

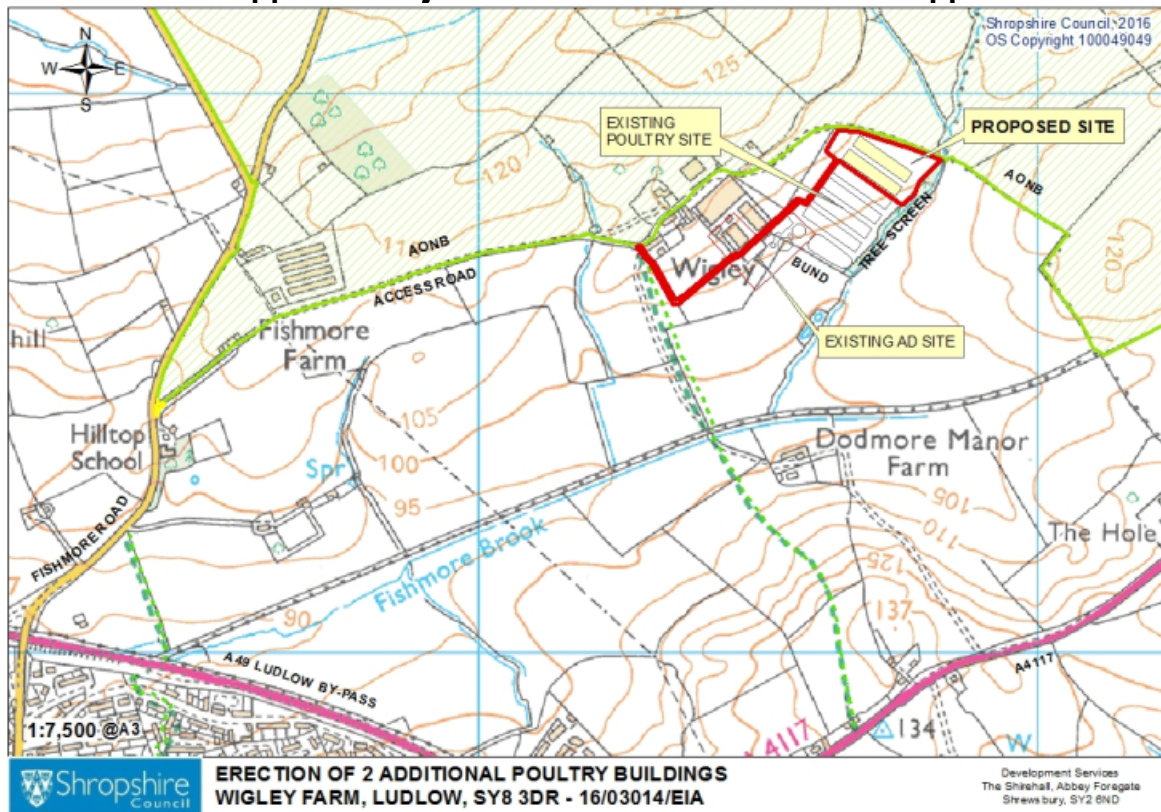
## Development Management Report

Responsible Officer: Tim Rogers

email: [tim.rogers@shropshire.gov.uk](mailto:tim.rogers@shropshire.gov.uk) Tel: 01743 258773 Fax: 01743 252619

<b>Application Number:</b> 16/03014/EIA	<b>Parish:</b> Bromfield
<b>Proposal:</b> Erection of 2 No. additional poultry buildings and associated feed bins and hardstanding	
<b>Site Address:</b> Wigley Farm, Ludlow, Shropshire, SY8 3DR	
<b>Applicant:</b> Mr Robert Gough	
<b>Case Officer:</b> Grahame French	<b>email:</b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@shropshire.gov.uk</a>

**Recommendation:- Approve subject to the conditions set out in Appendix 1.**



### REPORT

#### 1.0 THE PROPOSAL

Contact: Tim Rogers (01743) 258773

- 1.1 The applicants operate an existing broiler rearing unit at Wigley farm which consists of 4 broiler sheds with a total capacity of 220,000 birds. The existing units were granted permission in September 2012 under reference number 12/02438/EIA and were developed during early 2014.
  - 1.2 The applicants are now seeking to expand the poultry enterprise through addition of 2 further poultry sheds which would be located to the immediate north of the existing sheds. The proposed buildings are similar in design to the existing buildings, and measure 116.424m x 21.9m with an eaves height of 2.74m and a ridge height of 5.7m. The proposed poultry buildings include a control room and canopy protruding from the north-west elevation, extending to 13.47m x 3.05m and a dust baffle protruding from the south-east elevation extending to 17.75m x 4.16m.
  - 1.3 The development includes 4 No. additional feed bins and a feed mixing room extending to 2.2m x 3.56m. The proposed buildings will each house 55,000 birds, increasing the total capacity of the site to 330,000 birds. The applicant holds an IPPC permit for the additional poultry sheds and the associated increase in bird numbers (permit reference: EPR/BP3434FX).
  - 1.4 The proposed poultry units would be of steel portal frame construction, with the walls being precast concrete to 300mm with Polyester coated profile sheeting above in Juniper Green BS12B29. The roof covering would also be polyester coated profile sheeting in slate blue. These Colours match the existing units on the site. The buildings will be fitted with high velocity roof mounted ventilation fans and Side inlet vents together with fans on the eastern gable for hot weather. Internal equipment includes heaters, pan feeders and non-drip nipple drinkers. Hot water for the heating system would be provided by the adjacent AD plant.
  - 1.5 The control room would include a specialist computer system which is thermostatically controlled to maintain the desired temperature within the bird housing area, using the heating and ventilation systems. Feeding and lighting would also be controlled by the computer system.
  - 1.6 The proposed unit will operate with 7 flocks per annum. Each rearing cycle takes 49 days including 42 days for broiler rearing and 7 days for cleaning out and preparation. At the end of each flock cycle the poultry manure is removed from the buildings by mechanical loader. All manure will be loaded into trailers which will be sheeted and transported away from the site for disposal through spreading on agricultural land in accordance with the applicants manure management plan.
- 2.0 SITE LOCATION / DESCRIPTION
- 2.1 Wigley Farm is situated on a south facing slope at an elevation of some 110m AOD, and 0.6 mile north-east of the A49 Ludlow bypass. Access to the farm is via a 0.6 mile long access drive linking to Fishmore Road, north of Ludlow. The application site adjoins a gently sloping arable field and is located immediately east of the main group of large modern farm buildings.
  - 2.1 The site is surrounded by existing hedges, with a belt of trees along its south-east side. The application site's north-east boundary abuts the Shropshire Hills Area of Outstanding Natural Beauty, although the site itself lies outside this designated area.

### 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The application is referred to committee under the Council's Scheme of Delegation as the proposals relate to development under Schedule 1 of the Environmental Impact Assessment Regulations 2011.

### 4.0 COMMUNITY REPRESENTATIONS

4.1 Bromfield Parish Council: No comments received.

4.2 Shropshire Hills AONB Partnership: No objection. The need to protect the AONB is emphasised.

4.3 Environment Agency: No objection subject to the following comments:

- i. Environmental Permitting Regulations: The proposed development will provide accommodation for up to 110,000 birds, taking the total onsite to approximately 330,000. This is above the threshold (40,000) for regulation of poultry farming under the Environmental Permitting (England and Wales) Regulations (EPR) 2010. The EP controls day to day general management, including operations, maintenance and pollution incidents. In addition, through the determination of the EP, issues such as relevant emissions and monitoring to water, air and land, as well as fugitive emissions, including odour, noise and operation will be addressed. Based on our current position, we would not make detailed comments on these emissions as part of the current planning application process. It will be the responsibility of the applicant to undertake the relevant risk assessments and propose suitable mitigation to inform whether these emissions can be adequately managed. For example, management plans may contain details of appropriate ventilation, abatement equipment etc. Should the site operator fail to meet the conditions of a permit we will take action in-line with our published Enforcement and Sanctions guidance. For your information Wigley Farm currently operates under a Permit for its intensive poultry operations (Ref: EPR/BP3434FX) and a variation to the Permit, in consideration of the increased bird numbers, was issued on the 23 June 2016. For the avoidance of doubt we would not control any issues arising from activities outside of the permit installation boundary. Your Public Protection team may advise you further on these matters.
- ii. Flood Risk: The site is located in Flood Zone 1 (low probability) based on our indicative Flood Zone Map. Whilst development may be appropriate in Flood Zone 1 a Flood Risk Assessment (FRA) is required for 'development proposals on sites comprising one hectare or above where there is the potential to increase flood risk elsewhere through the addition of hard surfaces and the effect of the new development on surface water run-off Under the Flood and Water Management Act (2010) the Lead Local Flood Authority (LLFA) should be consulted on the proposals and act as the lead for surface water drainage matters in this instance.
- iii. Manure Management (storage/spreading): Under the EPR the applicant will be required to submit a Manure Management Plan, which consists of a risk assessment of the fields on which the manure will be stored and spread, so long as this is done so within the applicants land ownership.
- iv. All pollution prevention guidance (PPGs) that was previously maintained by the Environment Agency has been withdrawn from use and can now be found on The

National Archives (<https://www.gov.uk/government/collections/pollution-preventionguidance-ppg>) but may still be of assistance to inform the above. Pollution prevention guidance contained a mix of regulatory requirements and good practice advice. The Environment Agency does not provide 'good practice' guidance. Current guidance explains how to: report an environmental incident, get permission to discharge to surface or groundwater, manage business and commercial waste, store oil and any oil storage regulations, discharge sewage with no mains drainage, work on or near water and manage water on land.

4.4 Natural England: No objection subject to the following comments:

- i. Internationally and nationally designated sites: The application site is within or in close proximity to a European designated site (also commonly referred to as Natura 2000 sites), and therefore has the potential to affect its interest features. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2010, as amended (the 'Habitats Regulations'). The application site is in close proximity to the Downton Gorge Special Area of Conservation (SAC) which is a European site. The site is also notified at a national level as Downton Gorge Site of Special Scientific Interest (SSSI). Please see the subsequent sections of this letter for our advice relating to SSSI features. In considering the European site interest, Natural England advises that you, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have<sup>1</sup>. The Conservation objectives for each European site explain how the site should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.
- ii. The consultation documents do not include a Habitats Regulations Assessment. In advising your authority on the requirements relating to Habitats Regulations Assessment, and to assist you in screening for the likelihood of significant effects, based on the information provided, Natural England offers the following advice:
  - the proposal is not necessary for the management of the European site
  - that the proposal is unlikely to have a significant effect on any European site, and can therefore be screened out from any requirement for further assessment. This is because emissions relating to the proposed poultry units are below the levels considered significant by the Environment Agency.
- iii. This application is in close proximity to a number of Sites of Special Scientific Interest (SSSI) including Downton Gorge, Temeside, River Teme and Cuckoopen Coppice. Natural England is satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which these sites have been notified. We therefore advise your authority that these SSSIs do not represent a constraint in determining this application. Should the details of this application change, Natural England draws your attention to Section 28(l) of the Wildlife and Countryside Act 1981 (as amended), requiring your authority to re-consult Natural England.
- iv. Other advice: We would expect the Local Planning Authority (LPA) to assess and consider the other possible impacts resulting from this proposal on the following when determining this application:
  - local sites (biodiversity and geodiversity)
  - local landscape character
  - local or national biodiversity priority habitats and species.

Natural England does not hold locally specific information relating to the above. These remain material considerations in the determination of this planning application and we recommend that you seek further information from the appropriate bodies (which may include the local records centre, your local wildlife trust, local geoconservation group or other recording society and a local landscape characterisation document) in order to ensure the LPA has sufficient information to fully understand the impact of the proposal before it determines the application. A more comprehensive list of local groups can be found at [Wildlife and Countryside link](#).

- v. Biodiversity enhancements: This application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. The authority should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application. This is in accordance with Paragraph 118 of the NPPF. Additionally, we would draw your attention to Section 40 of the Natural Environment and Rural Communities Act (2006) which states that 'Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'. Section 40(3) of the same Act also states that 'conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat'.

4.5 SC Highways: No comments received.

*Note: No highway objections were received in relation to the original poultry application on the basis that access improvements were undertaken in connection with the permission for an anaerobic digester on adjacent land. Highway officers also noted at that stage that the AD plant would benefit the poultry proposals because manure would be introduced to the AD plant rather than much of it being transported off-site on the public highway.*

4.6 SC.Ecology: No objection subject to conditions and informative notes. A Habitat Assessment Matrix has been provided.

- i. The applicants operate an existing broiler rearing unit consisting of 4 broiler sheds which house 55,000 birds each with a total capacity of 220,000 birds. The proposal is to extend the existing poultry unit by adding 2 additional sheds increasing the site capacity to 330,000 birds. The design and access statement that the applicant holds an EA permit for the additional poultry sheds and associated increase in bird numbers.
- ii. Designated Sites: Kevin Heede (Environment Officer at the Environment Agency) has provided the Ammonia Screening Assessment output via email dated 28th July 2016. The screening shows that all Local Designation in 2km, National Designations in 5km, and European Designations within 10km have screened out below the threshold considered to have a negative impact by Natural England and the Environment Agency. SC Ecology has confirmed that all sites have been covered in the assessment. No further assessment of impacts on designated sites is required.
- iii. Ecology Appraisal: An Ecological Appraisal has been conducted by ACD Environmental. Hedgerows and mature trees are to be retained and protected during development. The woodland edge which lies adjacent to the proposed development (and not within the red line boundary) is to be retained and unaffected by development. It is recommended that the woodland should be buffered with a minimum 30m length –

this area should be temporary fenced to ensure no disturbance during construction works.

- iv. Great Crested Newt Reasonable Avoidance Measures have been put forward to ensure the risk of impacting newts is lowered. If a great crested newt is found then works must stop and Natural England should be contacted for advice.
  - v. A badger sett is located within the woodland belt to the east of the application site. A pre-commencement check must be undertaken to determine if badgers have moved within 30m of the proposed works.
  - vi. Lighting on the site should be designed to take into consideration foraging and commuting bats.
  - vii. No vegetation should be removed if there are nesting birds present, a pre-commencement check should be undertaken.
- 4.7 S.C.Drainage: No objection. The proposed drainage details, plan and calculations should be conditioned if planning permission were to be granted. The title for the Flood Risk Assessment is incorrect. It refer to Residential Development. The Environment Agency has updated the guidance on Climate Change in March 2016 and 25% should be used for commercial development in the Severn catchment. The proposed drainage strategy in the FRA is acceptable in principle.
- 4.8i. S.C. Public Protection: No objections. Having considered the proposed development it is noted that odour is not anticipated to cause any issues at non-linked properties. In relation to noise there are no concerns regarding on site noise generated by equipment and plant. The noise assessment does not predict significant increases in noise. In addition the site is controlled by an Environmental Permit which will control noise from on-site operations.
- ii. In respect of noise generated from off-site noise sources e.g. vehicles tracking in and out of the site it is noted that on application 12/02438/EIA for 220,000 birds over four sheds a condition was placed to ensure no night time HGV movements and therefore no night time depopulation. Time restrictions on other vehicle movements were also proposed and conditioned on the decision notice. The agent highlights no traffic movements at night (between 2300 hours and 0700 hours) in the environmental statement submitted as part of this application, page 29. As a result I propose a condition to protect residential properties which are situated in close proximity to the access road.
- 4.9 Rights of Way: No objection. No public rights of way are affected.
- 4.10 Public representations: The application has been advertised in accordance with relevant provisions. No representations have been received.
- 5.0 THE MAIN ISSUES
- Policy context and justification for the development;
  - Environmental effects of the development (odour, noise, traffic, drainage, pollution, visual impact, heritage and ecology).

## 6.0 OFFICER APPRAISAL

### Policy context:

- 6.1 Development should be in accordance with the Development Plan unless material factors indicate otherwise. The development plan for the site comprises the Shropshire Core Strategy and the SAMDev Plan as informed by the National Planning Policy Framework (NPPF).
- 6.2 National Policy: The National Planning Policy Framework advises that the purpose of the planning system is to contribute to achieving sustainable development (para 6) and establishes a presumption in favour of sustainable development (para 14). This means “approving development proposals that accord with the development plan without delay” and supporting sustainable economic growth (para 18). There are three dimensions to sustainable development: an economic role, a social role and an environmental role (para 7). Significant weight should be placed on the need to support economic growth through the planning system (para 19). Paragraph 28 states that “planning policies should support economic growth in rural areas in order to create jobs and prosperity...”.
- 6.3 The proposed development performs an economic role because it involves further investment and economic diversification of an existing business which will sustain local rural jobs. It also performs a social role as the continued employment supports a strong local community. The applicant states that in addition, the development performs an environmental role because it is an environmentally efficient system of farming with associated landscaping to protect the local natural and built environment and will not give rise to any significant environmental or heritage impacts. Specifically, the applicant states that there would be no significant adverse effects on health and quality of life due to the separation distance between the site and places where people live.
- 6.4 The application site is located just south of the margin of the AONB and the NPPF advises that great weight should be given to conserving landscape and scenic beauty in such areas (115). Planning permission should be refused for major developments in these designated areas except in exceptional circumstances and where it can be demonstrated they are in the public interest. Whilst the area of the proposed buildings (5081m<sup>2</sup>) exceeds the threshold for major development the application site is not within the AONB.
- 6.5 Notwithstanding this, it is considered that the economic benefits of the proposals are capable of qualifying in principle as exceptional circumstances which would justify development on this margin of the AONB. It is not considered that there would be a valid option for developing the proposals elsewhere due to the functional links with the existing poultry business and AD facility.
- 6.6 Core Strategy: Policy CS1 of the Core Strategy sets out in general terms that Shropshire will support investment and new development and that in the rural areas outside of settlements this will primarily be for “economic diversification”. Policy CS5 (Countryside and Green Belt) supports agricultural development, provided the sustainability of rural communities is improved by bringing local economic and community benefits. Proposals should however be “on appropriate sites which maintain and enhance countryside vitality and character” and have “no unacceptable adverse environmental impact”. The policy recognises that “the countryside is a ‘living-working’

environment which requires support to maintain or enhance sustainability”. Paragraph 4.74 states that: “Whilst the Core Strategy aims to provide general support for the land based sector, larger scale agricultural ...related development, including ... poultry units ... can have significant impacts and will not be appropriate in all rural locations.”

6.7 It is considered that the proposed development is capable of conforming in principle with CS1 and CS5 because:

- Its primary purpose is economic diversification;
- It will provide local employment and associated economic benefits for local communities;
- It assists in achieving the aim of local food production and also food traceability and security, reducing the UK's reliance on imported food sources including poultry;
- It will enhance the vitality and character of the living working countryside by sustaining the local community and bringing local economic benefits.
- The applicant advises that the environmental reports accompanying the application demonstrate that the proposals have no unacceptable impact on the environment. This is supported by the lack of objection from technical consultees and the fact that officers are not aware of any objections or issues raised with regard to the operation of the existing poultry units.

6.8 The proposal incorporates sustainable design measures in accordance with Policy CS6 including considerations including:

- Sustainable drainage, water and energy efficiency systems;
- Sustainable construction methods (modern poultry shed design).
- The proposal does not propose significant increases in existing traffic levels. The site is accessible via the established access and the junction with the public highway has been improved.

6.9 Policy CS13 states that “Shropshire Council will plan positively to develop and diversify the Shropshire economy, supporting enterprise, and seeking to deliver sustainable economic growth ... In so doing, particular emphasis will be placed on ... supporting the development and growth of Shropshire's key business sectors ... particularly food and drink production ... [and] ... in the rural areas, recognising the continued importance of farming for food production”. The proposal accords with this Policy as it delivers economic growth within the rural economy and the food and drink industry, which is one of Shropshire's key business sectors.

6.10 Need: The Environmental Statement contains a document from DEFRA which confirms the continuing high demand for UK sourced poultry and that this has increased since 2015. At a local level the applicant has an existing contract to provide poultry meat and there is capacity to meet increased demand within this.

6.11. Justification for location: The proposed poultry units are located immediately adjacent to the existing units and adjoin the existing farm buildings which are the main hub of activity for the farm unit. As such, the proposed location is able to benefit from the existing infrastructure and access provisions. Extension of the existing poultry unit onto into a well-contained area immediately adjoining the existing buildings is also



considered preferable to establishment of a new greenfield site in this location on the edge of the AONB.

- 6.11 In summary, it is recognised that the proposals would help to deliver economic growth, rural diversification and improved food security and the operational benefits of the proposed location are also acknowledged. To be sustainable however the proposals must also demonstrate acceptability in relation to environmental considerations and the policies which cover these matters. This includes CS7 (Transport), CS8 (local amenities), CS13 (economic development), CS17 (Environmental Networks) and CS18 (Water Resources).

#### Environmental implications of the proposals

- 6.11 Transport: Policy CS7 requires sustainable patterns of communications and transport. The Environmental Statement indicates that there are currently 63 HGV movements per cycle and 441 deliveries per year (14% less than quoted in the transport statement for the original poultry application 12/02438/FUL). This would increase to 94.5 per cycle and 661.5 per year under the current proposals (a total of under 2 per day). The current proposals would generate 220 additional vehicles annually, averaging less than 1 per day. Highway officers have not objected to the proposals. It is concluded that the proposals are capable of complying on balance with Policy CS7.
- 6.12 Noise: Core Strategy Policy CS8 seeks to maintain and enhance existing facilities, services and amenities and to contribute to the quality of life of residents and visitors. The proposed building will be fully insulated to assist in control of the internal environment and to minimise noise. A noise impact assessment concludes that the proposals would result in at most a 2dB increase above existing noise levels and that this would not be discernible at the nearest dwellings.
- 6.13 Odour: There may be smells when the manure is being removed from the building although this would be for short periods of time. An odour assessment submitted with the application assess odour at the nearest sensitive receptor properties not associated with the farm. This is a cumulative assessment which takes account of the existing operations. This predicts that the maximum annual 98th percentile hourly mean odour concentration would fall below the benchmark level identified by the Environment Agency.
- 6.14 Planning officers have not received any odour complaints with respect to the existing poultry operation and the proposed units would be further from the nearest residential properties. Public Protection and the Environment Agency have not objected. Odour emissions within the site would be subject to detailed controls under the Environment Agency's permitting system. It is not considered on this basis that the proposals can be accepted in principle in relation to odour issues. To provide added reassurance however a condition providing a procedure for dealing with amenity based complaints has been recommended in appendix 1.
- 6.16 Dust: Internally, a dust laden atmosphere must be prevented for health reasons. The contained nature of the operation precludes the emission of significant amounts of dust particles to the atmosphere.
- 6.17 Public Health: The operation of the site is subject to the rigorous controls of the Environment Agency's IPPC permitting regime. The site is required to operate to Best

Available Techniques and the conditions of the permit require the site to be free from pollution. Public Protection has not objected.

- 6.18 Drainage: Core Strategy Policy CS18 requires sustainable water management to reduce flood risk and avoid an adverse impact on water quality. A detailed Flood Risk Assessment and Surface Water Management Strategy for the proposed development has been provided. The site is not within a flood plain. The surface water drainage scheme proposed is to a SuDS system and therefore mitigates the potential surface water runoff and downstream flood consequences. The Council's Drainage section has not objected. Appropriate conditions and advisory notes are recommended in Appendix 1.
- 6.19 Ammonia deposition: Poultry units generate ammonia which can impact on the local environment. However, the conditions in modern units are designed to minimise such emissions and such operations would be controlled under the Environment Agency's permitting system. The units would conform with the code of good practice issued by DEFRA. Proposed cleaning out procedures would be the same as for the existing poultry houses. The proposed development has been assessed by the Environment Agency for ammonia and nitrogen deposition levels. In terms of the EA criteria for significant effects, the proposals screen out and no further study is required. Impacts are assessed as of minor significance.
- 6.20 Ecology: Policy CS17 states that "development will identify, protect, enhance, expand and connect Shropshire's environmental assets, to create a multifunctional network of natural and historic resources, and should not adversely affect visual, ecological, heritage or recreational assets. An ecological survey confirms that the development is unlikely to impact on protected species or associated habitats subject to the above mitigation measures. Natural England and the Ecology team have not objected. The latter has recommended some conditions and advisory notes to protect and enhance biodiversity. It is concluded that the proposals would not impact adversely on ecological interests and the proposals are compliant with Policy CS17.

Viewpoint 2: View from PRoW from Wigley Drive to Rocks Green



View from public right of way 500m west. Existing poultry buildings are to right centre.

- 6.21 Visual impact: The site is located on the edge of the AONB where there is a particular requirement in policies and guidance to safeguard landscape quality. A landscape and visual appraisal concludes that the scale and nature of the development and its juxtaposition to other agricultural development will have little landscape character impact. Limited views are afforded towards the proposed development site and the development would be seen in the context of the existing larger farm buildings complex.

- 6.22 Whilst relatively large structures, the proposed poultry houses would be of low profile design and it is proposed to use materials which match the existing buildings on the farmstead. An area of existing vegetation is located to the immediate east and further landscape planting has been undertaken or is scheduled within the wider farm buildings complex as a requirement of the applicant's permission for an anaerobic digester.
- 6.23 It is concluded that the proposals would not give rise to an unacceptable visual impacts on this margin of the AONB, provided they are subject to appropriate landscaping and surface treatment conditions. Any residual visual effects would be limited and outweighed by the benefits of the scheme to agriculture and the rural economy (Core Strategy Policy CS17, SAMDev Policy MD12).
- 6.23 Manure management: The proposals will lead to an increase of 1/3 in the volume of poultry manure generated by the farm. Manure from the existing poultry sheds is introduced to the applicant's AD facility. The applicant states that manure from the proposed sheds would either spread directly onto surrounding arable farmland or placed into storage heaps prior to spreading on the land.
- 6.24 Manure spreading has the potential to cause an odour nuisance. This can however be mitigated however by ploughing promptly. A manure management plan forms part of the applicant's environmental permit. Sufficient land is available to the applicant to spread the additional manure which would be generated by the poultry operation. It is considered that odour from manure spreading can be controlled within acceptable limits provided the proposed management measures continue to apply.

## 7. CONCLUSION

- 7.1 The proposals represent an appropriate way of expanding the existing poultry use. This would ensure the future profitability / robustness of the business whilst continuing to contribute to the local economy and employment. It would also provide locally sourced food as part of a key industry in Shropshire, supplying a strong national demand for poultry products. The proposals therefore comply with Core Strategy policies CS1(sustainability), CS5 (Countryside) and CS13 (economy).
- 7.2 The proposed site is located on the edge of the AONB where special safeguards apply (e.g. NPPF para 116). It is considered however that the details accompanying the application demonstrate that the environmental impacts of the proposed development are not significant and are capable of being effectively controlled and mitigated. The design of the scheme incorporates sustainable features such as SuDS and landscaping. The recommended conditions would also be supplemented by detailed operational controls available under the Environment Agency's permitting regime. It is concluded that the proposals are capable being accepted in relation to relevant development plan policies and guidance.

## 8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

### Risk Management

There are two principal risks associated with this recommendation as follows:

- As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal - written representations, a hearing or inquiry.
- The decision is challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be a) promptly and b) in any event not later than three months after the grounds to make the claim first arose.

Both of these risks need to be balanced against the risk of not proceeding to determine the application. In this scenario there is also a right of appeal against non-determination for application for which costs can also be awarded.

### Human Rights

Article 8 give the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community. First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents. This legislation has been taken into account in arriving at the above recommendation.

### Equalities

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in planning committee members' minds under section 70(2) of the Town and Country Planning Act 1970.

## 9.0 FINANCIAL IMPLICATIONS

- 9.1 There are likely financial implications of the decision and/or imposition of conditions is challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependant on the scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – in so far as they are material to the application. The weight given to this issue is a matter for the decision maker.

## 10. BACKGROUND

### RELEVANT PLANNING POLICIES

Central Government Guidance:

#### 10.1 National Planning Policy Framework (NPPF) (DCLG – July 2011)

- 10.1.1 The National Planning Policy Framework (NPPF) came into effect in March 2012, replacing most former planning policy statements and guidance notes. The NPPF provides a more concise policy framework emphasizing sustainable development and

planning for prosperity. Sustainable development 'is about positive growth – making economic, environmental and social progress for this and future generations'. 'Development that is sustainable should go ahead, without delay - a presumption in favour of sustainable development that is the basis for every plan, and every decision'. The framework sets out clearly what could make a proposed plan or development unsustainable.

10.1.2 Relevant areas covered by the NPPF are referred to in section 6 above and include:

- 1. Building a strong, competitive economy;
- 3. Supporting a prosperous rural economy;
- 4. Promoting sustainable transport;
- 7. Requiring good design;
- 8. Promoting healthy communities;
- 10. Meeting the challenge of climate change, flooding and coastal change;
- 11. Conserving and enhancing the natural environment;
- 12. Conserving and enhancing the historic environment;

10.2 Core Strategy:

10.2.1 The Shropshire Core Strategy sets out strategic objectives including amongst other matters:

- To rebalance rural communities through the delivery of local housing and employment opportunities (objective 3);
- To promote sustainable economic development and growth (objective 6);
- To support the development of sustainable tourism, rural enterprise, broadband connectivity, diversification of the rural economy, and the continued importance of farming and agriculture (objective 7);
- To support the improvement of Shropshire's transport system (objective 8);
- To promote a low carbon Shropshire (objective 9) delivering development which mitigates, and adapts to, the effects of climate change, including flood risk, by promoting more responsible transport and travel choices, more efficient use of energy and resources, the generation of energy from renewable sources, and effective and sustainable waste management.

10.2.2 Core Strategy policies of relevance to the current proposals include:

- CS5: Countryside and Green Belt;
- CS6: Sustainable Design and Development Principles;
- CS7: Communications and Transport;
- CS8: Facilities, services and infrastructure provision
- CS13: Economic Development, Enterprise and Employment;
- CS17: Environmental Networks.

10.4.1 Site Management and Allocation of Development Document (SAMDEV)

Relevant policies include:

- MD2 – Sustainable Design;
- MD7b– General Management of Development in the Countryside;

- MD8 – Infrastructure Provision;
- MD12: The Natural Environment;
- MD13: The Historic Environment.

#### 11. RELEVANT PLANNING HISTORY:

- 11/03597/MAW Construction of a 500kW anaerobic digestion plant for the production of renewable energy, to include 2 processing tanks, 1 storage tank, a solids storage clamp, a feedstock storage clamp, a poultry storage building, pumping station, gas flare, a reception building, and associated works GRANT 19th December 2011
- 12/02438/EIA Erection of four poultry sheds, including two control rooms and 8 feed bins, and construction of adjacent hardstanding area GRANT 27th September 2012
- 12/02645/DIS Discharge of Conditions 1 (Commencement), 5 (Access), 12a (Odour Management), 14 (Vermin and Pest Control Procedure), 15 (Amenity Complaints Procedure), 17 (Surface Finishes), 21 (Drainage), 22a (Lighting), 23 (Fire Protection), 25 (Landscaping) and 27 (Commencement date) attached to planning ref. 11/03597/MAW DISAPP 28th August 2012
- 13/01247/DIS Discharge of conditions of planning permission 12/02438/EIA for construction of four poultry sheds and ancillary facilities DISAPP 28th May 2013
- 15/00115/AMP Application for Non Material Amendment to permission 11/03597/MAW to change site layout. New layout involves less clamp area and fewer digester tanks GRANT 21st January 2014
- 15/00790/MAW Erection of additional infrastructure to increase output of an existing Anaerobic Digester (AD) plant to 1.1MW, to include a new digestate store; adaption of the existing digestate store to form a second digester; an additional CHP unit GRANT 24th June 2015
- 15/04606/FUL Application under Section 73a of the Town and Country Planning Act 1990 for formation of screening and containment bund GRANT 16<sup>th</sup> December 2015
- 15/04607/DIS Discharge of conditions 4 (drainage) 5a (landscaping and aftercare) and 7 (archaeological monitor ground works) for planning application number 5/00790/MAW PCO
- 16/03014/EIA Erection of 2 No. additional poultry buildings and associated feed bins and hardstanding PDE
- SS/1/6651/K/ Erection of a steel framed agricultural building PERMIT 22nd May 1996 SS/1983/102/P/ Erection of an agricultural building. PERCON 11th April 1983
- SS/1974/614/P/ Erection of one agricultural workers dwelling. REFUSE 10th May 1974
- SS/1/06/18465/NT Erection of a hay bale storage barn PERCON 8th August 2006

View details online:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=details&keyVal=O9USS1TDFKT00>

List of Background Papers : Planning Application 16/03014/EIA and supporting documents and plans.

Cabinet Member (Portfolio Holder): Cllr M. Price

Local Member: Cllr Andy Boddington

Appendices: APPENDIX 1 - Conditions

## **APPENDIX 1**

### **Conditions**

#### DEFINITION OF THE PERMISSION

- 1a. The development to which this planning permission relates shall be commenced within three years beginning with the date of this permission.
- b. Not less than 7 days advanced notice shall be given in writing to the Local Planning Authority of the intended date for the commencement of operations under the terms of this permission. Such date shall be referred to as 'the Commencement Date'.

Reason: To comply with Section 91(1) of the Town and Country Planning Act 1990.

2. The development shall be carried out strictly in accordance with the application form dated 4<sup>th</sup> July 2016 and the following approved documents and plans:

#### Approved Documents:

- Design and Access Statement by Ian Pick Associates;
- Environmental Statement by Ian Pick Associates;
- Noise Assessment by Matrix acoustic design consultants;
- Ecological Appraisal by ACD Environmental;
- Landscape Appraisal by ACD Environmental;

#### Approved Plans:

- Location Plan, IP/RG/01, 1:2,500;
- Site Plan, IP/RG/02, 1:500;
- Elevations, IP/RG/03, 1:200;
- Floor Plan, IP/RG/031, 1:200.

Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

#### CONDITIONS WHICH REQUIRE ACTION PRIOR TO THE COMMENCEMENT OR BRINGING INTO USE OF THE DEVELOPMENT

3. No development or clearance of vegetation shall take place until a Wildlife Protection (mitigation) plan has been submitted to and approved in writing by the local planning authority. The plan shall include:
  - a. An appropriately scaled plan showing 'Wildlife/habitat Protection Zones' where construction activities are restricted and where protective measures will be installed or implemented;
  - b. Details of protective measures (both physical measures and sensitive working practices) to avoid impacts during construction;
  - c. A timetable to show phasing of construction activities to avoid periods of the year when sensitive wildlife could be harmed (such as the bird nesting season);
  - d. Persons responsible for:
    - i) Compliance with legal consents relating to nature conservation;



- ii) Compliance with planning conditions relating to nature conservation;
- iii) Installation of physical protection measures during construction;
- iv) Implementation of sensitive working practices during construction;
- v) Regular inspection and maintenance of physical protection measures and monitoring of working practices during construction;
- vi) Provision of training and information about the importance of 'Wildlife protection zones' to all construction personnel on site.

All construction activities shall be implemented in accordance with the approved details and timing of the plan.

Reason: To protect features of recognised nature conservation importance.

4. Prior to the erection of any external lighting on the site a lighting plan shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust booklet Bats and Lighting in the UK

Reason: To minimise disturbance to bats, a European Protected Species.

5. Prior to the commencement of the development a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. This shall amongst other matters detail the following:
- i. Management of vehicle movements;
  - ii. Timing of the development;
  - iii. The proposed hours of operation;
  - iv. Any measures for protecting local amenities with respect to noise, dust and light pollution;
  - v. The location of any temporary contractor's compound and internal parking provisions;
  - vi. Measures for preventing pollution to water resources, including by silt laden surface water run-off.

The Construction Management Plan shall be implemented in accordance with the approved details.

Reason: In the interests of local amenities, pollution protection and highway safety.

6. No development shall commence on site in connection with the approval until details of materials including colour finishes for the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure the materials are appropriate in the landscape.

7. Prior to the bringing into use of the development the operator shall submit for the approval of the Local Planning Authority a complaint procedures scheme for dealing with noise, odour and other amenity related matters. The submitted scheme shall set out a system of response to verifiable complaints of noise received by the Local Planning Authority. This shall include:

- i. Investigation of the complaint;
- ii. Reporting the results of the investigation to the Local Planning Authority;
- iii. Implementation of any remedial actions agreed with the Authority within an agreed timescale.

Reason: To put agreed procedures in place to deal with any verified amenity related complaints which are received during site operation.

- 8a. Prior to the commencement of the development a surface drainage shall be submitted for the approval in writing of the Local Planning Authority. Drainage shall be provided in accordance with the approved details prior to the bringing onto use of the poultry buildings hereby approved.
- b. Measures shall be provided for isolating contaminated water in the yard from spillages or cleaning of sheds and hardstanding from the main surface water system prior to the bringing onto use of the poultry building hereby approved.

Reason: To ensure that the proposed surface water drainage systems for the site are fully compliant with regulations and are of robust design (8a). To ensure that polluted water does not enter the water table or watercourse (8b).

#### CONDITIONS WHICH APPLY FOR THE LIFETIME OF THE DEVELOPMENT

9. Construction works shall not take place outside 06:30 to 19:00 hours Monday to Saturday and at no time on Sundays or Bank Holidays.

Reason: To safeguard the amenities of the area.

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 or any order revoking and re-enacting that Order with or without modification), no development shall be carried out under Class 6 Parts A and B without the prior grant of planning permission from the Local Planning Authority.

Reason: The effect of carrying out additional development of the facility under agricultural permitted development provisions has not been assessed as part of this proposal. The Local Planning Authority needs to retain full planning control over any future development of the site in order to assess whether any potential impacts associated with further development may cause harm to interests of acknowledged importance.

11. All plant and machinery on site shall be installed as per the figures within the application and maintained thereafter in accordance with the manufacturer's recommendations.

Reason: To protect neighbouring properties.

- 12a. Heavy Goods Vehicle movements into or out of the development hereby permitted during the operational stage shall not take place between the hours of 23:00 and 07:00 on any night.

- b. The delivery of poultry feed to, and the removal of poultry manure from, the development shall take place only between the hours of 07:00 to 18:00 on Monday to Friday, and 08:00 to 13:00 on Saturday, and shall not take place at any time on Sunday or Bank Holidays.

Reason: To protect the health and wellbeing of nearby residents.

13. Work shall be carried out strictly in accordance with the Ecological Appraisal conducted by ACD Environmental (January 2016) attached as an appendix to this planning permission.

Reason: To protect features of recognised nature conservation importance.

Informative Notes:

Ecology:

- i. *The active nests of all wild birds are protected under the Wildlife & Countryside Act 1981 (As amended). An active nest is one being built, containing eggs or chicks, or on which fledged chicks are still dependent. All clearance, conversion and demolition work in association with the approved scheme shall be carried out outside of the bird nesting season which runs from March to September inclusive. If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of bird's nests then an experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.*
- ii. *Great Crested Newts are protected under the European Council Directive of 12 May 1992 on the Conservation of Natural Habitats and of Wild Fauna and Flora (known as the Habitats Directive 1992), the Conservation of Habitats and Species Regulations 2010 and under the Wildlife & Countryside Act 1981 (as amended). If a Great Crested Newt is discovered on the site at any time then all work must halt and Natural England should be contacted for advice.*
- iii. *Badgers, the setts and the access to the sett are expressly protected from killing, injury, taking, disturbance of the sett, obstruction of the sett etc by the Protection of Badgers Act 1992. No works should occur within 30m of a badger sett without a Badger Disturbance Licence from Natural England in order to ensure the protection of badgers which are legally protected under the Protection of Badgers Act (1992). All known Badger setts must be subject to an inspection by an experienced ecologist immediately prior to the commencement of works on the site*

Fire fighting

- iv. *It will be necessary to provide adequate access for emergency fire vehicles. There should be sufficient access for fire service vehicles to within 45 metres of every point on the projected plan area or a percentage of the perimeter, whichever is less onerous. The percentage will be determined by the total floor area of the building. This issue will be dealt with at the Building Regulations stage of the development. However, the Fire Authority advise that early consideration is given to this matter. 'The Building Regulations, 2000 (2006 Edition) Fire Safety Approved Document B5.' provides details of typical fire service appliance specifications.*
- v. *It is important to note that the current Building Regulations require an adequate water supply for firefighting. If the building has a compartment of 280m<sup>2</sup> or more in area and*

*there is no existing fire hydrant within 100 metres, a reasonable water supply must be available. Failure to comply with this requirement may prevent the applicant from obtaining a final certificate.*