

Development Management Report

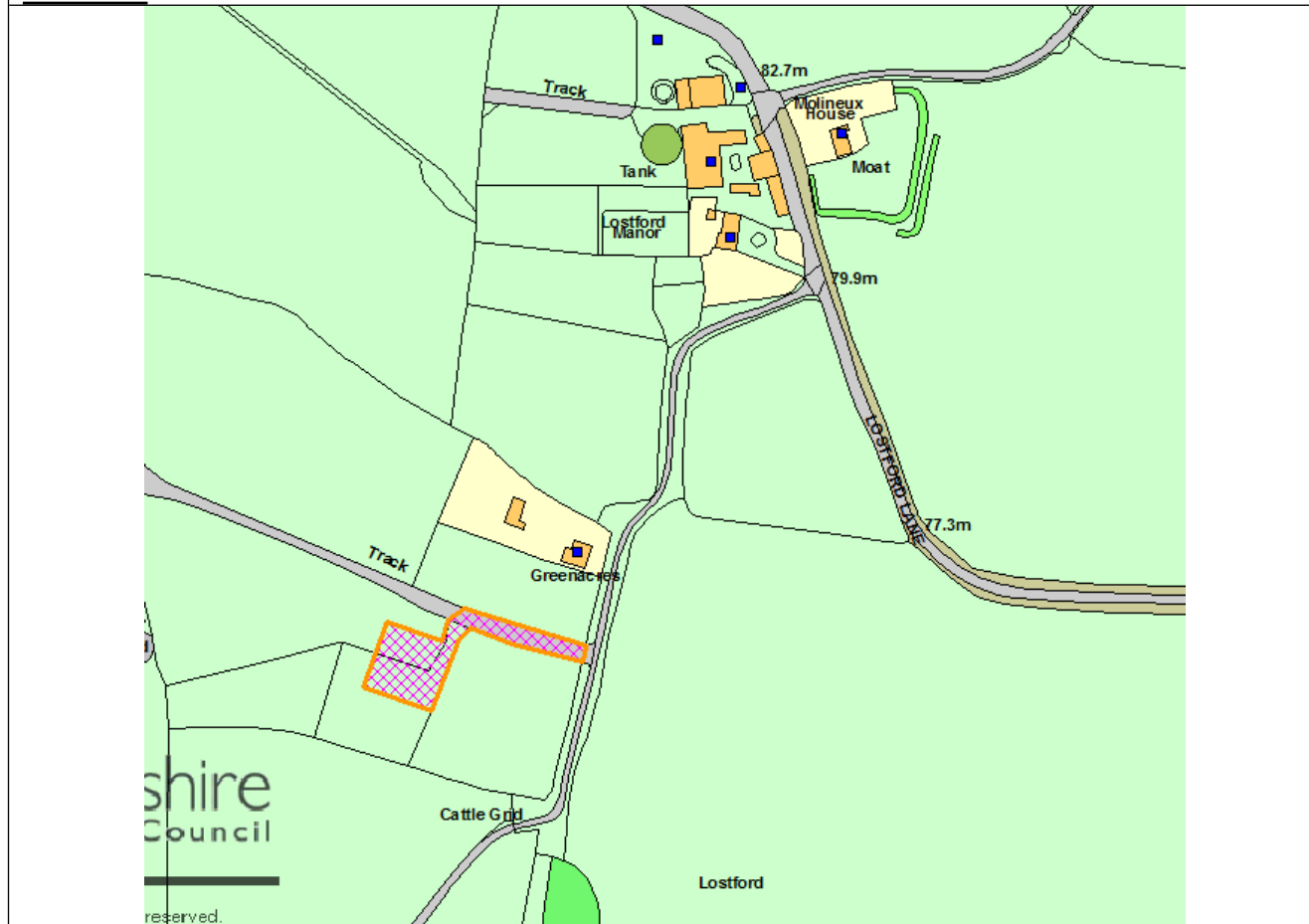
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Summary of Application

<u>Application Number:</u> 16/05812/FUL	<u>Parish:</u> Hodnet
<u>Proposal:</u> Erection of general purpose agricultural building	
<u>Site Address:</u> Land At Lostford Lane Wollerton Shropshire	
<u>Applicant:</u> Mr Andrew Growcott	
<u>Case Officer:</u> Sue Collins	<u>email:</u> planningdmne@shropshire.gov.uk

Grid Ref: 362075 - 331808



Recommendation:- Grant Permission subject to the conditions set out in Appendix 1.**REPORT****1.0 THE PROPOSAL**

- 1.1 This application seeks planning permission for the erection of a new general purpose agricultural building on land off Lostford Lane, Wollerton.
- 1.2 The building is to be sited parallel with the existing agricultural building and with the eastern side elevation level with that of the existing building too. The building will measure 23.058 metres by 15.826 metres and have an overhang of 1.524 metres. The height will be a maximum of 6.413 metres. On three sides the building will be clad in precast concrete panels to 1.524 metres with Yorkshire boarding above. Part of the northern elevation and the eastern elevation will have box profile metal cladding coloured slate blue with anthracite grey cement fibre sheeting to the roof. Some clear PVC rooflights will be installed to provide additional light. Under the overhang, the feed barriers will be installed and access into the building will be through doors at either end of the building.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The land on which the building is to be sited is relatively flat with the existing building being located adjacent to the proposed site. The land drops away to the east and as such from the A53 it would be visible on the skyline.
- 2.2 There is a bungalow located to the north east with a further dwelling to the south east with access being via a single width track. Within the landscape the majority of field boundaries are defined by hedgerows with trees interspersed. Planting along the eastern boundary of the site has been undertaken following the appeal decision for the other building.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Parish Council has objected to the proposed development and this is contrary to the opinion of Officers. Having contacted the Local Member it has been requested that the application be determined by the Planning Committee so that they can assess the relevant material planning issues.

4.0 COMMUNITY REPRESENTATIONS full details of the responses can be viewed online**4.1 Consultee Comments****4.1.1 Parish Council:**

Response received 13.04.17

Although the applicant has amended this application Hodnet Parish Council still objects to this planning application and would like to reiterate its comments of 3rd February 2017.

Response received 03.02.17

Hodnet Parish Council objects to this planning application on the following grounds:

- The applicant has been granted retrospective planning permission for the existing building which was not built in accordance with the approved plans..
- Conditions attached to the permission have not been complied with.
- An ecology survey should be submitted.

- Details for the storage of manure etc should be provided.
- The current building is sufficient for the needs of the agricultural holding.
- This is an industrial expansion on a small area of land.

Response received 17.01.17

Hodnet Parish Council objects to this application as they understand that there is still an appeal pending on this site relating to the actual size of the Building exceeding that of the Planning Permission.

- 4.1.2 **Drainage:** No objection other than to include an informative on any planning permission that may be required.
- 4.1.3 **Shropshire Fire and Rescue:** No objection. As part of the planning process, consideration should be given to the information contained within Shropshire Fire and Rescue Services Fire Safety Guidance for Commercial and Domestic Planning Applications which can be found using the following link:
<http://www.shropshirefire.gov.uk/planning-applications>
- 4.1.4 **Ecology:** No objection
No further ecological survey is required.
Great Crested Newts
There are existing records for the ponds to the west of the site. However, due to the scale and type of development and distance from ponds it is considered highly unlikely that an offence would be committed. However, it is very important that works be carried out with the recommended conditions and informatives in mind.
- 4.2 **Public Comments**
- 4.2.1 Five letters of representation have been received. The areas of concern relate to:
- The applicant always disregards planning permissions.
 - No soakaways have been installed for the existing building.
 - The development is turning the area into an industrial unit.
 - It will have a detrimental visual impact on the countryside.
 - Justification for the new building is spurious
 - There are other more appropriate sites for development.
 - It is unlikely that 150 sheep will lamb in one night.
 - Hay is currently stored in polythene
 - A new barn is not required to repair duck pens especially as the pens have not be removed from site since they were first erected.
 - No extra livestock has been present on the land.
 - An ecology survey should be provided
 - Previous works will have affected protected species and habitats
 - No drainage details have been provided. This could lead to surface water flooding in the area.
 - As the applicant fails to comply with planning permissions and their associated conditions, any decision should not be subject to conditions requiring further details to be submitted for later approval.
 - Full details as to the size of the holding, other buildings and the use the land is put to should be provided to verify the need of the building.
 - The existing building is under-utilised and could accommodate the extra uses.
 - It will have a significant and detrimental impact on neighbouring properties.

5.0 THE MAIN ISSUES

- Principle of Development and Planning History
- Design, Scale and Character
- Impact on Residential Amenity
- Ecology
- Drainage

6.0 OFFICER APPRAISAL

6.1 Policy & principle of development and Site History

- 6.1.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Since the adoption of the Councils Core Strategy the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given weight in the determination of planning applications. The NPPF advises that proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. The NPPF constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications.
- 6.1.2 Policy CS13 of the Shropshire Core Strategy deals with the aspect of economic development, enterprise and employment. This supports the principle of development to maintain and deliver sustainable economic growth and prosperous communities. In particular in rural areas it recognises the continued importance of farming for food production and supporting rural enterprise. The policy specifically identifies agricultural and farm development as this provides food.
- 6.1.3 In addition to this policy MD7b of SAMDev also sets out further considerations for development for agricultural purposes. This advises that provided it can be demonstrated that the proposal is of a scale, size and type which is consistent with its intended use; that it complies with other policies; and is closely related to existing farm buildings then the proposal should be supported.
- 6.1.4 Development in the countryside is also dealt with under policy CS5 of the Shropshire Core Strategy. This again supports appropriate development for agricultural purposes.
- 6.1.5 The site has a complicated planning history. In June 2012 planning permission was refused for the erection of an agricultural storage building and 5 wooden sheds for livestock, the retention of a hardcore track and hardstanding, reference number 11/04429/FUL. This was subsequently appealed and the Planning Inspector allowed the appeal, reference 12/01984/REF. Conditions 4 and 7 attached to the permission were discharged on the 17th May 2013, reference number 13/01466/DIS. However the applicant failed to comply with the approved plans in that he constructed a larger barn and more than 5 wooden duck and geese sheds. Therefore a further application was made, reference 14/04787/VAR to deal with the differences. This was refused in March 2015 and was again appealed. The Planning Inspector allowed the appeal (reference 15/02311/REF)

in December 2015. It is noted that the condition requiring drainage details to be submitted for approval has not yet been discharged, however the agent has confirmed to the case officer that this is in hand and will be submitted.

- 6.1.6 At present there are no other outstanding matters in terms of breaches of consent or planning law as cited by some residents and Parish Council. However, the failure of the applicant to comply with previous applications or conditions is not a material planning consideration. Therefore it is the recommendation of officers that this should not be used as a reason to justify refusal. Retrospective applications are not well received by communities and some members, however it is not illegal to apply for retrospective planning permission.
- 6.1.7 The applicant has provided confidential information to demonstrate that since the previous appeal was allowed for the extension to the existing building, the size of the holding has been increased to 132 acres and the number of livestock on the holding as a whole has also increased. The applicant owns 36 acres and the remainder are occupied as a tenant. The land is spread over a wide area with livestock moved as necessary to the various parts of the holding.
- 6.1.8 The farm is primarily for livestock including sheep and beef cattle and due to the nature of the business it is necessary to buy in straw, hay and feed which needs to be stored as well as requiring storage for farm machinery and equipment. In addition the ewes will need accommodation during lambing time generally February to April. Beef cattle will also need to be housed during the winter months and this new building will provide the necessary accommodation. While some things such as hay are being stored outside other items such as feed and equipment benefit from being stored within a building. Particularly in terms of security for equipment.
- 6.1.9 It is stated in the Design and Access Statement that it has not been possible to fully use the existing building as originally proposed as it is not large enough to meet the needs of the expanding business.
- 6.1.10 While local residents have commented that they see no justification for the need, officers are of the opinion that there is justification given the increase in the size of the holding and the livestock numbers being considered.
- 6.1.11 On the basis of the above it is the opinion of Officers that there is a justifiable need for the building on the site in order for the agricultural business to expand and operate. This includes the storage of fodder and equipment as well as meeting welfare standards for the livestock. Therefore in principle the proposal is in accordance with the NPPF and policies CS5, CS13 and MD7b of the Shropshire LDF.
- 6.2 **Design, Scale and Character**
- 6.2.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character. The development should also safeguard residential and local amenity, ensure sustainable design and construction principles are incorporated within the new development. Policy 7 'Requiring Good Design' of the

National Planning Policy Framework indicates that great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.

- 6.2.2 In addition policy MD2 of SAMDev builds on policy CS6 and deals with the issue of sustainable design.
- 6.2.3 Local residents have objected to the scale and design of the building in that it is creating an industrial character into the rural area.
- 6.2.3 The building has been designed to be similar to the existing building on the land but it will be smaller in footprint. Externally the materials proposed are generally what is found in other agricultural buildings and over time the timber cladding mellows and is less visible in the landscape. The use of slate blue profile sheeting and anthracite coloured panels on the roof are also acceptable. Furthermore by locating the proposed building next to the existing building and it being parallel its visual impact in the landscape would be minimised and it would meet the requirements of policy MD7b of SAMDev.
- 6.2.4 It is the nature of modern day farming that agricultural buildings need to be larger to not only house livestock, accommodate feed, hay, straw etc and equipment but also to allow the larger vehicles access. Externally the materials used do appear more industrial, but this is a common feature of modern agricultural buildings with many farms across the country utilising this design.
- 6.2.4 Overall from the details submitted with the application Officers are of the opinion that the proposed design and scale of the building is appropriate for its intended use. Its position in relation to the existing building is acceptable and overall the proposal is in accordance with policies CS5, CS6, CS13, MD2 and MD7b of the Shropshire LDF.
- 6.3 **Impact on Residential Amenity**
- 6.3.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity.
- 6.3.2 It has been commented upon that the proposal will have a significant detrimental impact on nearby residential properties. However this statement does not specify in what way the proposed building will have an impact on them.
- 6.3.3 As previously set out in this report, there are two dwellings nearby to the site. Greenacres is located in excess of 70 metres from the site and Lostford Manor is in excess of 200 metres. While they will be able to view the building, this should not be used as a reason to refuse planning permission otherwise all planning applications could be refused.
- 6.3.4 The distance between the building and the neighbouring properties would not result in any loss of light or privacy. As such officers are of the view that the development would not cause a detrimental impact on the residential amenities of the surrounding area.

6.4 Ecology

- 6.4.1 The NPPF and policy CS17 of the Shropshire Core Strategy require consideration to be given to the impact of the proposed development on the natural environment. This particularly relates to the impact on statutorily protected species and habitats. Policy MD12 of SAMDev further supports the principle of protecting and enhancing the natural environment. Therefore the application has been considered by the Council's Ecologist.
- 6.4.2 Concerns have been raised by the Parish Council and local residents regarding the lack of information provided with the application in relation to ecology.
- 6.4.3 The Council's Ecologist has commented that no ecology surveys are required. Therefore the Local Planning Authority cannot ask for them to be provided. The informatives and conditions recommended by the Ecologist should be included on any planning permission granted.
- 6.4.4 It has been referenced that because the previous applications required ecology surveys that this application should also contain an ecology assessment. However the previous applications included the land where the duck and geese pens were to be sited. These are in close proximity to the areas of the Great Crested Newts and therefore required such assessments to be provided. As identified by the Council's Ecologist, this site is sufficiently far enough away from the habitats that it is unlikely to cause a breach of the regulations.
- 6.4.5 In view of the comments from the Council's Ecologist it would appear that the proposed development will not have a detrimental impact on statutorily protected species and habitats. As such the proposal meets the requirements of the NPPF policy CS17 of the Shropshire Core Strategy and policy MD12 of SAMDev.

6.5 Drainage

- 6.5.1 The NPPF and policy CS18 of the Shropshire Core Strategy require consideration to be given to the potential flood risk of development.
- 6.5.2 Concerns have been expressed that the applicant has previously failed to deal with conditions on the existing building relating to drainage. It has also been suggested that the details should be submitted prior to consent being granted.
- 6.5.3 As previously indicated in this report, the agent is dealing with the matter regarding the drainage for the previous appeal decision.
- 6.5.4 In this case, the Council's Drainage Engineer has not requested that any further details be provided regarding surface water disposal. It has been recommended that an informative be added in regard to sustainable drainage scheme.
- 6.5.5 In view of the above it is considered that an appropriate drainage system can be installed to meet the requirements of the NPPF and policy CS18 of the Shropshire Core Strategy.

7.0 CONCLUSION

- 7.1 While there is objection to the proposed development, it is the opinion of officers that the proposal is acceptable in its scale and design for the needs of the holding.

As such the development is in accordance with the NPPF and policies CS5, CS6, CS13, CS17, CS18, MD2, MD7b, and MD12 of the Shropshire LDF.

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 - written representations, a hearing or inquiry.
- The decision is challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be a) promptly and b) in any event not later than 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

9.1 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.

10. BACKGROUND

Relevant Planning Policies

National Planning Policy Framework

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

Relevant planning history:

09/70036/FUL Change of use of land from agricultural for the rearing of game birds, erection of bird rearing pens/ runs and erection of associated storage building with creation of access REFUSE 15th September 2009

09/03052/FUL Erection of temporary seasonal rearing pens and outdoor runs; formation of access track to include change of use of land REFUSE 19th August 2010

11/04429/FUL Erection of an agricultural storage building and 5 no. wooden sheds for livestock; retention of hardcore track and hardstanding REFUSE 1st June 2012

13/01466/DIS Retention of hardcore track and hardstanding, erection of a portal framed metal clad agricultural building, 5 wooden duck and geese sheds and chicken wire runs DISAPP 17th May 2013

14/04787/VAR Variation of Condition No.1 (approved plans) attached to planning application

11/04429/FUL approved on appeal to amend the approved plans REFUSE 23rd March 2015

17/02760/DIS Discharge of Condition 7 (Soakaways) attached to planning permission

Appeal

09/01611/REF Change of use of land from agricultural for the rearing of game birds, erection of bird rearing pens/ runs and erection of associated storage building with creation of access DISMIS 20th September 2010

Appeal

10/01779/ENF Appeal against unauthorised engineering works DISMIS 20th September 2010

Appeal

10/01801/ENF Appeal against unauthorised engineering works DISMIS 20th September 2010

Appeal

12/01984/REF Erection of an agricultural storage building and 5 no. wooden sheds for livestock; retention of hardcore track and hardstanding ALLOW 2nd January 2013

Appeal

15/02311/REF Variation of Condition No.1 (approved plans) attached to planning application
11/04429/FUL approved on appeal to amend the approved plans ALLOW 22nd December
2015

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 R. Macey
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Local Member

Cllr Karen Calder

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 drawings
Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.
3. Prior to first occupation / use of the building, details for the provision of bird boxes shall be submitted to and approved in writing by the Local Planning Authority. A minimum of 2 artificial nests of either integrated brick design or external box design, suitable for sparrow (32mm hole, terrace design) or starling (42mm hole, starling specific) shall be erected on the site. The box[es] shall be sited in at least 2m from the ground on a suitable tree or structure at a northerly or shaded east/west aspect (under eaves of building if possible) with a clear flight path. The scheme shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development.
Reason: To ensure the provision of nesting opportunities for wild birds, in accordance with MD12, CS17 and section 118 of the NPPF.