

Development Management Report

Responsible Officer: Tim Rogers

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Summary of Application

<u>Application Number:</u> 16/03556/FUL	<u>Parish:</u> Prees
<u>Proposal:</u> Application under Section 73a of the Town and Country Planning Act 1990 for the permanent retention of two poly tunnels to house free range egg laying birds	
<u>Site Address:</u> Smithy Cottage Sandford Whitchurch Shropshire SY13 2AW	
<u>Applicant:</u> Mr R Haynes	
<u>Case Officer:</u> Jane Preece	<u>email:</u> planningdmne@shropshire.gov.uk

Grid Ref: 358179 - 334029



Recommendation:- That permission be granted, subject to no objections from Natural England to SC Ecology's completed HRA matrix and to the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

1.1 The application seeks consent for the permanent retention of two poly tunnels to house free range egg laying birds.

1.2 Under a previous planning application (reference 13/00822/FUL) a three year temporary consent for the polytunnels was granted on 27th June 2013, thereby expiring on 27th June 2016. The reason the previous approval was limited to a temporary period was specified as: *'To enable the Local Planning Authority to assess the impact of, and give further consideration to the polytunnels and their use and associated traffic generation at the expiration of this permission having regard to the circumstances existing at that time.'*

1.3 Only one of the polytunnels was erected and this remains in place, hence the current planning application.

1.4 The application is a re-submission of an earlier application (reference 16/00146/FUL) which was refused on the 15th June 2016. for the following reason: *'Insufficient information has been submitted with the application in relation to total amount of birds that are to be accommodated on the applicants property as a whole and how the poultry enterprise is to be operated and managed in its entirety (including the measures in place for waste disposal, feed storage and pest control together with information on all traffic types, numbers and movements associated with the poultry enterprise use) to enable the full implications and impacts of the application to be properly assessed and to satisfactorily demonstrate to the Local Planning Authority that the proposed development will not have a significant adverse impact upon the residential and general amenities of the surrounding area or local highway conditions. Therefore, it is considered that the proposal does not meet with the requirements of adopted policy MD7b of the Site Allocations and management of Development Plan 2015; adopted policies CS5, CS6 and CS13 of the Shropshire Core Strategy 2011 or the National Planning Policy Framework.'*

1.5 In order to address the above additional information has been provided by the applicant with this current application. Information provided includes:

The poultry enterprise is managed and run by the family who live on site.

Number of birds on site: The polytunnels are to house free range hens and are to be rotated in use for this purpose, ie only one tunnel would be in use at any one time to accommodate 500 birds. However, there will be an overlap in the rotation of the use of the tunnels when the birds reach the end of their commercial life *'ensure smooth shed turnaround'*. End of lay birds will be removed once every 12 months and new birds collected once every 12 months. The overlap in use will be for 2 months, when the maximum bird flock size will be 1000 birds

Waste Disposal: The applicant states that waste from all sheds will not be stored on site and that arrangements in place to remove waste off site at the point of emptying. These arrangements involve a local farmer who has land adjacent placing trailers on the boundary. The applicant will tip all waste into the trailers, which will then removed across the land.

The applicant also has two existing sheds on his land, one alongside the garden boundary with 1 Sandford and one further east (referred to as the middle shed). The shed alongside the boundary was holding 70 birds which lay blue shelled eggs as a trial. The plan is to now place these birds in the middle shed, moving them away from neighbours.

Feed Storage: The applicant reiterates that he does not store any of my feed on site as he works to a method of JIT process. All feed is inside hoppers in the poultry housing or in tubs stored within his van and is automated to the birds through either an auger or chain drive.

Pest Control: The applicant states that all sheds have in place pest control and is labelled up and marked out on a shed plan which is approved and audited by the Animal & Plant Health Agency. A plan showing the pest control placement within the polytunnels is attached to the revised supporting documentation received on 20th February 2017.

Working times: The application states that he requires flexibility to allow vehicle movements in between 07:30 to 21:30 7 days a week each year and daily working times of 07:30 to 22:30 7 days a week. Bird removal will be required after dusk.

Traffic information: The proposal originally included for HGV use. This information has subsequently been revised and updated, as detailed and discussed later in this report.

2.0 **SITE LOCATION/DESCRIPTION**

- 2.1 The site lies in the open countryside at Sandford and within the parish of Prees. Sandford comprises a cluster of roadside development along the A41 and west of the point where the A41 becomes a dual carriageway.
- 2.2 Smithy Cottage sits on the southern side of the A41 and is neighboured by Number 1 Sandford to the west and Numbers 2 and 3 Sandford and Sandford Farm to the east. Smithy Cottage comprises a detached dwelling, outbuildings and several acres of land. The land lies to the rear (south and south west) of Smithy Cottage and its neighbours and is bounded along the south western boundary by a watercourse. The land is defined into three parcels which ascend in size, described by the applicant as top field, middle field and bottom field. A polytunnel has been erected on the middle field and it proposed to site a second one directly in line with the first. The authorised use of the site is that of agricultural and, in addition to one polytunnel, the middle field is also in partial use for the open storage of various agricultural implements, equipment, machinery etc.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 Councillor request and Parish Council objection.

4.0 Community Representations

4.1 Consultee Comments

4.1.1 SUDS – (25.8.16) Informative: A sustainable drainage scheme for the disposal of surface water from the development should be designed and constructed in accordance with the Council's Surface Water Management: Interim Guidance for Developers document. It is available on the council's website at: www.shropshire.gov.uk/drainage-and-flooding/local-flood-risk-management-strategy/.

The provisions of the Planning Practice Guidance, in particular Section 21 Reducing the causes and impacts of flooding, should be followed.

Preference should be given to drainage measures which allow rainwater to soakaway naturally. Connection of new surface water drainage systems to existing drains / sewers should only be undertaken as a last resort, if it can be demonstrated that infiltration techniques are not achievable.

4.1.2 **SC Public Protection – Re-consultation comments:** (8.12.16) Have considered latest information and confirm that have no objections to this development on any grounds having reviewed any potential for noise, odour, pest activity, impacts on water supplies, bio aerosols and air quality. As a result, have no conditions to recommend.

Original comments: (23.8.16) Having considered the proposed application have no objections.

4.1.3 **SC Ecology – Re-consultation comments:** (11.1.17) - **Recommendation:** Please include conditions and informatives on the decision notice.

SC Ecology has produced SCAIL Modelling for the proposal, please find an excel attachment containing the SCAIL model output titled 'SmithCottage'.

Planning officer to include the Habitat Regulation Assessment screening matrix within their site report.

Natural England should be formally consulted on SC Ecology's Habitat Regulations Assessment and their comments taken into account prior to a decision being granted.

The proposed development site has low ecological potential. In order to enhance the site for biodiversity Greenscape Environmental Ltd have made recommendations in their 2016 Environmental Appraisal. The following conditions and informatives should be on the decision notice: Conditions - Provision of bat boxes; External light plan; Landscaping scheme. Informatives – Active nests of wild birds.

SCAIL Modelling

The proposed poultry unit has been assessed by SC Ecology using SCAIL modelling (at www.scail.ceh.ac.uk/). Locally designated sites within 2km, nationally designated sites within 5km and European designated sites within 10km have been assessed and have screened out below the critical load threshold agreed by Natural England and the Environment Agency.

LWS Millenheath Area – Process Contribution at the receptor edge; 0.71 NH₃ (ug m⁻³) % of critical load = 23%

SSSI Prees Heath – Process Contribution at receptor edge; 0.00388 NH₃ (ug m⁻³) % of critical load = 0%

SAC Brown Moss – Process Contribution at receptor edge; 0.0017 NH₃ (ug m⁻³) % of critical load = 0%

SAC Fenn`s| Whixall| Bettisfield| Wem and Cadney Mosses – Process Contribution at receptor edge; 0.00086 NH₃ (ug m⁻³) % of critical load = 0%

No further modelling is required.

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).

A Habitat Regulation Assessment matrix is attached with this response. The HRA matrix must be included in the Planning Officer's report for the application and must be discussed and minuted at any committee at which the planning application is presented.

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 Designated site.

Original comments (12.9.16) **Recommendation:** Additional information is required relating to ammonia emissions.

In the absence of this additional information (detailed below) recommend refusal since it is not possible to conclude that the proposal will not cause an offence under the Conservation of Habitats and Species Regulations (2010).

An Ecological Assessment – to include an extended phase 1 habitat survey of the site; a habitat map and target notes for sensitive ecological features; consideration of any European or UK protected species which might be present in the area; a desk study of historical protected species records and the presence of any designated sites within 1km of the proposed development.

SCAIL Modelling - Poultry units have the potential to impact upon designated sites within the wider environment via production of aerial emissions of ammonia and deposition of acid and nitrogen. Potential impacts upon any locally designated sites within 2km, nationally designated sites within 5km and European designated sites within 10km need to be assessed.

Habitat Regulation Assessment - A Habitat Regulation Assessment matrix is attached with this response. The HRA matrix must be included in the Planning Officer's report for the application and must be discussed and minuted at any committee at which the planning application is presented.

Natural England must be formally consulted and regard had 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 Designated site.

4.1.4 **Natural England – Re-consultation comments: (16.12.16) - Conservation of Habitats and Species Regulations 2010 (as amended) and Wildlife and Countryside Act Internationally and nationally designated sites**

The application site is within the impact risk zones for a number of International sites (also commonly referred to as Natura 2000 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 the Brown Moss Special Area of Conservation (SAC) which is a European site. The site is also listed as part of The Midlands Meres and Mosses Phase 1 Ramsar site¹.

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 have². 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

Habitats Regulations Assessment (HRA) Required

In our previous response (our ref 194204) we advised that a Habitat Regulations Assessment be undertaken by your authority as competent authority under the Habitats Regulations. It does not appear that this has been undertaken as yet however we note that an ecological appraisal has now been submitted as has detail about atmospheric emissions resulting from the proposal. This information should help you undertake your HRA.

Original comments: (12.9.16) – Conservation of Habitats and Species Regulations 2010 (as amended) and Wildlife and Countryside Act Internationally and nationally designated sites

Site is within the impact risk zones for a number of International sites (or Natura 2000 sites). Therefore has the potential to affect its interest features. International sites afford protection under the Conservation of Habitats and Species Regulations 2010, as amended (the 'Habitats Regulations'). Site is in close proximity to the Brown Moss Special Area of Conservation (SAC) which is a European site. Site is also listed as part of The Midlands Meres and Mosses Phase 1 Ramsar site¹ and also notified at a national level as Brown Moss Site of Special Scientific Interest (SSSI) Site is also in close proximity to Prees Heath SSSI. Please see the subsequent sections for our advice relating to SSSI features.

In considering the European site interest, NE 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.

Further information required - the consultation does not include a Habitats Regulations Assessment. There is currently not enough information to determine whether the likelihood of significant effects can be ruled out. Recommend you obtain an ecological assessment to help undertake a Habitats Regulations Assessment:

Objection

This application is in close proximity to a number of Sites of Special Scientific Interest (SSSI) as mentioned above. NE objects due to the lack of ecological assessment allowing the consideration of effects on the environment.

If the applicant submits further information relating to the impact of this proposal on the SSSI aimed at reducing the damage likely to be caused, NE will be happy to consider it, and amend our position as appropriate.

If your Authority is minded to grant consent for this application contrary to the above advice, we refer you to Section 28I (6) of the *Wildlife and Countryside Act 1981* (as amended), specifically the duty placed upon your authority, requiring that your Authority;

- Provide notice to Natural England of the permission, and of its terms, the notice to include a statement of how (if at all) your authority has taken account of Natural England's advice, and
- Shall not grant a permission which would allow the operations to start before the end of a period of 21 days beginning with the date of that notice.

Other advice

Would expect the LPA to assess and consider other possible impacts when determining this application:

- local sites (biodiversity and geodiversity)
- local landscape character
- local or national biodiversity priority habitats and species.

NE does not hold locally specific information relating to the above. These remain material considerations in the determination of this planning application.

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..

Protected Species

No ecological reports have been provided. Have not assessed for impacts on protected species. NE has published Standing Advice on protected species which should be applied in this case.

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’*.

4.1.5 **SC Highways – Re-consultation comments: (7.4.17) Recommendation**

No Objection – subject to the development being carried out in accordance with the approved plans and the following conditions.

Observations/Comments:

The application is for the permanent retention of two poly-tunnels which are used to house birds for free-range egg production.

Following the previous Highway Advice Note dated 6th March 2017 clarification has been provided in terms of the business operations and confirms the sole use of the owners van for the egg-production related activities.

The latest submitted statement entitled “Working Vehicle Movements for Poultry Tunnels at Smithy Cottage Sandford, Whitchurch. SY13 2AW” is considered to be acceptable in principle and addresses the previous concerns over the potential use of HGV’s to service the site. The point concerning retail sales of birds has also been clarified.

Based upon the information contained within the above submitted statement it is considered that, subject to the following conditions being included on any approval, there are no sustainable Highway grounds upon which to base an objection: -

1. No retail sales shall take place from the site.

Reason: In the interests of highway safety.

2. No site servicing activities involving HGV’s (i.e., any vehicle with a Gross Vehicle Weight/Maximum Authorised Mass above 3.5 tonnes) shall take place either from within the site or directly from the A41 in relation to the free-range egg production which is the subject of this approval.

Reason: In the interests of highway safety.

Re-consultation comments: (6.3.17) Recommendation

Do not approve – insufficient information and access details have been submitted to assess the implications of the proposal from the highway perspective.

Observations/comments:

A further highway consultation response has been sought following the publication on 20.02.2017 of the supporting documentation (attached to the applicant’s short supporting statement previously published on 01.02.2017).

The information contained within the recently published ‘attachment’ has given a broad outline of the business operation and the associated traffic movements. It is noted that the applicant has further qualified that the running of the business will be reliant on the use of his MWB van with the daily management of the business being conducted by the family.

The highway related concern in respect of a detailed outline of how the business will operate in terms of the substitution of the use of the applicant's van for the delivery and removal of the birds previously undertaken by the HGV's, remains unclear. No clarification has been given on the locations and method of transferring the birds.

The use of the MWB van is expected to rely on a number of 'shuttle runs' to deal with the quantities of birds involved, presumably between the supplier at an agreed off site location, and with a similar process in operation for the removal of the birds at the end of the production cycle. In the absence of the previously detailed HGV movements, the quantities of birds and number of van movements should be detailed to demonstrate that this change is practicable. For clarity, the loading/unloading of HGV's outside the property on the A41 would not be supported. The applicant should therefore qualify what arrangements will be employed to facilitate the transfer of the birds on and off the site along with the operations which may previously have required HGV use.

In addition confirmation from a planning point of view as to whether or not the removal of the birds from the site to 'private owners' constitutes retail sales is also requested.

Additional Comments/Background:

Previous Highway Advice Note dated 16.02.2017

Re-consultation comments: (16.2.17) **Recommendation**

Do not approve – insufficient information has been submitted to assess the implications of the proposal from the highway perspective.

Observations/comments:

Following the Highway Advice Note of 12.12.2016 which sought the submission of an accurate scaled plan and swept path analysis to demonstrate the adequacy of the on-site servicing facilities the applicant has submitted a short supporting statement (published 01.02.2017). The applicant has stated that HGV's will not continue to service the poultry business to remove all of the implications generated by such traffic accessing the site. Whilst the applicant is clearly intending to reach a satisfactory resolution to the highway matters, the lack of detailed information has however generated further questions.

The proposed loss of HGV traffic is considered from a highway perspective to potentially provide a benefit. The layout of the existing access can more easily accommodate the movements of a van whilst such vehicles are also unlikely to cause delays to traffic on the adjoining A41.

The recent supporting statement alone, however, lacks detailed information as to how the business will be serviced. Whilst it is anticipated that the number of transit van movements will increase, further details are considered to be required in respect of operation of the business with the removal of HGV use, particularly the locations and method of transferring quantities of birds at the delivery and removal stages.

The loading/unloading of HGV's outside the property on the A41 would obviously not be supported. Confirmation from a planning point of view as to whether or not the removal of birds from the site to 'private owners' constitutes retail sales is also requested.

It is also noted that within the applicant's supporting statement reference is made to 'revised supporting documentation, with the traffic information updated provided as

attachment'. Whilst the above concerns may have been satisfactorily covered in the stated information, no additional documents appear to be available to review on the planning portal.

Re-consultation comments: (13.12.16) **Observations/comments:**

Following the Highway Advice Note dated 14.10.2016 a revised location and block plan has been received on 02.12.2016. The revised block plan has now included additional annotated information indicating an allocated area to the rear of the house for the turning area for the vehicles in connection with the free range egg laying business.

Unfortunately, the revised plan has not been provided to an acceptable scale and does not include any dimensions to demonstrate the adequacy of the identified turning facility and its ability to cater for the largest vehicle associated with the business. The proposed turning area that is currently shown would appear to be potentially acceptable by assessing the relative proportions of the buildings on the plan, but this is not sufficient to be able to advise that the details are satisfactory to comply with the condition recommended in the Highway Advice Note of 14.10.2016. It is therefore considered that a more accurate plan is submitted which addresses all of the outstanding requirements and includes swept path analysis of the largest vehicle visiting the site and utilising the turning area.

Additional Comments/Background:

Highway Advice Note dated 14.10.2016 received on 18.10.2016

Original comments: (18.10.16) - **Recommendation**

No Objection – subject to the development being carried out in accordance with the approved plans and the following conditions.

Observations/Comments: [29th September 2016]

The application is for the permanent retention of two poly-tunnels which are used to house birds for free-range egg production.

This application is the latest in a series of similar planning applications. The earliest (reference 13/00822/FUL) received a temporary 3 year consent in June 2013 which, upon application for renewal (reference 16/00146/FUL) was refused by the Local Planning Authority.

From Highways point of view, the main issues are the number and type/size of vehicles likely to be generated by the business when considered against the visibility from the existing access onto the A41.

The information currently submitted does identify the number, type and size of vehicles which are used in the operation of the business and this Highway Advice Note is issued on the basis of this information.

Responses to the previous applications were issued on condition that there will be no retail sales from the site. It is not clear from the current information whether the removal of birds from the site to "private owners" constitutes retail sales and it is considered that this should be clarified.

In view of the confirmation of vehicle types used by the business, concerns currently relate to the ability of the site to accommodate large vehicles and enable them to turn and exit in a forward gear. Vehicles reversing onto the A41 at this location would represent a significant highway safety issue due to the visibility afforded by the bend to the west and the relative position of the site access.

The submitted information identifies infrequent access to the site by articulated HGV's and a slightly higher frequency of use by 7.5 and 14 tonne lorries with the

weekly business operations carried out using the owners van. It is, however, unclear what facilities exist for site based vehicles and those visiting the site to enable them to park and manoeuvre and exit in a forward gear. It is considered that such facilities need to be identified and hard-surfaced, to enable use all year round, and secured as part of any permanent planning consent.

It is therefore, considered that the following conditions should be included on any approval: -

1. Details of the areas within the site for the parking, turning, loading and unloading of vehicles shall be submitted to, and approved in writing by, the Local Planning Authority with the areas approved laid out and surfaced in a bound material within 1 month of the date of the planning permission. The approved parking, turning, loading and unloading areas shall be kept clear and maintained at all times for that purpose.

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

2. No retail sales shall take place from the site.

Reason: In the interests of highway safety.

4.2 Public Comments

4.2.1 **Prees Parish Council – Re-consultation comments: (21.4.17) Object.** Having considered the updates, and notwithstanding the fact that some statutory consultees have apparently withdrawn their objections, Prees Parish Council still wishes to register its objection to this Application in the strongest terms. None of the accommodations reached address the fundamental reason for objection which is the distress and misery caused to the neighbouring residents. This is a residential area and it is not the right site for such a business. Prees Parish Council has been arguing this since February 2016. The associated vermin (rats!), flies and smell all impact most horribly on the neighbouring residents, curtailing their amenity and enjoyment of their own properties. Prees Parish Council objects.

Re-consultation comments: Objects (22.2.17). **Object.** Prees Parish Council has reconsidered this Application and looked at the letter. It still has severe reservations. What assurance is there that plans, for example to dispose of waste to a neighbouring farmer, will be adhered to long-term? Who will be ensuring that this is the case? Prees Parish Council feels unable to support this application.

Original comments: (21.9.16) Object. Prees Parish Council wishes to register its strong objection to this Application, for all the same reasons it objected before, and also concurring with the additional concerns raised by Natural England, who express the opinion that this application, which is in close proximity to a number of Sites of Special Scientific Interest, is likely to damage or destroy the special features for which these sites have been notified.

4.2.2 **Public representations** - Eight representations of objection have been received, including multiple representations from the same households and a representation from Design Construction Management Services signed by several local residents. Concerns raised include:-

Road safety on A41 – are many accidents on this area of road/is an accident black spot; Dangerous access; Inadequate visibility; Road is narrow with bends, 60 mph speed limit, no lighting and double white lines; Turning is a problem; Unsuitable for large vehicles; Question vehicle numbers/traffic information; More vehicles used than stated; Drainage; Smell; Dust; Hygiene/sanitation; Disease; Noise pollution; Waste collection/disposal; Mounds of waste left on land; Fires burning chicken waste; Flies/rats/pest control; Food storage; Threat to residents health; Impact on residents quality of life; Impact on ecological environment; No tree survey; Hours of operation – applicant works fulltime elsewhere; Tractors/machinery used in fields at unreasonable hours; Question number of birds; Sale of birds to public; Plans are misleading/inaccurate; Question need for second polytunnel; Visual impact/unsightliness

The full content of the consultee responses and public representations are available to view on line.

5.0 THE MAIN ISSUES

- Policy and principle of development
- Siting, scale and design and visual impact
- Access and traffic generation
- Pollution and impact on residential amenity
- Ecology
- Drainage

6.0 OFFICER APPRAISAL

6.1 Policy and principle of development

6.1.1 The proposal is for agricultural related development. The proposal is located within a predominantly rural area where the provision of agricultural related development to serve farming enterprises is considered appropriate in principle under Core Strategy policy CS5 and SAMDev policy MD7b, subject to matters of siting, scale and design, general development control criteria and environmental expectations. In rural areas Policy CS13 of the Core Strategy further emphasises the requirement for economic activity associated with agriculture to accord with policy CS5, whilst the National Planning Policy Framework actively promotes a strong and prosperous rural economy.

6.2 Siting, scale and design and visual impact

6.2.1 Policies CS5 and CS6 of the Core Strategy together with SAMDev policy MD7b seek to ensure that all development and is appropriate in terms of siting, scale, design and appearance, taking into account the local context and character.

6.2.2 Siting: Both of the polytunnels will be sited on agricultural land in an area that relates to existing rural development but is not unduly visible from a public vantage point. Furthermore, the nearest dwelling lies over 55 metres away and sits on higher ground than the polytunnels. Therefore, taking into account the context and relief of the land, it is considered that the chosen siting of the polytunnels will not appear obtrusive in the local landscape or too close to neighbouring residential properties in physical terms.

6.2.3 **Scale, design and visual impact:** Each polytunnel measures 14 m x 6.4 metres x 3.1 m high, is of a reasonably robust design for the type of structure and is finished externally in dark green pvc. The footprint and is not overly large in relation to the parcel of land and, in terms of bird numbers, the agricultural business is not considered to be of a substantially large scale. On this basis, the physical scale of the structures and size of the agricultural enterprise is considered appropriate for the location. Furthermore, paying due regard to matters of topography; the presence of existing trees and hedgerows; the limited height of the structures and their green colour, the tunnels are also considered to be of an acceptable scale, design and external appearance that will not have an adverse visual impact on the locality.

6.2.4 Overall, therefore having regard to the context, setting and topography of the site it is considered that the location and scale of the development is acceptable and further that the design and external appearance of the polytunnels will not have a detrimental impact on the character and appearance of the local rural landscape. In this context the development is in accordance with policies CS5 and CS6 of the Core Strategy, policy MD7b of the SAMDev Plan and the National Planning Policy Framework.

6.3 **Access and traffic generation**

6.3.1 From Highways point of view, the main issues are the number and type/size of vehicles likely to be generated by the business when considered against the visibility from the existing access onto the A41.

6.3.2 The Council's Highway Development Control Team has been consulted on the application. In response to the comments/concerns raised by Highways and objectors, the applicant has supplied revised/additional information about the operation of the business and the associated likely traffic generation, as quoted below:

'I have reviewed the Highway comments and looked into the feasibility of driving in and out of my premises in a forward gear using heavy goods vehicles. Using the swept path tool this came up ok, to use my top field as the main area. However I have decided that going forward I wish to not have any form of heavy goods vehicles arriving at my premises in conjunction with the poultry unit, instead I shall use my van to collect the point of lay hens in and removal of end of lay. By doing this the vehicle movement will fall dramatically with the poultry unit and remove this single issue. ...'

'Delivery of birds onto the above site,

This action would take one return trip per year using my current MWB transit van with the assistance of 16 crates to move 500 birds. Collection of these birds would be from a free range bird farm when they receive their bird delivery themselves.

Removal of birds from the above site;

This action would again take one return trip per year using my current MWB transit van with the assistance of 16 crates available, I have just recently emptied shed 1 to a site for slaughter with this process.

Location & removal of birds;

- Location of birds for collection would be at a free range farm in Shrewsbury, removal of birds is at a location in Birmingham for slaughter.
- Total vehicle movements;**
 - Currently birds have been dropped off using HGV that has carried on from my packer in Shrewsbury, this will now be changed to myself collecting birds using crates and MWB transit van, and this will be one return journey per year.
 - Currently birds have been sold on to private owners at End Of Lay, this has now been changed to removal to a slaughter house in Birmingham, this will be one return journey per year.
 - Currently and today I collect feed and drop eggs off at a free range poultry farm twice a week using my MWB transit van. I was looking into having the feed delivered to the premises but due to the size of the business, myself collecting the feed means I work to minimum feed storage as I currently have done for 9 years.
- Loading/Unloading on A41;**
 - I have never unloaded/loaded on the A41 and would never plan to do this.
- Reason for thinking of using HGV;**
 - Sole reason to use HGV in the first instance was just for ease, however when looking into costs against cash flow especially with the feed, the turnaround just was not justified against the size of the birds.
- Private sale of birds;**
 - Private sale of birds at the premises was taking place but has now stopped; when EOL arrives birds are removed as per the vehicle movement plan for slaughter through a reputable company.

A basic outline of the vehicle movements from the mentioned detail before is set out below,

- Two return trips to carry out collection and removal of birds using MWB transit van. This will be carried out once per year for both collection and removal, one return trip for collection, one return trip for removal.
- Two return trips to carry out collection of feed, whilst at the same time delivering the eggs. The two trips will be carried out weekly again using the MWB transit van.'

6.3.3 Objectors continue to question the accuracy of the submitted traffic information and remain concerned on highway safety grounds. However, Highways are satisfied with the latest submitted information, which clarifies the business operations and confirms the sole use of the owners van for the egg-production related activities. This is considered to address Highways previous concerns over the potential use of HGV's to service the site. The point concerning retail sales of birds has also been clarified.

6.3.4 Therefore, based upon the information contained within the applicants' latest submitted statement Highways consider that, subject to the imposition of recommended conditions on any approval, there are no sustainable Highway grounds upon which to base an objection. The recommended conditions are for no retail sales to take place from the site and for no site servicing activities involving HGV's (i.e., any vehicle with a Gross Vehicle Weight/Maximum Authorised Mass

above 3.5 tonnes) to take place either from within the site or directly from the A41 in relation to the free-range egg production.

6.4 **Pollution and impact on residential and local amenity**

- 6.4.1 Policy CS6 of the Core Strategy alongside SAMDev policy MD7b and the NPPF refer to the need to safeguard residential and local amenity and recognise the importance of ensuring that developments do not have unacceptable consequences for neighbours.
- 6.4.2 As per previous applications, neighbours and the Parish Council continue to express objections and concerns relating to potential pollution and nuisance issues arising from the poultry use and highlight the problems that are already experiencing in this connection. As documented in previous reports complaints have been lodged with and investigated by the Council's Public Protection Officer in this regard, including several site visits, since the first polytunnel has been in place. His findings did not substantiate any statutory nuisance but, when commenting on application reference 16/00146/FUL and in recognition of any potential for the poultry enterprise to impact adversely on neighbouring amenity he did recommend certain planning conditions were imposed in order to control the use and safeguard amenity.
- 6.4.3 In this context the Council's Public Protection Officer has been consulted on this current application. Nonetheless, having considered the information submitted with the application, the Public Protection Officer confirms that he has '*... no objections to this development on any grounds having reviewed any potential for noise, odour, pest activity, impacts on water supplies, bio aerosols and air quality. As a result, have no conditions to recommend.*'
- 6.4.4 Notwithstanding, these latest comments of the Public Protection Officer, bearing in mind the continued concerns of neighbours and the Parish Council, Members may consider it necessary to impose conditions in order to control the use and safeguard amenity if the application is to be approved. For this reason, it is recommended that conditions are imposed to limit bird numbers and restrict hours to that specified in the application and for waste disposal to accord with the submitted details. Otherwise, if poor management practice does result in pollution or nuisance issues, then the Public Protection team could further investigate this under nuisance legislation.
- #### 6.5 **Ecology**
- 6.5.1 Both the Council's Planning Ecologist and Natural England have been consulted on the application which has resulted in the submission of Phase 1 Environmental Appraisal conducted by Greenscape Environmental Ltd (October 2016). Despite contrary opinions and objections from neighbours, SC Ecology are satisfied that the development will have no adverse impact on local or national biodiversity, habitats and protected species and Natural England no longer specify an objection.
- 6.5.2 Given the location of the site in relation to Fenn's, Whixall, Bettisfield, Wem and Cadney Mosses SAC and Midland Meres and Mosses Ramsar Phase 2 and Brown Moss SAC and Midland Meres and Mosses Ramsar Phase 1 a Habitat Regulation Assessment (HRA) matrix has been completed by the Council's Planning Ecologist. The HRA is attached to this report for the information, discussion and consideration

of Members at the committee meeting.

- 6.5.3 In accordance with the advice of SC Ecology, Natural England has been consulted on the completed HRA. The formal comments of Natural England are awaited at the time of writing this report. A decision cannot be issued until the formal comments of NE are received on the HRA.
- 6.5.4 SC Ecology also specify that the development site has low ecological potential. Therefore, biodiversity enhancements are recommended in the form of bat box provision and landscaping, secured by imposing conditions. A standard condition regarding external lighting is also recommended, although this is not considered necessary, as this aspect can be adequately addressed by incorporating the advice as an informative in relation to bats.
- 6.5.5 On the basis of the above and the full comments of Natural England and the Council's Ecologist it is considered that the requirements of Core Strategy policy CS17 are satisfied in relation to ecology issues.

6.6 **Drainage**

- 6.6.1 The Council's Drainage Team were consulted on the application and have raised no issues on drainage grounds, other than to recommend an informative relating to a sustainable drainage scheme for the disposal of surface water from the development.
- 6.6.2 Accordingly, the proposal is considered to satisfy policy CS18 of the Core Strategy in drainage terms.

7.0 **CONCLUSION**

- 7.1 Whilst the objections and concerns of local residents and the Parish Council are acknowledged, the proposed development is for agricultural purposes and is considered to be of an appropriate siting, scale, and design that will not have a detrimental impact upon the visual character and appearance of the local rural landscape. Furthermore, taking on board the consultee comments received from each of the related disciplines and on the basis of the submitted information, it is not considered that the proposed development will unacceptably and adversely impact on the residential and general amenities of the surrounding area; ecology; drainage or local highway conditions, all subject to compliance with planning conditions and to subject to no objections being received from Natural England in relation to SC Ecology's completed HRA matrix. Therefore, on balance the proposal is considered to accord with policies CS5, CS6, CS13, CS17 and CS18 of the Shropshire Core Strategy, SAMDev Plan policies MD7b and MD12 and the National Planning Policy Framework.
- 7.2 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.

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 gives 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 1990.

9.0 Financial Implications

There are likely financial implications if 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 dependent on the scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – insofar as they are material to the application. The weight given to this issue is a matter for

the decision maker.

Habitat Regulation Assessment (HRA) Screening Matrix & Appropriate Assessment Statement

Application name and reference number:

16/03556/FUL
Smithy Cottage
Sandford
Whitchurch
Shropshire
SY13 2AW
Application under Section 73a of the Town and Country Planning Act 1990 for the permanent retention of two poly tunnels to house free range egg laying birds

Date of completion for the HRA screening matrix:

11th January 2017

HRA screening matrix completed by:

Nicola Stone
Planning Ecologist
Shropshire Council

Table 1: Details of project or plan

Name of plan or project	16/03556/FUL Smithy Cottage Sandford Whitchurch Shropshire SY13 2AW Application under Section 73a of the Town and Country Planning Act 1990 for the permanent retention of two poly tunnels to house free range egg laying birds
Name and description of Natura 2000 site	<p>Fenn` s, Whixall, Bettisfield, Wem and Cadney Mosses SAC and Midland Meres and Mosses Ramsar Phase 2 (949.2ha) together form an outstanding example of lowland raised mire. The site as a whole supports a wide range of characteristic acid peat bog vegetation. The moss complex, which straddles the border between Shropshire, England and Clwyd, Wales, is one of the largest and most southerly raised mires in Britain.</p> <p>Annex I Habitats that are a primary reason for selection of the SAC:</p> <ul style="list-style-type: none"> • Active raised bog. <p>Annex I Habitats present as a qualifying feature but not a primary reason for selection of the SAC:</p> <ul style="list-style-type: none"> • Degraded raised bogs still capable of natural regeneration <p>The site is included within the Ramsar Phase 2 due to its Raised Bog and Carr habitats with invertebrate assemblages and the plant species polifolia, Dicranum undulatum and Sphagnum</p>

	<p>pulchrum.</p> <p>Brown Moss SAC Brown Moss SAC and Midland Meres and Mosses Ramsar Phase 1 (32.02ha) is a series of pools set in heathland and woodland. The site is of special importance for the marsh, swamp and fen communities associated with the pools which occupy hollows in the sand and gravel substrate. Brown Moss differs from other North Shropshire Mosses in consisting of a series of pools set in an area of heathland and woodland, rather than an expanse of peat. Annex II Species that are a primary reason for selection of site as an SAC: <input type="checkbox"/> Floating Water Plantain <i>Luronium natans</i></p> <p>Brown Moss is included within the Midland Meres and Mosses Ramsar Phase 1 for its Open water, Swamp, Fen and Basin Mire habitats with the plant species <i>Luronium natans</i>.</p>
Description of the plan or project	Application under Section 73a of the Town and Country Planning Act 1990 for the permanent retention of two poly tunnels to house free range egg laying birds
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)?	Not applicable – where no potential effect pathway is identified an in-combination effects test is not required.

Statement

The proposed poultry unit has been assessed by SC Ecology using SCAIL modelling (at www.scail.ceh.ac.uk/). Locally designated sites within 2km, nationally designated sites within 5km and European designated sites within 10km have been assessed and have screened out below the critical load threshold that has been agreed by Natural England and the Environment Agency.

SAC Brown Moss – Process Contribution at receptor edge; 0.0017 NH₃ (ug m⁻³)
% of critical load = 0%

SAC Fenn`s| Whixall| Bettisfield| Wem and Cadney Mosses – Process Contribution at receptor edge; 0.00086 NH₃ (ug m⁻³)

% of critical load = 0%

The Significance test

There is no likely significant effect on European Designated Site's within 10km from planning application reference 16/03556/FUL.

The Integrity test

There is no likely effect on the integrity of European Sites in 10km from planning application reference 16/03556/FUL.

Conclusions

Natural England should be consulted on SC Ecology's HRA to confirm that there is no legal barrier under the Habitat Regulation Assessment process to planning permission being granted in this case.

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' which must both be satisfied before a competent authority (such as a Local Planning Authority) may legally grant a permission.

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.

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 is 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. BackgroundRelevant Planning Policies**Central Government Guidance:**

National Planning Policy Framework

Core Strategy and SAMDev Plan Policies:

CS1 - Strategic Approach

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

MD1 - Scale and Distribution of Development

MD2 - Sustainable Design

MD7B - General Management of Development in the Countryside

MD12 - Natural Environment

RELEVANT PLANNING HISTORY:

NS/07/02344/FUL Proposed erection of two storey link extension and conversion of outbuilding to provide additional living area CONAPP 9th January 2008

13/00822/FUL Application under Section 73a of the Town and Country Planning Act 1990 for the erection of two polytunnels to house free range egg laying birds GRANT 27th June 2013

16/00146/FUL Application under Section 73a of the Town and Country Planning Act 1990 for the permanent retention of two poly tunnels to house free range egg laying birds REFUSE 15th June 2016

11. Additional Information

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
Cabinet Member (Portfolio Holder) Cllr R. Macey
Local Member Cllr Paul Wynn
Appendices APPENDIX 1 - Conditions

APPENDIX 1

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 documentation, including traffic movements, waste disposal and pest control all as detailed in the submitted and approved documentation.

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 DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT

3. A total of 1 woodcrete bat boxes suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected on the site within 3 months of the permission hereby granted. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained.

Reason: To ensure the provision of roosting opportunities for bats which are European Protected Species

4. Within 3 months of the permission hereby granted a scheme of landscaping shall be submitted to and approved in writing by the local planning authority. Works shall be carried out as approved. The submitted scheme shall include:

- a) Planting plans, including wildlife habitat and features (e.g. bat box)
- b) Schedules of plants, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate. Native species used to be of local provenance (Shropshire or surrounding counties).
- c) Implementation timetables

Reason: To ensure the provision of amenity and biodiversity afforded by appropriate landscape design

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

5. No retail sales shall take place from the site.

Reason: In the interests of highway safety.

6. No site servicing activities involving HGV's (i.e., any vehicle with a Gross Vehicle Weight/Maximum Authorised Mass above 3.5 tonnes) shall take place either from, within the site or directly from the A41 in relation to the free-range egg production which is the subject of this approval.

Reason: In the interests of highway safety.

7. The number of birds housed within both of the polytunnels hereby approved shall not exceed 500 in total, with the exception of the rotation overlap period, which shall be for no more than two months in any calendar year, when the number of birds housed within both polytunnels shall not exceed 1000 in total.

Reason: In order control the use of the development in the interest of the amenity of the area

8. No vehicle movements from and/or to the property access for the purpose of serving the poultry development hereby approved shall take place between the hours of 21:30 to 07:30 on any day.

Reason: To protect the amenity of the area.

9. Except for emergencies no activities relating to the management of the poultry including but not limited to feeding, removing manure from polytunnels, site maintenance, opening up and locking down of the polytunnels at the beginning and end of the day, shall take place between the hours of 22:30 - 07:30 on any day.

Reason: to protect the amenity of nearby residential properties.

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