

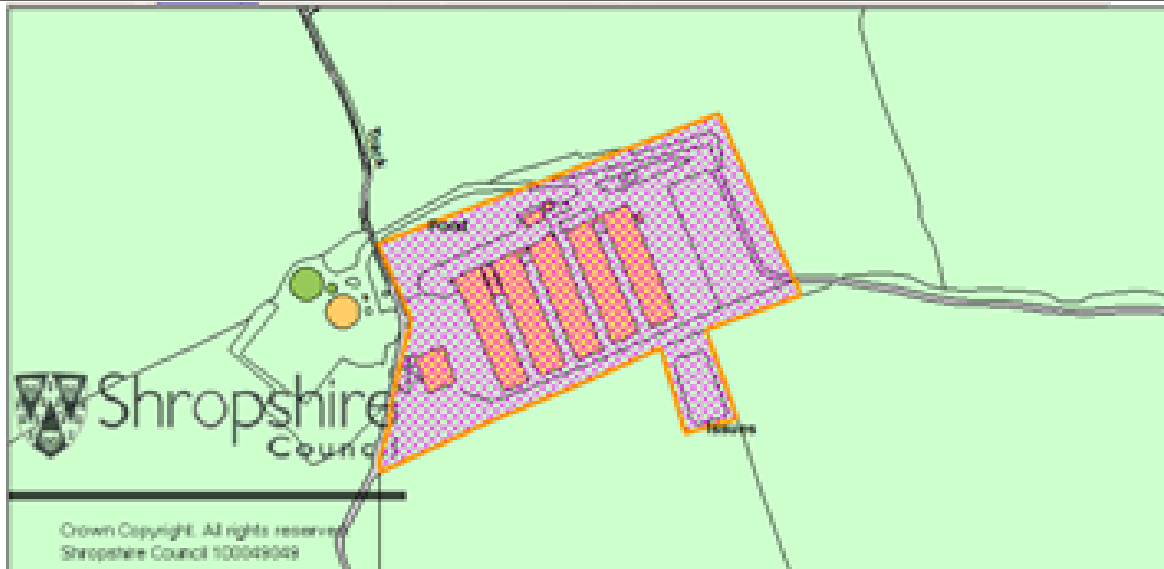
Development Management Report

Responsible Officer: Tim Rogers
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Summary of Application

<u>Application Number:</u> 16/04594/EIA	<u>Parish:</u>	Little Ness
<u>Proposal:</u> Erection of two additional poultry rearing buildings and one general purpose agricultural building, plus associated hardstanding and works; application under Section 73a of the Town and Country Planning Act 1990 (retrospective) for the revised siting of six poultry rearing buildings, office building and the revised routing of part of the access track (revised scheme)		
<u>Site Address:</u> Foxholes Farm Little Ness Shrewsbury Shropshire		
<u>Applicant:</u> Foxholes Farm Ltd		
<u>Case Officer:</u> Kelvin Hall		<u>email:</u> planningdmc@shropshire.gov.uk

Grid Ref: 340808 - 320449



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Recommendation: That delegated authority is granted to the Planning Services Manager to grant planning permission subject to conditions as set out in Appendix 2, and any amendments considered necessary, and the completion of a variation to the existing Section 106 legal agreement to secure HGV routing controls

REPORT

1.0 THE PROPOSAL

- 1.1 The planning application seeks permission for the erection of two additional poultry rearing buildings, one general purpose building and associated hardstanding and works following demolition of an existing livestock shed. It also seeks retrospective permission for the revised siting of existing buildings and access track at the site.
- 1.2 Proposed revised siting of existing buildings and road: During the consideration of this application Officers identified that the existing poultry sheds on the site had not been constructed in accordance with the approved plans. In particular:
- the three poultry buildings that were permitted in 2016 (ref. no. 14/02385/EIA) were constructed approximately 20 metres to the west of their approved location;
 - the office building was constructed approximately 10 metres from its approved location;
 - part of the access track has been constructed approximately 18 metres to the south-west of the approved location.
- 1.3 Revised plans have been submitted to seek to regularise this situation.
- 1.4 Proposed new buildings: The westernmost poultry building would be 100.8 metres long x 24.7 metres wide. The easternmost building would be 113 metres long x 24.7 metres wide. Both would be 2.5 metres to eaves and 4.8 metres to ridge. They would accommodate 100,000 birds in total. They would be of metal portal frame construction with side wall cladding. The finished floor levels would be the same as the adjacent buildings. The general purpose building would measure 42.7 metres long x 30 metres wide; 8 metres to eaves and 12.25 metres to ridge. Two new small control rooms would be constructed: one between the easternmost shed and the proposed new shed; and one at the northern elevation of the proposed westernmost shed. The existing hardstanding at the northern side of the site would be extended.
- 1.5 The existing surface water detention basin, located at the south of the site, would be extended to accommodate the additional run off. Some additional landscape planting would be undertaken to infill gaps along the farm track. In terms of proposed lighting, there would be 100w metal haylide lamp above the main doors of each poultry house. These would be utilised during catching at night. In addition there would be a pair of LED lamps equivalent to a 500w halogen at each end of the feed bin passage ways. These would be used to control room doors for the night checks. The proposed lights would face downwards and be protected by a metal cowl.
- 1.6 Management cycle: At the start of the cycle, fuel and food is delivered to the site and the poultry houses are pre-warmed. Bedding is spread in the sheds, and then the chicks are delivered from a hatchery. When the birds reach around five weeks old a proportion of the birds would be collected and transported to the abattoir. This would take place over two days during the day and night. One week later the remainder of the birds would be collected. At the end of the growing period the used litter would be removed and taken directly to the litter store adjoining the anaerobic digester. The buildings are then cleaned.

1.7 Environmental Impact Assessment: The proposed development is of a type listed in Schedule 1 of the Environmental Impact Regulations and as such the planning application is accompanied by an Environmental Statement which includes a number of detailed reports.

2.0 **SITE LOCATION/DESCRIPTION**

2.1 The application site is at the existing poultry development at Foxholes Farm, approximately 700 metres to the north of the village of Little Ness. The existing poultry development includes six poultry rearing buildings, an office and storage building, a general purpose building, surface water attenuation pond, and hardstanding. One of the proposed poultry buildings would be located in line with the existing buildings: one at the eastern end of the development; the other at the western end. The proposed general purpose building would be located at the south-western corner of the site, partly on the footprint of an existing agricultural building that is to be removed.

2.2 The nearest residential properties are those at Little Ness to the south, the closest being approximately 480 metres away. Other residential properties in the vicinity of the site include Milford House, approximately 510 metres to the east, and Greystones approximately 600 metres to the west.

2.3 Public footpaths in the vicinity of the site are:

- West-east direction, approximately 240 metres to the north;
- North-south direction, approximately 20 metres to the west;
- Southwest-northeast direction, approximately 330 metres to the southeast.

2.4 The Grade II* Listed Church of St Martin is located approximately 480 metres to the south-west of the application site.

3.0 **REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

3.1 The proposals comprise Schedule 1 EIA development and the Council's Scheme of Delegation requires that such applications are determined by Planning Committee.

4.0 **COMMUNITY REPRESENTATIONS**

4.1 **Consultee Comments**

4.1.1 **Great Ness and Little Ness Parish Council** Objects. The Parish Council are not satisfied that the full extent of the additional traffic, including agricultural vehicles, is known. Until that information is provided the Parish Council will not support this application. The Parish Council are aware that there are already traffic problems on the Great Ness/Baschurch road as a consequence of developments in this Parish and Baschurch and the 24 hour operation of some farms. The passing points, provided under an earlier application, are proving inadequate for this increased size and quantity of traffic using the road at present. The Planning Officer may consider it timely to initiate a traffic survey of the Baschurch/Great Ness road. There has been considerable development in the area but no significant improvements to the road.

The Parish Council are also concerned over the cumulative effect of four, soon to become five, large chicken farms in close proximity to each other, on the public health and well-

being of residents of the parish. We are in correspondence with the Environmental Health department but, as yet, have not received the reassurances we seek. Until those reassurances are provided the Parish Council is not prepared to support this or any other applications to expand chicken farms in the parish.

4.1.2 Baschurch Parish Council (adjacent parish) Neither supports nor objects to the proposed development.

- not aware of any impact caused by HGVs from the existing development. As the proposed development will use the same travel arrangements, Baschurch Parish Council does not believe the new development will affect Baschurch Parish and does not object to the development on this basis
- the applicant is known to farm land within Baschurch Parish and there is farm traffic movement associated with this. As these movements do not form part of this planning application, Baschurch Parish Council have no comment to make on this. However, should this land become subject to a wider consideration of the planning application, Baschurch Parish Council would like to be reconsulted

4.1.3 Ruyton XI Towns Parish Council (adjacent parish) Objects.

A comprehensive transport plan has not been submitted by the applicant providing details of vehicle movements expected to arise from this expansion of the business. Vehicle movements should include agricultural vehicle movements. Such vehicle movements affect both Gt Ness and Little Ness Parish, its neighbouring parishes and can have adverse effects on their communities.

4.1.4 Environment Agency No objections.

Environmental Permitting Regulations: The proposed development will increase the number of birds on site by 100,000 birds. Foxholes Farm currently operates under an Environmental Permit, regulated by the Environment Agency 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 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.

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.

Water Management: Clean Surface water can be collected for re-use, disposed of via soakaway or discharged directly to controlled waters. Dirty Water e.g. derived from shed washings, is normally collected in dirty water tanks via impermeable surfaces. Any tanks proposed should comply with the Water Resources (control of pollution, silage, slurry and agricultural fuel oil) Regulations 2010 (SSAFO). Yard areas and drainage channels around sheds are normally concreted.

Shed roofs that have roof ventilation extraction fans present, may result in the build-up of dust which is washed off from rainfall, forming lightly contaminated water. The EP will normally require the treatment of roof water, via swales or created wetland from units with roof mounted ventilation, to minimise risk of pollution and enhance water quality. For information we have produced a Rural Sustainable Drainage System Guidance Document, which can be accessed via: <http://publications.environment-agency.gov.uk/PDF/SCHO0612BUWH-E-E.pdf>

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. It is used to reduce the risk of the manure leaching or washing into groundwater or surface water. The permitted farm would be required to analyse the manure twice a year and the field soil (once every five years) to ensure that the amount of manure which will be applied does not exceed the specific crop requirements i.e. as an operational consideration. Any Plan submitted would be required to accord with the Code of Good Agricultural Policy (COGAP) and the Nitrate Vulnerable Zones (NVZ) Action Programme where applicable. The manure/litter is classed as a by-product of the poultry farm and is a valuable crop fertiliser on arable fields.

4.1.5 **Natural England** No objections.

Internationally and nationally designated sites: The application site is within or in close proximity to a number of internationally designated sites, and therefore has the potential to affect their interest features. International 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 elements of the Midlands Meres and Mosses Phase 1 Ramsar site and elements of the Midlands Meres and Mosses Phase 2 Ramsar site and also notified at a national level as Fenemere Site of Special Scientific Interest (SSSI) and Hencott Pool SSSI.

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. 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.

International Sites - No objection: Natural England notes that your authority, as competent authority under the provisions of the Habitats Regulations, has screened the proposal to check for the likelihood of significant effects. Your assessment concludes that the proposal can be screened out from further stages of assessment because significant effects are unlikely to occur, either alone or in combination. On the basis of information provided, Natural England concurs with this view. This is because the Environment Agency has indicated that atmospheric deposition on the sites as a result of this proposal is likely to be lower than the thresholds which they consider to be significant.

Nationally designated sites – No objection: 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 the site has been notified. We therefore advise your authority that this SSSI does not represent a constraint in determining this application.

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; and
- 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](#).

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'.

Amended plans: The proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal.

4.1.6 **SC Ecologist** Recommends conditions and informatives.

Planning Officer to include the Habitat Regulation Assessment screening matrix in their site report. Natural England must be formally consulted on Shropshire Council's Habitat Regulations Assessment and their comments taken into consideration prior to a planning decision being made.

Ecological Enhancement: A linear tree and shrub plantation covering 0.5ha on the south bund is already in place. The planting extends the full length of the proposed poultry extension. 45m of new hedgerow will be planted in a significant gap in the west hedgerow, replacing the loss of 65m of isolated hedgerow. The planting is shown on the Soft Landscape Proposed Plan drawing number 1475.03 dated 16/09/2016. This should be conditioned on a planning decision notice.

Great Crested Newts: Both the modern pools, close to the site (80 and 100m distance), were considered unsuitable for great crested newt by Churton Ecology. Informatives should be included.

Badgers: No active badger setts were recorded within 50m of the proposed development. The proposed informative should be on the decision notice. An informative should be added.

Bats: A mature tree just off site has bat roost features. The west hedgerow, in conjunction with the hedgerow along the south boundary of the extended poultry farm, is likely to be of local/site value for commuting and foraging bats. Increased artificial lighting on sensitive features may result in disturbance or deterioration of bat foraging and commuting habitats. Providing a condition requiring the prior approval of any external lighting is on the decision notice a negative impact on bats is unlikely.

Nesting Birds: Works (on hedgerow, scrub, trees or buildings) during the bird breeding season (between July 31st and March 1st) may damage or destroy the nest of a wild bird whilst in use, which would constitute an offence. An informative should be added.

Environmental Permit: The proposed application will result in capacity at Foxholes Farm increasing by 100,000 birds. The Environment Agency Permitting decision report has been based on an increase at the site from 390,000 to 450,000 bird places.

The Environment Agency has provided SC Ecology with the Ammonia Modelling Screening output. The screening assessment undertaken by the Environment Agency has considered any Special Areas of Conservation (SAC), Special Protection Areas (SPA) and Ramsar sites within 10km; any Sites of Special Scientific Interest (SSSI) within 5km and also any National Nature Reserves (NNR), Local Nature Reserves (LNR), ancient woodlands and local wildlife sites (LWS) within 2km of the farm. The Environment Agency has confirmed that based on the information the applicant has provided detailed modelling is not required to be submitted with the applicants permitting application.

Shropshire Council, under Regulation 61 in the Habitats Regulations, can rely on the 'evidence and reasoning' of another competent authority. Shropshire Council can

therefore use the Ammonia Screening Output (provided by Kevin Heede via email dated 17th November 2016) to complete the assessment of air pollution impacts for European Designated Sites within 10km, National Designated Sites within 5km, and Local Wildlife Site/Ancient Woodlands in 2km.

All sites screen out below the permitting threshold and therefore no further modelling is required to support this planning application.

Habitat Regulation Assessment: This application must be considered under the Habitat Regulation Assessment process in order to satisfy the Local Authority duty to adhere to the Conservation of Species & Habitats Regulations 2010 (known as the Habitats Regulations).

Natural England must be formally consulted on this planning application and the Local Planning Authority must have regard to their representations when making a planning decision. Planning permission can only legally be granted where it can be concluded that the application will not have any likely significant effects on the integrity of any European or Nationally Designated sites.

Amended plans: No additional comments to make following amendments.

- 4.1.7 **Historic England** Has advised that it does not wish to comment in detail, but has provided the following general observations.

The proposed two additional poultry rearing buildings and one general purpose agricultural building, plus associated hardstanding and works are within the setting of the scheduled ancient monument of motte south east of St Martin's Church (National Heritage List for England UID 1013556) and the Grade II* Church of St Martin (National Heritage List for England UID 1055114). Although it is acknowledged that there will be a minimal impact on the significance of the assets due to development within their setting given the distance to the development and there siting within an already established poultry unit, we would recommend that to ensure any impact is minimised conditions are attached to any planning permission so that any current and proposed landscaping scheme is fully implement and maintained in the long term. The external finish and colour of the new buildings should also be agreed with the Council both to minimise the visual intrusion of the buildings into the setting of the heritage asset and to maintain a consistency throughout the development.

We would urge you to address the above issues, and recommend that the application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice.

- 4.1.8 **SC Conservation**

In considering this proposal, due regard to the following local and national policies, guidance and legislation is required in terms of historic environment matters: CS6 Sustainable Design and Development and CS17 Environmental Networks of the Shropshire Core Strategy, Policies MD2 and MD13 of the SAMDev component of the Local Plan, the National Planning Policy Framework (NPPF) and the Planning Practice Guidance.

This application proposes two new poultry and related hardstanding immediately adjacent to the existing row of poultry barns at Foxholes Farm, north of the settlement of Little Ness. Our Team has previously provided extensive input on the heritage assets in the wider landscape surrounding the subject site. With this current application, a Heritage Statement has been prepared by Indigo Planning, which is acknowledged. The Heritage Statement finds that the proposed development will affect the settings of both the Grade II* Church of Saint Martin and the Scheduled Castle to the south east of the Church, but concludes that the additional poultry sheds proposed will not cause harm to the setting of these heritage assets, and there will be no loss of significance to these heritage assets, and this conclusion is also acknowledged. A Landscape Plan has also been submitted with this application. We would note that as developments of this type also have the potential to have an adverse impact on landscape character, and while we would not provide specific comments on this aspect of the proposal, we would recommend that appropriate conditions are added to ensure all existing and any proposed additional landscaping is fully implemented and maintained in the long term. We would also recommend that the external finish and colour of the new buildings and the material and colour of the hardstanding is agreed in order to minimize impacts on the surrounding area, and is consistent throughout the development.

- 4.1.9 **SC Public Protection** Conditions in relation to night time movements have previously been placed on this poultry installation stating that no more than 11 one way movements shall take place between the hours of 02:00 - 07:00 hours. The current application states that there will be no additional night time movements and therefore I would recommend that this condition is placed on this latest application specifying that it is in relation to the cumulative movements from all eight sheds on site.

In addition please can the applicant state how many current night time movements occur. For clarification I am classifying night time hours as 23:00 - 07:00 hours. Once this information has been provided please contact me for further comment.

- 4.1.10 **SC Highways Development Control** No objections, subject to the development being carried out in accordance with the approved details and recommended conditions.

It is considered that the Transport Statement within the submitted EIA, supporting this proposed development, is sufficiently robust and adequately demonstrates the expected HGV impact of these additional poultry units on the adjacent public highway network.

Given the extensive highway mitigation previously undertaken to facilitate preceding developments on this site it is considered that the expected additional HGV movements associated with this specific development can be adequately accommodated within the existing network. It is recommended that conditions are imposed to require the submission and approval of a Construction Method Statement and to require the prior completion of parking, loading, unloading and turning of vehicles (see Appendix 1).

- 4.1.11 **SC Drainage** The proposed drainage details, plan and calculations should be conditioned if planning permission were to be granted.

In the Flood Risk and Drainage under the Environmental Statement, it states that the

surface water drainage will discharge to new French drains along the new poultry units and general purpose building and outfall into the existing attenuation basin which will be upsized. However, no drainage details drawings have been submitted for approval. The drainage plan should include details on how the contaminated water in the yard from spillages or cleaning of sheds will be managed/ isolated from the main surface water system. Reason: To ensure that the proposed surface water drainage systems for the site are fully compliant with regulations and are of robust design.

4.1.12 **SC Trees** No response received.

4.1.13 **SC Rights of Way**

The Definitive line of Public Footpath No UN4 runs along a track to the west of the existing farm buildings and poultry sheds and appears to provide access to the site.

From the plans provided it appears that the footpath will not be directly affected by the physical development of the 2 additional poultry sheds however the applicant should adhere to specific criteria to ensure the path remains open (to be provided in informatives).

4.2 **Public comments**

4.2.1 The application has been advertised by site notice and in the local press. In addition, 64 properties in the local area have been directly notified.

4.2.2 Three objections have been received from members of the public, as summarised below.

- vibration to house when lorries drive by
- obstructions on highway
- drivers exceed 25mph limit for vehicles with an unsprung rear axle
- disturbance by day and night traffic, every 7 – 12 minutes
- impact on Milford Bridge
- impact on roads, verges and hedges
- need a full and up-to-date assessment of the impact of the additional traffic created
- a new traffic survey is required; traffic survey undertaken in 2011 and has not been updated; has been significant increase in traffic with new house building and permissions for nearly 100 houses
- Shotatton crossroads should not be used as a route, as conflicts with other road users include route to schools, by patients visiting the surgery at Bachurch; by shop and post office customers
- Will be considerable increase in traffic when new houses are built
- Concern over Shropshire Council's highways officer comments: has only considered HGV traffic generated; should consider all traffic as well as increased from new house building
- Highways officer makes an inadequate assessment of the vehicular traffic that would be generated
- Highways team should also be taking into account the cost of maintaining the single track lane from Baschurch to Nesscliffe, including repairs to potholes, dropped verges, flooding and bridge repairs
- Highways report should include an assessment of the structural condition of the lane
- Additional Farm Traffic

- no reference to the increased farm traffic that will result from the extra muck from the two additional sheds which will need to be mixed in the proportion of one tonne of muck to 2.2 tonnes of maize and sugar beet brought in to be fed into the Anaerobic Digester, which has a capacity of nearly 10,000 tonnes per annum
These
- no map to show where the fields are or what routes would be taken to take the produce to the AD
- adverse impact on highways from additional traffic bringing material in to the AD plant
- damage to listed bridge and Milford
- Vulnerable Road Users.
- Impact on recreational users of local roads and lanes by walkers, dog walkers, joggers and runners, cyclists and horse riders
- Noise from large tractors and trailers passing by properties at extremely unsociable hours

5.0 THE MAIN ISSUES

- 5.1
- Environmental Impact Assessment
 - Planning policy context; principle of development
 - Siting, scale and design; impact upon landscape character
 - Historic environment considerations
 - Highways access and traffic considerations
 - Ecological considerations
 - Drainage and pollution considerations
 - Residential and local amenity considerations

6.0 OFFICER APPRAISAL

6.1 Environmental Impact Assessment

- 6.1.1 The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011 specify that Environmental Impact Assessment (EIA) is mandatory for proposed development involving the intensive rearing of poultry where the number of birds is 85,000 or more. The proposed development would provide 100,000 bird places, and as such it is EIA development. The planning application is accompanied by an Environmental Statement, as required by the 2011 Regulations.

6.2 Planning policy context; principle of development

- 6.2.1 Planning applications are required to be determined in accordance with the Development Plan unless material considerations indicate otherwise. Material considerations include the National Planning Policy Framework (NPPF), and this 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). One of its core planning principles is to proactively drive and support sustainable economic development (para. 17). Sustainable development has three dimensions – social, environment, and economic. In terms of the latter the NPPF states that significant weight should be placed on the need to support economic growth through the planning system (para. 19). The NPPF also promotes a strong and prosperous rural economy, supports the sustainable growth and expansion of all types of business and enterprise in rural areas, and promotes the development of agricultural businesses (para. 28). The NPPF

states that the planning system should contribute to and enhance the natural and local environment (para. 109) and ensure that the effects (including cumulative effects) of pollution on health, the natural environment or general amenity should be taken into account (para. 120).

6.2.2 The proposed development is located in an area of countryside, and Core Strategy Policy CS5 states that development proposals on appropriate sites which maintain and enhance countryside vitality and character will be permitted where they improve the sustainability of rural communities by bringing local economic and community benefits, particularly where they relate to specified proposals including: agricultural related development. It states that proposals for large scale new development will be required to demonstrate that there are no unacceptable adverse environmental impacts. Whilst the Core Strategy aims to provide general support for the land based sector, it states that larger scale agricultural related development including poultry units, can have significant impacts and will not be appropriate in all rural locations (para. 4.74). Policy CS13 seeks the delivery of sustainable economic growth and prosperous communities. In rural areas it says that particular emphasis will be place on recognising the continued importance of farming for food production and supporting rural enterprise and diversification of the economy, in particular areas of economic activity associated with industry such as agriculture.

6.2.3 In terms of the economic and social dimensions to sustainable development, the application states that the proposed development would provide further diversification of the existing farm business to provide greater resilience against economic forces. The scheme comprises further investment in a rural business. The application states that the proposed development would increase the direct employment at the site from 2.5 to 4 full time equivalent employees. In addition there would be additional contract labour requirements at certain times during the crop cycle. Additional labour requirements include those at the processing plant and those required during construction.

6.2.4 In terms of the wider environmental dimension to sustainable development, the proposed development would integrate with the current activities on the farm, principally the existing poultry rearing development, the arable farming enterprise, and the adjacent anaerobic digester. The feed wheat grown at the farm would be fed to the chickens, and poultry litter would be used as a feedstock to be converted into heat and electricity by the anaerobic digester. Indirectly, the by-product of the anaerobic digestion process would be used as an organic fertiliser on the arable land.

6.2.5 The development of agricultural businesses is supported by national and local planning policies. The proposal would have social, economic and environmental benefits through local employment requirements and the further development of a rural business. In principle therefore it is considered that the provision of a poultry unit development in this location can be supported. However policies also recognise that poultry units can have significant impacts, and seek to protect local amenity and environmental assets. These matters are assessed below.

6.3 Siting, scale and design; impact on landscape character

6.3.1 Core Strategy policy CS6 seeks to ensure that development is appropriate in scale and design taking into account local context and character, having regard to landscape

character assessments and ecological strategies where appropriate. Policy CS17 also seeks to protect and enhance the diversity, high quality and local character of Shropshire's natural environment and to ensure no adverse impacts upon visual amenity, heritage and ecological assets. SAMDev Plan policy MD7b states that applications for agricultural development should be of a size/scale which is consistent with its required agricultural purpose, and where possible are sited so that it is functionally and physically closely related to existing farm buildings.

- 6.3.2 It should be noted that the poultry development has not been constructed in accordance with the approved plans. In particular the three poultry buildings that were permitted under permission ref. 14/02385/EIA have been positioned approximately 20 metres to the west of their approved position. In addition the approved route of the site access road runs along the eastern boundary of the easternmost poultry building. This has been constructed approximately 20 metres further east, such that there is a large space between the easternmost poultry building and the road.
- 6.3.3 The layout of the site that was permitted by 14/02385/EIA provided for a sizeable gap between the three then-existing poultry sheds and the three proposed sheds. The three new sheds were actually constructed without this gap. The result of this was that the six permitted sheds occupy a significantly smaller footprint than permitted. Although the proposal includes a new poultry building on the eastern side of the site with a width of 24.7 metres, it would extend the development eastwards by only 17 metres in relation to the approved layout.
- 6.3.4 Siting and design: The proposed poultry sheds would be sited adjacent to existing sheds, and would conform to the existing orientation of the poultry buildings. The proposed general storage building would be sited partly on the footprint of an existing building to be removed. The proposed buildings would be well related to the existing development, and it is considered that the siting is acceptable. The new poultry buildings would generally match those of the existing ones in terms of design and colour. The storage building would be agricultural in appearance and in keeping with this agricultural landscape.
- 6.3.5 Site location and context: The Environmental Statement includes a Landscape and Visual Impact Assessment (LVIA). This confirms that there are no landscape designations affecting the site and surrounding area.
- 6.3.6 Impact on landscape character: In terms of the existing baseline, the existing poultry development sits relatively low in the landscape. The LVIA suggests that the existing development is a well located agricultural development in an agricultural landscape. The LVIA states that in terms of landscape impact the height of a building is generally more significant than its floor area. The two poultry houses would be 4.8 metres high, and the general purpose building would be 12.25 metres high. Whilst the proposed development will have a relatively large footprint, the poultry houses would be relatively low compared with other types of modern farm buildings and they would always be seen in the context of the existing poultry farm. The LVIA considers that the development would have a low adverse effect on a landscape character. It considers that, cumulatively with the existing buildings, this effect would be medium adverse.

The proposed development would be seen in the context of the existing poultry buildings.

- 6.3.7 The undulating topography in the surrounding area would provide some screening of the development. Existing landscape planting in the area includes woodland planting along the southern side of the development and an existing retained hedgerow to the south. These would provide increasing levels of screening as they develop further. Officers consider that the addition of two further poultry buildings and a general storage building to this development can be accommodated within this landscape without having an unacceptable impact on the visual character of the area.
- 6.3.5 Visual effects: The LVIA has assessed the likely visual effects of the development, i.e. the impact upon visual receptors, from both public viewpoints and private views.
- 6.3.6 Views of the proposed development from the public highway to the south-east would be possible through breaks in hedgerows. Nevertheless, given the distance involved (500 metres or more) and the intervening vegetation it is not considered that these would be significant views. The buildings would be visible from the public footpath to the south-east of the site. These views would be at a distance of approximately 280 metres or more, and would be experienced in the context of the existing development. Such views would reduce in time as the tree planting to the south develops further. The proposed development, particularly the proposed general purpose building, would be visible from the public right of way to the west. This building would replace an existing agricultural storage building, and overall views therefore would not be dissimilar to existing.
- 6.3.7 There would be some visibility of the development from the Little Ness Churchyard, approximately 450 metres to the south-west. Such views would be limited by distance and by the developing landscaping. Further away, the upper parts of the general purpose building would be likely to be visible from the higher ground of The Cliffe, approximately 1.45km to the north-east. The development would be seen in the context of the existing site, and Officers consider that these views would not be significant in the overall landscape.
- 6.3.8 In general terms, Officers consider that views of the development from surrounding private and public viewpoints would be seen either at distance, through existing developing screen planting and/or against the backdrop of other buildings at the site. Overall it is not considered that the effects of the proposal on visual receptors would be significant.
- 6.4 **Historic environment considerations**
- 6.4.1 Core Strategy policy CS17 requires that developments protect and enhance the diversity, high quality and local character of Shropshire's historic environment. SAMDev Plan policies MD2 and MD13 requires that heritage assets are conserved, sympathetically enhanced and restored by ensuring that the social or economic benefits of a development can be demonstrated to clearly outweigh any adverse effects on the significance of a heritage asset, or its setting.
- 6.4.2 The planning application is accompanied by a Heritage Statement which identifies heritage assets within the vicinity of the proposed development and assesses the impact of the proposal on these.
- 6.4.3 The Heritage Statement finds that the proposed development will affect the settings of

both the Grade II* Church of Saint Martin to the south, and the Scheduled Castle to the south east of the Church, but concludes that the additional poultry sheds proposed will not cause harm to the setting of these heritage assets, and there will be no loss of significance to these heritage assets. Neither Historic England nor the Council's Historic Conservation team have raised any concerns over these conclusions. As the woodland planting along the southern boundary of the site develops it will provide additional screening of the development from these heritage assets. A planning condition can be imposed to require that these landscape features are retained. Officers consider that the proposal is consistent with Development Plan and national policies for the protection of heritage assets.

6.5 **Traffic, access and rights of way considerations**

6.5.1 Core Strategy policy CS6 requires that all development is designed to be safe and accessible. Policy CS17 seeks to protect and enhance environmental networks, including public rights of way.

6.5.2 The planning application is accompanied by a Transport Statement which assesses the additional traffic that would be generated by the proposed expansion of the business. Highway improvements, comprising the construction of passing places and the widening of the carriageway, have previously been undertaken in support of a previous planning permission for poultry units at Foxholes Farm. Previous planning permissions for poultry buildings at the site have been granted subject to a Section 106 agreement to control the routing of HGVs to and from the site. If planning permission is resolved to be granted, this agreement would need to be varied to ensure that the routing agreement is relevant to the current proposal to extend the site. The routing agreement provides for a warning and barring system to drivers who do not comply with the routing restriction, and this would be incorporated within any revised agreement. The agreement also requires records to be made of all HGVs that visit the site, including vehicle registration numbers. This would assist with following up any future reports of breaches of the routing restriction.

6.5.3 In terms of traffic movements, the Transport Statement states that the proposed eight-house poultry operation would generate an additional 44 HGVs (88 movements) during each 48-day cycle. This would increase the total number of HGVs associated with each cycle to 145 (290 movements). This represents an increase in less than one additional HGV visiting the farm each day.

6.5.4 As with the existing operation, HGV traffic would be concentrated around certain activities during the bird cycle, specifically bird thinning and collection operations. The Transport Statement states that on 18 days of the 48-day crop cycle there would be no HGV movements to the site, and on 35 of the 48 days there would be three or less HGVs. For the eight shed operation as proposed, bird thinning would take place on days 35, 36 and 37. Final bird clearance would take place on days 42, 43 and 44. During these operations it is proposed that there would be no more than two HGV movements during the night-time hours of 02:00 – 07:00), and no more than four HGV movements at other times. A planning condition can be imposed to restrict vehicle movements during the night-time, and this is discussed further below.

6.5.5 Concerns have been raised by parish councils and local residents regarding the traffic assessment that has been submitted, and the adequacy of the existing passing places.

The Council's Highways Officer considers that the Transport Statement is sufficiently robust and adequately demonstrates the expected HGV impact of the proposed development. Given the limited additional traffic that would be generated by the proposal Officers do not consider that it would be reasonable or necessary to require additional mitigation or highway improvements to be undertaken. It is considered that the proposed development is acceptable in highway terms. The planning conditions recommended by the Highways Officer can be imposed on any planning permission.

6.6 **Ecological consideration**

6.6.1 Core Strategy policy CS17 seeks to protect and enhance the diversity, high quality and local character of Shropshire's natural environment and to ensure no adverse impacts upon visual amenity, heritage and ecological assets. SAMDev Plan policies MD2 and MD12 require that developments enhance, incorporate or recreate natural assets. Para. 118 of the NPPF states that local planning authorities should aim to conserve and enhance biodiversity.

6.6.2 Ammonia emissions: An initial Screening Assessment report in relation to ammonia emissions, which are generated through the breakdown of the poultry manure, has been provided by the Environment Agency. This has given due consideration to designated ecological sites in the wider area. The Agency has confirmed that this has identified that further detailed modelling is not required in relation to this matter. The required Habitat Regulation Assessment matrix is appended to this report.

6.6.3 Protected species: The planning application sets out the findings of an extended Phase 1 habitat survey carried out in 2016. The survey does not identify any significant ecological impacts. The proposal would result in the loss of an isolated hedgerow which is 65 metres long. A 45 metres long section of hedgerow would be planted within a gap in the hedgerow along the western side of the site. Although shorter in length, as it links with adjacent hedgerow to provide a linear corridor it is considered that this would provide satisfactory mitigation and ecological enhancement. The Council's Ecologist has not identified any significant issues in respect of the proposal, but has recommended that conditions are imposed to require the implementation of the landscape planting, the prior approval of any external lighting. These can be added to the decision notice if permission is granted (see Appendix 1). Officers conclude that the proposal would provide sufficient protection and enhance of the environmental network in line with Core Strategy policy CS17 and SAMDev Plan policies MD2 and MD12.

6.7 **Impact on water resources**

6.7.1 Core Strategy policy CS18 seeks to reduce flood risk and avoid adverse impact on water quality and quantity. Policy CS6 requires that development safeguards natural resources, including soil and water.

6.7.2 The site is located within Flood Zone 1 which indicates that the risk of surface water flooding is low. It is proposed that surface water would fall to French drains alongside the new buildings and these would direct water to the existing attenuation basin to the south of the site. This basin would be enlarged to accommodate the additional flow.

6.7.3 Detailed designs of the surface water or dirty water management system have not been submitted, and a condition can be imposed to require that these are submitted for

approval as recommended by the Council's Drainage team.

6.8 Residential and local amenity considerations

6.8.1 Core Strategy policy CS5 requires that proposals for large scale new agricultural development demonstrate that there are no unacceptable adverse environmental impacts. Policy CS6 requires that developments safeguard residential and local amenity. SAMDev Plan policy MD7b states that planning applications for agricultural development will be permitted where it can be demonstrated that there would be no unacceptable impacts on existing residential amenity.

6.8.2 The poultry operation at Foxholes Farm already benefits from an Environmental Permit issued by the Environment Agency. This allows for an operation with up to 450,000 birds. The Agency has confirmed that issues such as odour and noise emissions would be addressed through the Permit. Should any issues arise which result in the operation not conforming to the Permit then the Agency has enforcement powers available to deal with these.

6.8.3 Odour and noise considerations: The potential impacts of the proposed development from odour and noise emissions have been scoped out of the Environmental Impact Assessment process, and therefore specific assessments relating to these matters have not been submitted. The closest residential properties are 480 metres away. It is considered that this is a sufficient buffer distance for a development of this type. No specific concerns over on-site noise or odour matters have been raised by the Council's Public Protection Officer. It is considered that the proposed development does not raise particular land-use planning issues regarding noise or odour, and that the Environmental Permitting regime will satisfactorily deal with any issues that may arise.

6.8.4 The proposal does have the potential to adversely affect residential amenity through disturbance caused by night-time HGV movements. The existing planning permission for the site includes conditions that restrict the number of HGV movements allowed during the night-time hours of 02:00 – 07:00 hours. A similar condition can be imposed in relation to any planning permission granted for the current proposal, to ensure that this applies to the eight-shed operation. It is considered that this is necessary in order to restrict the likelihood of disturbance to residents along the HGV route. The detailed wording of an appropriate planning condition is being discussed with the Council's Public Protection Officer, and Members will be advised of any updates on this matter in advance of the Committee meeting.

7.0 CONCLUSION

7.1 The proposed extension to the existing poultry rearing development at Foxholes Farm would provide two additional sheds of a similar design to the existing ones, and would be laid out to complement the existing development. The proposed general purpose building would be sited partly over the footprint of an existing agricultural building that is to be removed. The additional buildings would result in a development of a significant size, with eight poultry buildings in total. It is acknowledged however that the existing development occupies a smaller footprint than permitted as the development has not been constructed in accordance with the approved plans. Furthermore, the poultry buildings sit low in the landscape, and are relatively well screened from surrounding

viewpoints due to the topography of the area and existing developing woodland and existing hedgerow. Some additional planting works would be undertaken to provide additional landscape mitigation. It is considered that the proposed development can be satisfactorily accommodated within this landscape.

- 7.2 It is not considered that the additional traffic generated by the proposal would have a significant impact on the local road network. Existing restrictions relating to HGV routing and the frequency of night-time movements can be imposed on the proposed extended site. It is considered that the proposed development is located a satisfactory distance from residential receptors and heritage assets to avoid issues from adverse amenity and harm. Satisfactory mitigation is proposed for the loss of a hedgerow, and initial ammonia screening has found that there would be no significant issues in respect of designated ecological sites in the wider area. Existing infrastructure to avoid pollution and contamination would be adapted to accommodate the proposed extension. Detailed controls over matters such as noise and odour emissions would be regulated under the Environmental Permit that has been issued for the expanded operation.
- 7.3 The proposal would provide benefits in terms of employment and the further development of a rural business, and would link in with the adjacent anaerobic digester which utilises poultry manure from the site to produce electricity and heat. Overall, whilst acknowledging that the scale of the development would result in some adverse impact on the landscape character of the area it is considered that on balance the proposal can be supported in relation to Development Plan and national planning policies and that the granted of planning permission subject to conditions and a variation to the existing Section 106 agreement can be recommended.

8.0 Risk Assessment and Opportunities Appraisal

8.1 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, i.e. written representations, hearing or inquiry.
- The decision may be 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 made a) promptly and b) in any event not later than six weeks 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.

8.2 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.

8.3 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

There are likely financial implications of the decision and/or imposition of conditions if 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.



Appendix 1 - Habitat Regulation Assessment (HRA) Screening Matrix

Application name and reference number:

16/04594/EIA
 Foxholes Farm
 Little Ness
 Shrewsbury
 Shropshire
 Erection of two additional poultry rearing buildings and one general purpose agricultural building, plus associated hardstanding and works.

Date of completion for the HRA screening matrix:

22rd November 2016

HRA screening matrix completed by:

Nicola Stone
 Planning Ecologist
 01743-252556

Table 1: Details of project or plan

Name of plan or project	16/04594/EIA Foxholes Farm Little Ness Shrewsbury Shropshire Erection of two additional poultry rearing buildings and one general purpose agricultural building, plus associated hard-standing and works.
Name and description of Natura 2000 site and Nationally designated site which has potential to be affected by this development.	<p>Midland Meres and Mosses (Ramsar phase 1)</p> <p>Fenemere</p> <p>Fenemere Midland Meres and Mosses Ramsar Phase 1 (16.34ha) is a particularly rich and interesting mere with eutrophic water. Fenemere is also important for its rich aquatic invertebrate fauna. It is included within the Ramsar Phase for its open water, swamp, fen, wet pasture and Carr habitats with the species <i>Cicuta virosa</i> and <i>Thelypteris palustris</i></p> <p>Midland Meres and Mosses (Ramsar phase 2)</p> <p>Hencott Pool</p> <p>Most of Hencott Pool Midland Meres and Mosses Ramsar Phase 2 (11.5ha) is swamp carr on very wet peat dominated by alder <i>Alnus glutinosa</i> and common sallow <i>Salix cinerea</i> with frequent crack willow <i>Salix fragilis</i>. Although there are considerable areas of bare peat beneath the trees, there is a rich flora of fen plants. It is included in the Ramsar Phase for its Carr habitat and the species</p>

	Carex elongata and Cicutia virosa
Description of the plan or project	Erection of two additional poultry rearing buildings and one general purpose agricultural building, plus associated hardstanding and works.
Is the project or plan directly connected with or necessary to the management of the site (provide details)?	No
Are there any other projects or plans that together with the project or plan being assessed could affect the site (provide details)?	No

The applicant has applied for a variation of their Environmental Permit by Environment Agency to allow for a total of 450,000 bird places (Application reference number EPR/MP3430WS/V002). During the permitting process the Environment Agency has carried out modelling of the emissions from the proposed poultry rearing buildings and assessed the impact that this could have on designated sites. The output of the Ammonia Modelling Screening has been provided to SC Ecology via email dated 17th November 2016 via Kevin Heede).

The relevant thresholds agreed by Environment Agency and Natural England are (when using the EA emissions model):

- emissions of ammonia under 4% of the critical level for a European Designated site (sites within 10km considered)
- emissions of ammonia under 20% of the critical level for a Site of Special Scientific Interest (sites within 5km considered)
- emissions of ammonia under 50% of the critical level for a County Wildlife site or Ancient Woodland (sites within 2km considered)

The Environment Agency has concluded that the applicant does not need to submit detailed modelling with their application.

The proposed development can be screened out of the Habitat Regulation Assessment since all potential emission effects are below the Environment Agency and Natural England agreed Thresholds, and no other effect pathways have been identified.

Shropshire Council is relying on the evidence and reasoning of Environment Agency and Natural England under Regulation 61 of the Habitats Regulations in completing this Habitat Regulation Assessment.

The Significance test

There is no likely significant effect on European Designated Sites from planning application 16/04594/EIA.

The Integrity test

There is no likely effect on the integrity of the European Designated Sites from planning application 16/04594/EIA.

Conclusions

Natural England should be provided with SC Ecologist HRA. Comments should be received prior to a planning decision being granted.

Guidance on completing the HRA Screening Matrix

The Habitat Regulation Assessment process

Essentially, there are two 'tests' incorporated into the procedures of Regulation 61 of the Habitats Regulations, one known as the 'significance test' and the other known as the 'integrity test'. If, taking into account scientific data, we conclude there will be no likely significant effect on the European Site from the development, the 'integrity test' need not be considered. However, if significant effects cannot be counted out, then the Integrity Test must be researched. A competent authority (such as a Local Planning Authority) may legally grant a permission only if both tests can be passed.

The first test (the significance test) is addressed by Regulation 61, part 1:

61. (1) A competent authority, before deciding to undertake, or give any consent, permission or other authorisation for a plan or project which –

(a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and

(b) is not directly connected with or necessary to the management of that site,
must make an appropriate assessment of the implications for that site in view of that site's conservation objectives.

The second test (the integrity test) is addressed by Regulation 61, part 5:

61. (5) In light of the conclusions of the assessment, and subject to regulation 62 (consideration of overriding public interest), the competent authority may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site or the European offshore marine site (as the case may be).

In this context 'likely' means "probably", or "it well might happen", not merely that it is a fanciful possibility. 'Significant' means not trivial or inconsequential but an effect that is noteworthy – Natural England guidance on The Habitat Regulation Assessment of Local Development Documents (Revised Draft 2009).

Habitat Regulation Assessment Out



A Local Planning Authority can only if it is established that the proposed plan or project will not adversely affect the integrity of the European Site.

If it is not possible to establish this beyond reasonable scientific doubt then planning permission cannot legally be granted unless it is satisfied that, there being no alternative solutions, the project must be carried out for imperative reasons of over-riding public interest, and the Secretary of State has been notified in accordance with section 62 of the Conservation of Habitats and Species Regulations 2010. The latter measure is only to be used in extreme cases and with full justification and compensation measures, which must be reported to the European Commission.

Duty of the Local Planning Authority

It is the duty of the planning case officer, the committee considering the application and the Local Planning Authority as a whole to fully engage with the Habitats Regulation Assessment process, to have regard to the response of Natural England and to determine, beyond reasonable scientific doubt, the outcome of the 'significance' test and the 'integrity' test before making a planning decision.

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16/04594/EIA
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22rd November 2016

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	plants. It is included in the Ramsar Phase for its Carr habitat and the species <i>Carex elongata</i> and <i>Cicuta virosa</i>
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- emissions of ammonia under 50% of the critical level for a County Wildlife site or Ancient Woodland (sites within 2km considered)

The Environment Agency has concluded that the applicant does not need to submit detailed modelling with their application.

The proposed development can be screened out of the Habitat Regulation Assessment since all potential emission effects are below the Environment Agency and Natural England agreed Thresholds, and no other effect pathways have been identified.

Shropshire Council is relying on the evidence and reasoning of Environment Agency and Natural England under Regulation 61 of the Habitats Regulations in completing this Habitat Regulation Assessment.

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There is no likely significant effect on European Designated Sites from planning application 16/04594/EIA.

The Integrity test

There is no likely effect on the integrity of the European Designated Sites from planning application 16/04594/EIA.

Conclusions

Natural England should be provided with SC Ecologist HRA. Comments should be received prior to a planning decision being granted.

Guidance on completing the HRA Screening Matrix

The Habitat Regulation Assessment process

Essentially, there are two 'tests' incorporated into the procedures of Regulation 61 of the Habitats Regulations, one known as the 'significance test' and the other known as the 'integrity test'. If, taking into account scientific data, we conclude there will be no likely significant effect on the European Site from the development, the 'integrity test' need not be considered. However, if significant effects cannot be counted out, then the Integrity Test must be researched. A competent authority (such as a Local Planning Authority) may legally grant a permission only if both tests can be passed.

The first test (the significance test) is addressed by Regulation 61, part 1:

61. (1) A competent authority, before deciding to undertake, or give any consent, permission or other authorisation for a plan or project which –

- (a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and
- (b) is not directly connected with or necessary to the management of that site,

must make an appropriate assessment of the implications for that site in view of that site's conservation objectives.

The second test (the integrity test) is addressed by Regulation 61, part 5:

61. (5) In light of the conclusions of the assessment, and subject to regulation 62 (consideration of overriding public interest), the competent authority may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site or the European offshore marine site (as the case may be).

In this context 'likely' means "probably", or "it well might happen", not merely that it is a fanciful possibility. 'Significant' means not trivial or inconsequential but an effect that is noteworthy – Natural England guidance on The Habitat Regulation Assessment of Local Development Documents (Revised Draft 2009).

Habitat Regulation Assessment Outcomes

A Local Planning Authority can only legally grant planning permission if it is established that the proposed plan or project will not adversely affect the integrity of the European Site.

If it is not possible to establish this beyond reasonable scientific doubt then planning permission cannot legally be granted unless it is satisfied that, there being no alternative solutions, the project must be carried out for imperative reasons of over-riding public interest, and the Secretary of State has been notified in accordance with section 62 of the Conservation of Habitats and Species Regulations 2010. The latter measure is only to be used in extreme cases and with full justification and compensation measures, which must be reported to the European Commission.

Duty of the Local Planning Authority

It is the duty of the planning case officer, the committee considering the application and the Local Planning Authority as a whole to fully engage with the Habitats Regulation Assessment process, to have regard to the response of Natural England and to determine, beyond reasonable scientific doubt, the outcome of the 'significance' test and the 'integrity' test before making a planning decision.

10. Background

Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework

Core Strategy and Saved Policies:
CS5 - Countryside and Greenbelt
CS6 - Sustainable Design and Development Principles
CS13 - Economic Development, Enterprise and Employment
Economic Development, Enterprise and Employment
CS17 - Environmental Networks
CS18 - Sustainable Water Management
MD2 - Sustainable Design
MD7B - General Management of Development in the Countryside
MD12 - Natural Environment

MD13 - Historic Environment

RELEVANT PLANNING HISTORY:

09/01778/FUL Erection of five poultry units and ancillary works including creation of new access and off-site highway improvements. REFUSE 27th May 2010

12/01419/EIA Erection of 3 poultry rearing sheds; 2 control rooms, 7 feed bins, office/store building, water tower, vehicular access, road improvement works (in Great Ness & Little Ness) earth bund and landscaping scheme GRANT 24th October 2012

12/01434/FUL Duplicate Entry - previously sent via Planning Portal NPW 2nd April 2012

12/04447/DIS Discharge of Conditions 3 to 14 and 16 of planning permission 12/01419/EIA DISAPP 21st December 2012

13/00881/AMP Re-alignment of feed bins and small increase in floor area by erection of general purpose store between sheds 1 and 2 GRANT 8th March 2013

13/00967/SCR Proposed new Anaerobic Digestion Plant EAN 13th March 2013

13/01316/MAW Erection of a 500kWe Anaerobic Digester (AD) plant for the purpose of farm diversification and for the production of renewable energy GRANT 4th July 2013

13/03098/AMP Non Material Application following grant of planning permission ref.

13/01316/MAW to relocate the transformer and CHP and reposition the infrastructure within the site. Erection of a 500kWe Anaerobic Digester (AD) plant for the purpose of farm diversification and for the production of renewable energy GRANT 9th September 2013

13/03753/DIS Discharge of Conditions 5 (Construction Management Plan), 11a (Odour Management Plan), 14 (Amenity Complaints Procedure), 16 (Specifications and Surface Treatment), 20a (Secondary Containment), 21a (Drainage Scheme), 22a (Lighting Scheme), 23 (Fire Protection Measures), 24a (Badgers) and 27a (Landscaping) attached to planning ref.

13/01316/MAW. Creation of a 500kwe anaerobic digester (ad) plant for the purpose of farm diversification and for the production of renewable energy DISAPP 14th October 2013

13/04456/AMP Proposed non-material amendment to previously approved planning permission reference 12/01419/EIA for the erection of 3 poultry rearing sheds; 2 control rooms, 7 feed bins, office/store building, water tower, vehicular access, road improvement works (in Great Ness & Little Ness) earth bund and landscaping scheme GRANT 16th November 2013

14/02385/EIA Erection of three poultry rearing buildings, eight feed bins and other ancillary buildings, landscaping including ground modelling and tree planting GRANT 18th July 2016

15/00771/MAW Construction of farm lagoon to store digestate with lined reception pit for safe out-loading; erection of a 1.8m security fence around the lagoon GRANT 9th June 2015

15/01035/MAW Variation of Condition No 3 (approved documents) attached to Permission

13/01316/MAW (erection of Anaerobic Digester (AD) plant) to allow for the removal of building and re-arrangement of two approved buildings (retrospective) GRANT 14th April 2015

15/02159/MAW Erection of extension to storage clamps for Anaerobic Digester (AD) Plant GRANT 31st January 2017

Act 1990 (retrospective) for the revised siting of six poultry rearing buildings, office building and the revised routing of part of the access track (revised scheme) PDE

Appeal

10/01833/REF Erection of five poultry units and ancillary works including creation of new access and off-site highway improvements. DISMIS 30th June 2011

11. Additional Information

[View details online:](#)

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
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Cabinet Member (Portfolio Holder)

Cllr M. Price

Local Member

Cllr David Roberts

Appendices

APPENDIX 1 - Conditions

APPENDIX 2 - Conditions**STANDARD CONDITION(S)**

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

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

2. The development shall be carried out strictly in accordance with the approved plans and drawings

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

3. No development shall take place until a scheme of foul drainage, and surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is occupied/brought into use (whichever is the sooner).

Reason: The condition is a pre-commencement condition to ensure satisfactory drainage of the site and to avoid flooding.

4. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- o the parking of vehicles of site operatives and visitors
- o loading and unloading of plant and materials
- o storage of plant and materials used in constructing the development
- o the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- o wheel washing facilities
- o measures to control the emission of dust and dirt during construction
- o a scheme for recycling/disposing of waste resulting from demolition and construction works
- o a traffic management and HGV routing plan

Reason: To avoid congestion in the surrounding area and to protect the amenities of the area.

CONDITION(S) THAT REQUIRE APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT

5. 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.

6. The development hereby permitted shall not be brought into use until the areas shown on the approved plans for parking, loading, unloading and turning of vehicles has been provided properly laid out, hard surfaced and drained. The space shall be maintained thereafter free of any impediment to its designated use.

Reason: To ensure the provision of adequate vehicular facilities, to avoid congestion on adjoining roads and to protect the amenities of the area.

CONDITION(S) THAT ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT

7. The external colour and finish of the poultry houses and general purpose building shall match that of the existing adjacent poultry houses.

Reason: To ensure the materials and appearance of the development are appropriate in the landscape.

8. The landscaping works as shown on drawing no. 1475.03 shall be completed within the first available planting season following the construction of the poultry sheds hereby permitted. Notwithstanding the details provided on the landscape drawing no. 1475.03, any trees or plants, that within a period of 10 years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced with other species, size and number as originally approved, by the end of the first available planting season.

Reason: To ensure the visual impact arising from the development is mitigated in accordance with the approved details.

9. Construction works shall not take place outside 07:30 to 18:00 hours Monday to Friday and 08:00 to 13:00 on Saturdays and at no time on Sundays or Bank Holidays.

Reason: To safeguard the amenities of the area.

10. Bird removal from the site shall take place on no more than 48 days during the year and of those 48 days on only 44 may birds be removed from the site during the hours of 0200 and 0700. When transporting birds a maximum of two HGV movements per hour may occur between the hours of 0200 and 0700.

Reason: To protect the health and wellbeing of residents along the access route to the installation.

11. (a) The number of birds kept at the site (comprising the eight poultry rearing buildings) within the poultry rearing buildings shall not exceed 398,296 birds at any time.
(b) Records of the number of birds delivered to the site during each cycle shall be made and these shall be made available to local planning authority on request.

Reason: To avoid adverse impacts due to intensification of the development.

Informatives

1. In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 187.
2. No drainage to discharge to highway
Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway. No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.
3. 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-prevention-guidance-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. GCN
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.

Badger

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).

Wild birds

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

Note: 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.

5. The applicant should adhere to the criteria stated below:

The right of way must remain open and available at all times and the public must be allowed to use the way without hindrance both during development and afterwards.

Vehicular movements (i.e. works vehicles and private vehicles) must be arranged to ensure the safety of the public on the right of way at all times.

Building materials, debris, etc must not be stored or deposited on the right of way.

There must be no reduction of the width of the right of way.

The alignment of the right of way must not be altered.

The surface of the right of way must not be altered without prior consultation with this office; nor must it be damaged.

No additional barriers such as gates or stiles may be added to any part of the right of way without authorisation

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