removal of the gas content and the liquid form of the digestate allows for umbilical spreading directly from the lagoon, further displacing the need for road transport.

A secondary factor is that the limited storage capacity provided by the existing lagoon means that it is frequently necessary to empty by tanker to regulate the levels. The construction of the new lagoon will provide greater seasonal buffering of capacity allowing emptying and spreading to be planned further in advance. This in turn will allow greater use of umbilical spreading.'

It is clear that issues of capacity within the existing lagoon dictate the need to spread the digestate more intensively and that building in additional capacity will enable more flexibility in terms of the timings of distribution of the digestate. It is noted that some concern has been raised by neighbours regarding the use of umbilical spreading and the placement of the pipes over the drove; however this is an operational issue that would be resolved through police intervention as required and is best addressed to the owners or the relevant agencies. There is no mechanism under the planning system to control how the digestate is delivered.

- 10.11 The agent subsequently provided details of the average vehicle movements per week relating to the construction phase, the operation - lagoon emptying; lagoon inspection and maintenance and the removal of cattlemen bedding and manure. These details indicated that there would be an increase of 21 two-way movements per week during the construction phase and an additional 42 two-way movements per week in respect of lagoon emptying; however there would be a reduction of 95 two-way movements per week as manure and bedding would be utilised within the new digestors.
- 10.12 Further detail was sought with regard to how the reduction in movements would be arrived at and following clarification in this regard the LHA have confirmed that *'based on the agent [...] comments regarding vehicle movements, it is evident that once the secondary lagoon has been constructed, there will be a reduction in vehicle movements and a lesser impact on the highway network. I can therefore raise no highway objection to this application.'* Against this backdrop it is considered that the scheme demonstrates compliance with Policy LP15 of the FLP (2014)

Drainage

- 10.13 Whilst initially the LLFA raised concern regarding the potential of surface water contamination their initial objection has been resolved given that it has been demonstrated that there will be no discharge of surface water into the adjacent watercourse.
- 10.14 Given that the scheme has no implications in terms of flood risk and in light of no formal objections being received it is established that the scheme achieves compliance with Policy LP14 of the FLP (2014).

Consenting Processes

- 10.15 Paragraph 183 of the National Planning Policy Framework is clear that in considering development proposals the focus should be on whether the proposed development is an acceptable use of land, rather than seeking to control processes or emissions (where these are subject to separate pollution control regimes). The NPPF clearly identifies that planning decisions should assume that these regimes will operate effectively.

Other considerations

- 10.16 **Archaeology:** It has been identified that collectively the two large lagoons/reservoirs (existing plus proposed) extend the digestive plant substantially (c.500m) closer to the cropmark networks to the south-east. Whilst the CCC Archaeology team do not object to development from proceeding in this location they consider that the proposed new lagoon site should be subject to a programme of archaeological investigation secured through the inclusion of a negative condition. This will ensure that the heritage impacts of the proposal are fully explored in accordance with Policy LP18 of the FLP.
- 10.17 **Biodiversity:** The Nene Washes are less than 3km from the application site however Natural England have clearly indicated that there will be no impact to this, or indeed other statutory designated sites within the area. Furthermore the Wildlife Officer recommends that recommend that the proposed earth bund is sown with an appropriate native wild-flower seed mix, the detail of which can be secured by condition.

Conditions

- 10.18 From 1 October 2018 section 100ZA(5) of the Town and Country Planning Act 1990 provides that planning permission for the development of land may not be granted subject to a pre-commencement condition without the written agreement of the applicant to the terms of the condition (except in the circumstances set out in the Town and Country Planning (Pre-commencement Conditions) Regulations 2018).
- 10.19 The applicant has been consulted on the proposed conditions their agreement in writing is anticipated. Therefore, should the application be approved and the consent granted with the proposed conditions after 1st October 2018, it is considered that the requirements of section 100ZA(5) have been met.
- 10.20 The proposed conditions are as follows:
- Archaeological investigation (Condition 4)

11 CONCLUSIONS

- 11.1 In land use planning terms there are no grounds to withhold consent. Odour management has been fully considered within the submission and there are appropriate safeguards are in place through environmental protection legislation. Similarly the spreading of the digestate and the procedures to do this do not fall within the planning considerations of scheme; if there are issues relating to the placement of umbilical pipes for spreading and the use of the

road network these fall outside the planning consideration of the installation of a further lagoon at the site.

- 11.2 In the absence of any material considerations which would indicate otherwise the scheme may be recommended favourably in light of its policy compliance.

12 RECOMMENDATION: Grant

- 1 The development permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason - To ensure compliance with Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 The surface water drainage scheme shall be constructed and maintained in full accordance with the Figure 3: Cross Sections and Elevations, Rev 01, prepared by RSK consulting, dated 4th July 2018

Reason - To prevent an increased risk of flooding and protect water quality

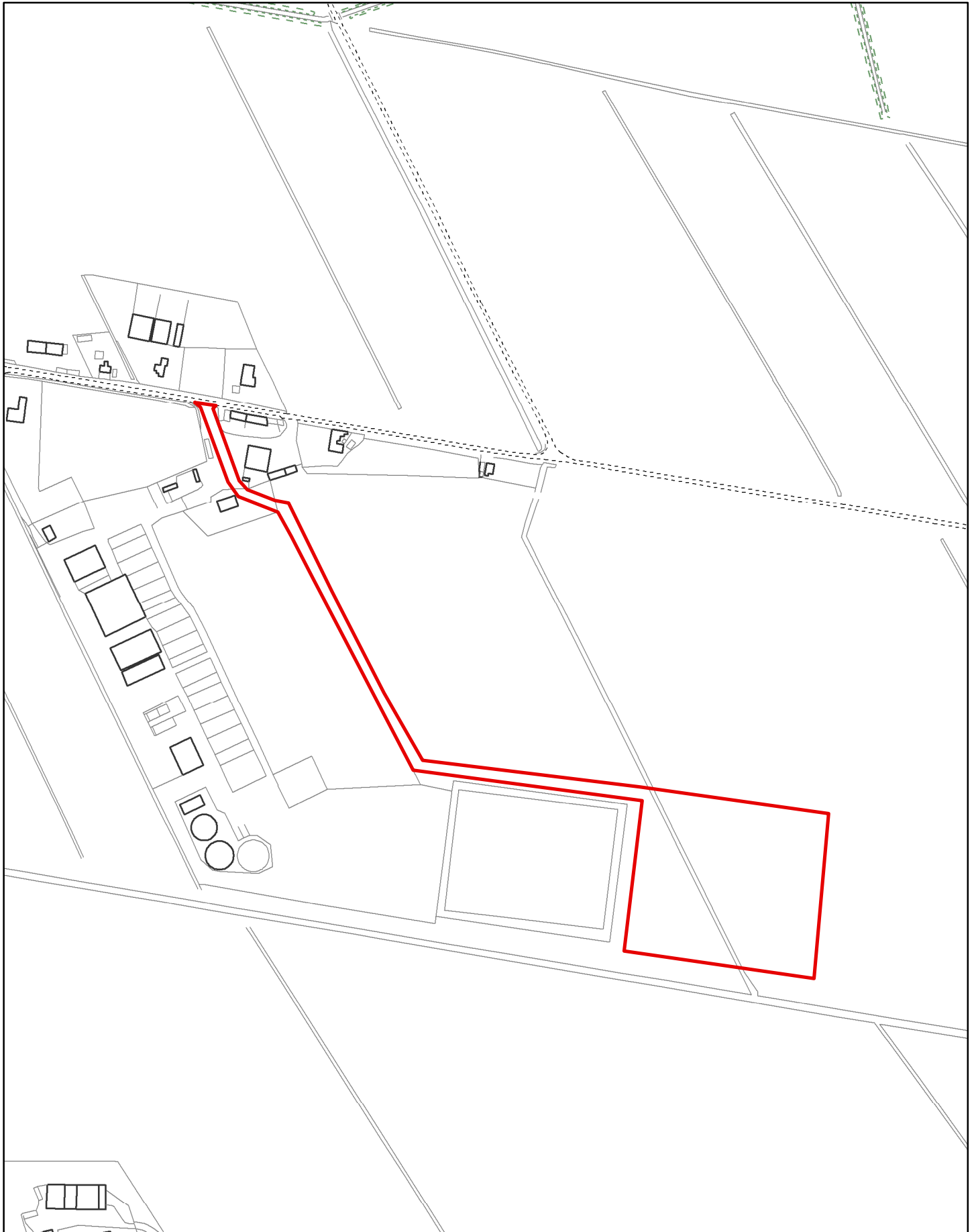
- 3 Prior to the first use of the development a landscape plan which includes landscaping details for the bund area to comprise a native wild-flower seed mix shall be submitted to and approved in writing; the scheme shall then be carried out in the first available planting season following commissioning of the lagoon.

Reason - To protect the visual amenity value of the landscaping, and the biodiversity value of the habitat within the site in accordance with Policy LP19 of the Fenland Local Plan (2014).

- 4 No development or preliminary groundworks of any kind shall take place until the applicant has secured the implementation of a programme and timetable of archaeological work and recording in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the Local Planning Authority. The approved programme shall then be implemented in accordance with the approved timetable prior to any other works taking place on site.

Reason - To secure the provision of the investigation and recording of archaeological remains threatened by the development and the reporting and dissemination of the results in accordance with Policy LP18 of the Fenland Local Plan.

- 5 The development hereby permitted shall be carried out in accordance with the following approved plans and documents.



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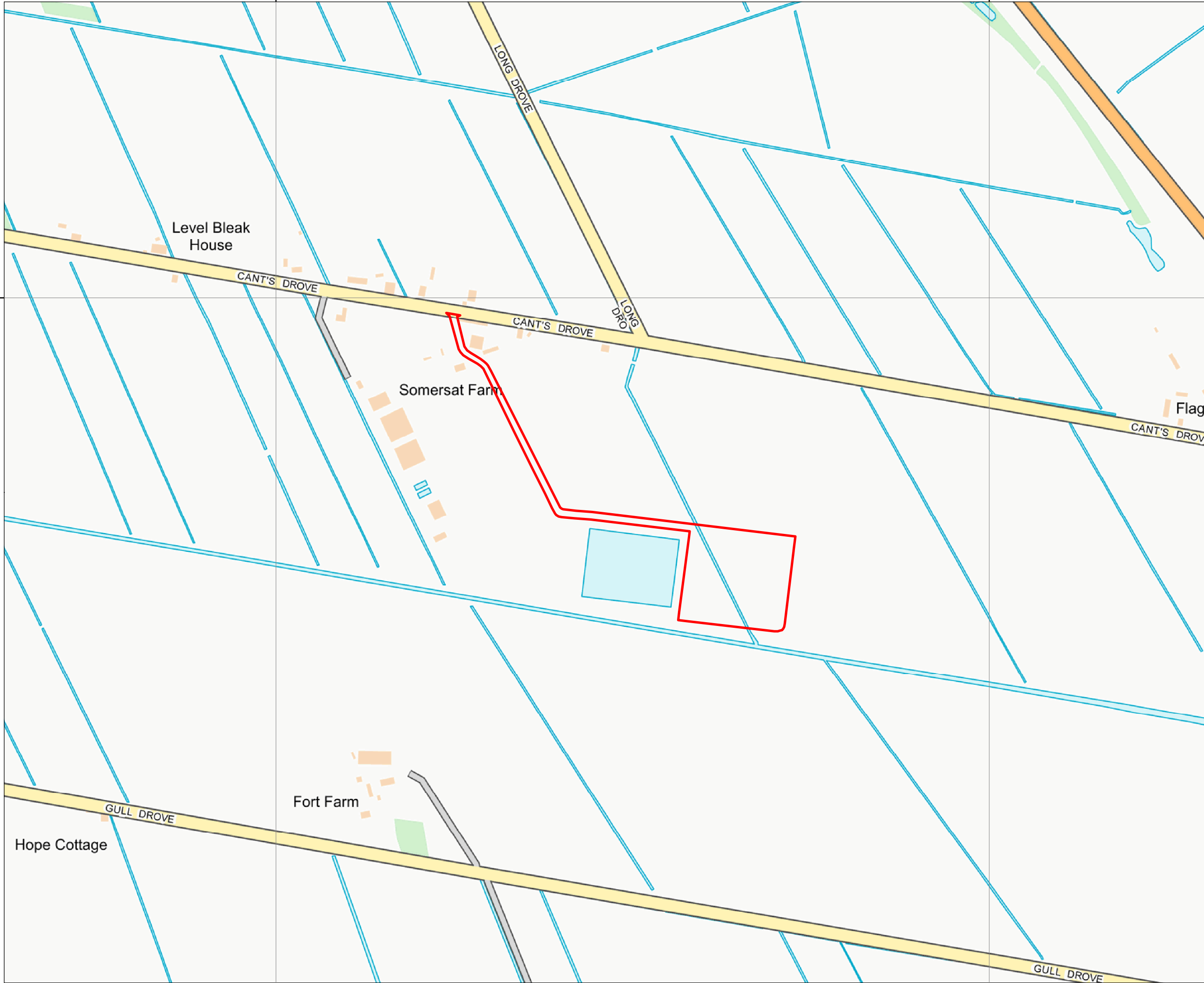
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Legend:

□ Planning Application Boundary

Coordinate System: British National Grid
 Projection: Transverse Mercator
 Datum: OSGB 1936
 Units: Meter

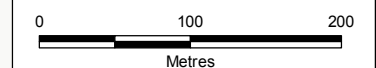


Rev	Date	Description	Drn	Chk	App
00	29/05/2018	First Draft	NH	RE	RE

Somerset Farm - BioCow



TITLE: Figure 1:
 Site Location Plan



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REV 00

537200

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Legend:

- Planning Application Boundary
- Proposed Lagoon
- New Chain Link Fence
- Cross-section Lines

Coordinate System: British National Grid
 Projection: Transverse Mercator
 Datum: OSGB 1936
 Units: Meter

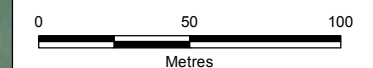


Rev	Date	Description	Drn	Chk	App
01	04/07/2018	Chain link fence alignment	NH	RE	RE
00	29/05/2018	First Draft	NH	RE	RE

Somerset Farm - BioCow



TITLE: Figure 2:
Site Layout Plan



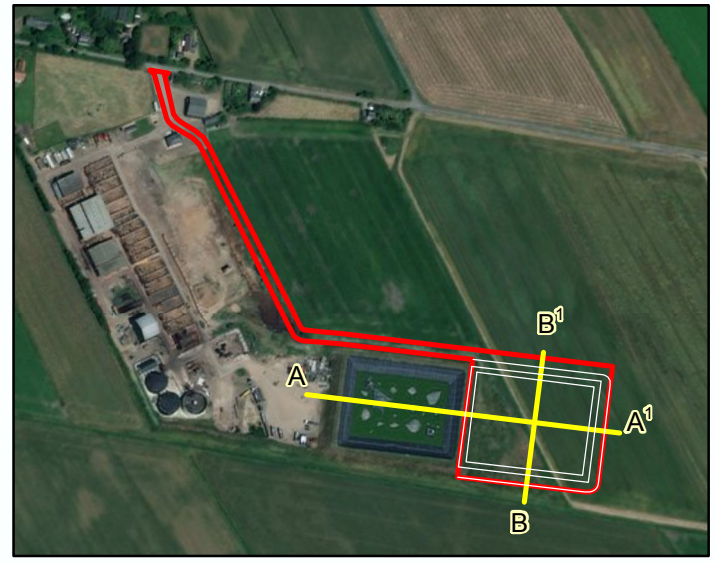
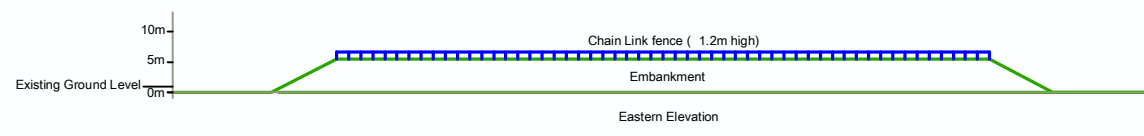
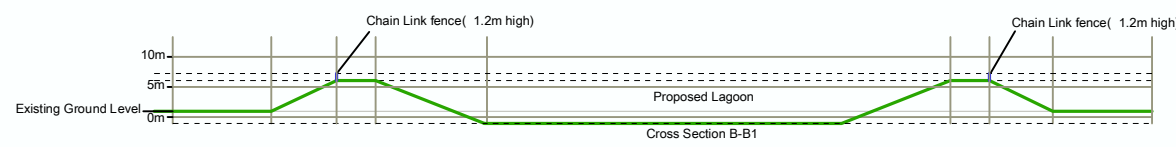
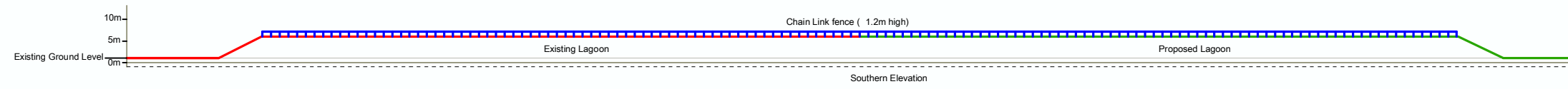
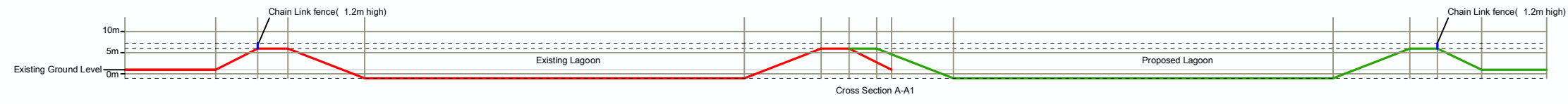
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REV 01



Legend:



Coordinate System: British National Grid
 Projection: Transverse Mercator
 Datum: OSGB 1936
 Units: Meter

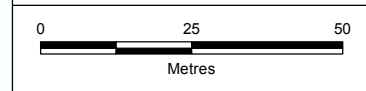


Rev	Date	Description	Drn	Chk	App
01	04/07/2018	Section B-B' edits	NH	RE	RE
00	29/05/2018	First Draft	NH	RE	RE

Somerset Farm - BioCow



TITLE: Figure 3:
 Cross Sections and Elevations



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REV 01