

Development Management Report

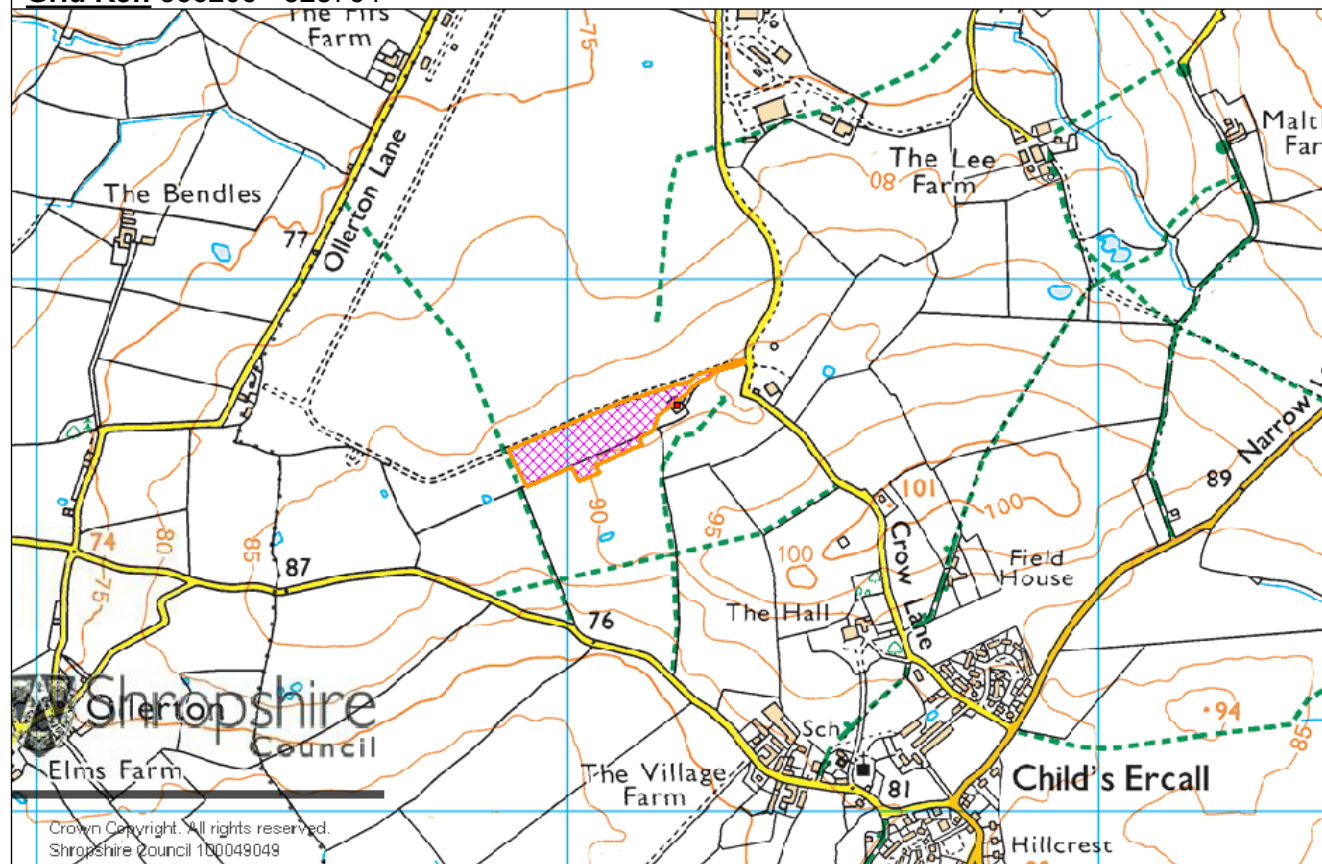
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Summary of Application

<u>Application Number:</u> 17/01799/EIA	<u>Parish:</u>	Childs Ercall
<u>Proposal:</u> Erection of two additional poultry sheds and associated plant room (part retrospective)		
<u>Site Address:</u> Bradeley Farm Crow Lane Childs Ercall TF9 2DB		
<u>Applicant:</u> Mr P Clifton		
<u>Case Officer:</u> Philip Mullineux		<u>email:</u> planningdmnw@shropshire.gov.uk

Grid Ref: 366206 - 325764



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REPORT

Recommendation: Delegated authority to the Head of Planning Services to grant planning permission for the proposed development subject to the conditions as set out in Appendix 1 and any modifications to these conditions considered necessary by the Head of Planning Services

1.0 THE PROPOSAL

- 1.1 The application proposes the erection of two additional poultry sheds and associated plant room (part retrospective) on land adjacent to an existing intensive poultry unit at Bradeley Farm, Crow Lane, Childs Ercall.
- 1.2 The application is accompanied by a set of proposed elevation and floor plans, site location plan, block plan, planning statement, environmental statement which includes reports on heritage impacts, visual assessment, noise assessment, ecological assessment, amenity risk assessment, drainage and flood risk assessment, ammonia report, odour report and a highways statement. During the application processing period further information was received on drainage, highways and ecological issues.
- 1.3 The application falls into the remit of the Town and Country Planning (Environmental Impact Assessment), (England and Wales) Regulations 2017, Schedule one development, and as such an Environmental Statement is mandatory to accompany any planning application for development on site. The threshold for schedule one development is 85,000 broiler birds, this application proposes housing for up to 170,000 birds on site. As such the application was advertised by the Council as development accompanied by an Environmental Statement.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site which covers an of approx. 0.80 hectares forms part of a small paddock located to the south-west of an existing intensive poultry unit within the control of the applicants , which consists of two broiler chicken units and associated infrastructure. The existing poultry unit is located to the south-west of the farm complex, which itself consists of several large farm buildings used for storage of farm machinery and fodder and cattle livestock housing. There is a purpose built, modern pig rearing and finishing building. The farm is set back off Crow Lane along a private access track.
- 2.2 The surrounding area is predominantly agricultural with the land used for both livestock and arable cropping.
- 2.3 The village of Childs Ercall is approximately 600 metres to the south-east of the site, and Ollerton approx. 950 metres to the south-west. The closest residential properties are around 480 metres to the west off Ollerton Lane, and The Hall on the edge of Childs Ercall which is approximately 650 metres to the south-east.
- 2.4 The farming business consists of mixed arable and livestock producing beef cattle and pigs. There is also an existing poultry unit consisting of 2 poultry buildings and associated infrastructure with a permit in place for 85,000 bird places.
- 2.5 It is proposed to erect a further 2 poultry buildings to the west of the existing units,

which will require a variation to the site permit issued and monitored by the Environment Agency, in order to increase the permitted bird numbers on site from 85,000 (82,000 on site), to 170,000 bird places and it is understood in accordance with detail forming part of the application that the permit application has been submitted to run concurrently with the planning application.

- 2.6 The poultry houses will each measure 100 metres long x 20 metres wide and will be 4.5 metres to the ridge, 3 feed bins and a water tank situated in between the two sheds. The two purpose designed broiler poultry buildings will be constructed to the same standard construction methods as the existing poultry buildings alongside the site - being portal framed construction with insulated box profile metal sheeting to the walls and box metal profile roof sheets. The buildings have been sited according to the ground levels.
- 2.7 Information submitted in support of the application indicates that the broilers will be brought onto site as day old chicks. The 40 day growth period will enable 7 crop cycles per annum with a 10 day turn around per crop, in order to clean out and prepare for the next crop of birds to be reared on site. Stocking on site will be in accordance with the welfare of broiler chickens as covered by the Welfare of Farmed Animals, (England) (Amendment) Regulations 2010. This sets limits on stocking densities to include a maximum of 38kg/square metre.
- 2.8 The birds will be grown for Moy Park (the business has an existing contract for current bird numbers), and at the end of the growing period they will be collected and transported to a processing plant. A 40 day growth cycle will result in the birds being around 2.2kg in weight by clear out. Thinning will take place once the birds have reached 1.8kg live weight.
- 2.9 The existing poultry units on site which house up to 82,000 broilers were approved subject to application reference 14/05776/FUL Erection of two poultry buildings – Approved 10th August 2015.

3.0 **REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

- 3.1 The proposal is for schedule one development in accordance with EIA Regulations and therefore Committee consideration is mandatory in accordance with the Council's scheme of delegation.

4.0 **Community Representations**

- 4.1 **Childs Ercall Parish Council** has responded to the application with no objections indicating:

I refer to the above application and would confirm that Childs Ercall Parish Council fully supports the application.

The Parish Council is of the opinion that the construction will fit with the existing buildings and the applicant has stated in the planning statement that access to the site will be using the most direct route from A41 to the west of the site as is the current situation for the existing poultry units thus avoiding the narrow Crow Lane access and the centre of Childs Ercall.

The Parish Council would request that its support is noted and taken into consideration when the application is determined.

Consultee Comments

4.2

The Environment Agency has responded with no objections indicating:

The proposed development will accommodate up to 85,000 birds, which is above the threshold (40,000) for regulation of poultry farming under the Environmental Permitting (England and Wales) Regulations (EPR) 2010. The EP controls day to day general management, including operations, maintenance and pollution incidents. In addition, through the determination of the EP, issues such as relevant emissions and monitoring to water, air and land, as well as fugitive emissions, including odour, noise and operation will be addressed.

Bradeley Farm is currently permitted for the rearing of 85,000 birds housed in two poultry sheds. The average cycle is 43 days and the site began operation in June of 2016. The reference of the permit is EPR/VP3530AE. No application has been submitted to vary the permit yet, in consideration of the further 85,000 birds that are subject of this planning application. However, the operator has been told that they do not need to undertake any additional ammonia modelling to vary the permit. There are no sensitive receptors within 400 metres and as such no Odour Modelling was undertaken at the permitting stage. However an Odour Management Plan was devised to set out what will be done to prevent odour problems at the site. Measures include keeping litter dry and sheeting loads during the clean out of the sheds at the end of each cycle. 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.

Separate to the above EP consideration, we also regulate the application of organic manures and fertilisers to fields under the Nitrate Pollution Prevention Regulations. Pollution Prevention: Developers should incorporate pollution prevention measures to protect ground and surface water. We have produced a range of guidance notes giving advice on statutory responsibilities and good environmental practice which include Pollution Prevention Guidance Notes (PPG's) targeted at specific activities. Pollution prevention guidance can be viewed at:

<https://www.gov.uk/guidance/pollution-prevention-for-businesses>

- 4.3 **SC Planning Ecologist** has responded with no objections recommending conditions and informatives. Planning Officer to complete tests 1 and 2 on the European Protected Species 3 tests matrix and include the finished matrix in their site report.

The planning proposal is for the installation of a further 2 poultry buildings to the west of the existing units at Bradeley Farm. An increase to the Environment Agency Permit has been granted to allow 170,000 bird places.

Assessment on Designated Sites

SC Ecology welcomes the Environment Agency's Pre-application Report (dated March 2017) which has been submitted in support of this 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 EA modelling from the permit to complete the assessment of air pollution impacts but only if Shropshire Council has seen the detailed modelling outputs, understands them and agrees with them.

The Environment Agency Pre-application Report has been provided by Kevin Heede, and the detailed Ammonia Screening Tool assessment sheet containing the full modelling for all designated sites (European designated sites within 10km, SSSI

in 5km and local sites in 2km) has been provided by the EA.

Designated sites have screened out below the critical level threshold that has been agreed by Natural England and the Environment Agency, no further assessment is required. Please note a Habitat Regulations Assessment is not required to support this application as there are no European Protected Sites in 10km of the proposal.

Habitat Type	Habitat Name	PC as % of CLe Ammonia
SSSI	Hodnet Heath	4.3
LWS	Peplow Hall Heronry	10.4
LWS	Hungry Hatton	10.8

Screening criteria ☐ Associated distance

Critical Level (ug/m3)	Site	% of Cle threshold	Distance (m)
1	SAC SPA RAMSAR 4	3827	
1	SSSI 20	1381	
1	LWS, AW, LNR, NNR	100	499

Hodnet Heath Site of Special Scientific Interest

Based on the plans submitted, Natural England considers that the proposed development will not damage or destroy the interest features for which the site has been notified and has no objection (17th May 2017).

Great Crested Newts

A pond is located within the plantation woodland, approximately 10 m west of the proposed site boundary (pond 1). The total area of the pond is approximately 300m² and it is fed by a field drain at its south-western extent. A medium breeding population of Great Crested Newts was confirmed in Pond 1 in 2014, with a peak of five female and nine males recorded (14 adults).

The spoil piles and hedgerows along the boundaries of the application field provide suitable opportunities for foraging and hibernating Great Crested Newt. There is also piles of rubble and building materials within the site which could provide shelter to Great Crested Newt.

The proposed development will mainly affect ecologically poor improved grassland, spoil heaps, rubble piles and bare earth habitat. It also has the potential to affect boundary hedgerows, trees and a ditch.

Turnstone Ecology have concluded that works on this site will require an EPS mitigation licence from Natural England. The site will be fenced using Temporary Amphibian Fencing, newts will be translocated, and optimal great crested newt habitat will be created, all in line with Natural England Guidelines.

The loss of newt habitat will be offset by the creation of a vegetated earth bund along the western end of the proposed development site (0.08 ha), which will provide optimal foraging and hibernation habitat within 50m of the pond. The bund will be created using excavated material and other available clean wood or rubble to essentially produce a linear hibernacula. It will be planted up with scrub tree species, such as Hawthorn and Blackthorn, seeded with a grassland seed mix and left unmanaged.

A rough grass buffer will also be created along the northern and southern edges of the site and the existing sparse and poorly connected hedgerows will be planted-up to create enhanced foraging and hibernation habitats (approximately 0.1 ha).

An updated proposed mitigation strategy has been submitted and now also shows a 10m scrub habitat creation along the south of the woodland edge and up to the edge of the field boundary (220m long) this will total 0.22 hectares of habitat creation (drawing number SA25893/05 dated Feb 2017).

Surface water will be controlled and there will be pollution control measures protecting the ditch and the pond.

I have provided a European Protected Species 3 tests matrix. The planning officer needs to complete sections 1 and 2, 'over riding public interest' and 'no satisfactory alternative.' The EPS 3 tests matrix must be included in the planning officer's report for the planning application and discussed/minuted at any committee at which the application is considered. The form provides guidance on completing sections 1 and 2 but please get in touch if additional assistance is required.

Nesting Birds

A derelict building was identified within the plantation woodland to the south-west of the proposed site and this contained signs of occasional non-breeding use by Barn Owl with a mixture of aged pellets present within the building.

In order to enhance this site for barn owls the following condition should be on a planning decision notice;

Badgers

Although significant negative impacts on Badgers are not predicted it is recommended mitigation measures are put in place to ensure foraging Badgers do not become trapped within any excavation works associated with construction works. Excavations should either not be left uncovered overnight or ways of escape for Badgers provided.

Bats

The retained hedgerows and trees around the boundaries of the site will ensure suitable bat foraging and commuting habitat is maintained. Additional hedgerow and tree planting is recommended as part of the proposal and this would ultimately improve the area for foraging/commuting bats.

Long term bat roosting provision should be incorporated on/within the new buildings and should include a minimum of two bat boxes or bat tubes. Bat boxes and tubes provide integral roosting provision that is both discreet and secure, creating a self-contained unit that does not provide access into the wall cavity.

A lighting plan showing the location and specification for any proposed lights on the site will be produced. The lighting plan will reflect the Bat Conservation Trust Bats and Lighting in the UK guidance (2009) and will include directing lighting away from the retained and enhanced hedgerows and plantation woodland and the use of down lighting to ensure that suitable roosting features and foraging and commuting habitats remain unlit.

Landscaping

Habitat creation, enhancement and management is likely to have a positive impact on biodiversity. Please include the following conditions and informative on a planning decision notice

- 4.4 **SC Conservation Manager**, (Built Environment), raises no objections. The response states:

Background to recommendation: The application site relates to the relocated farm unit on the edge of the former World War II airfield land to the north west of Childs Ercall, and is for two further poultry sheds with associated tanks, feed bins and plant room.

Recommendation: Having viewed the relevant documentation in relation to the visual impact and the relevant heritage assets, it is considered that the information submitted satisfactorily demonstrates that the impact of the additional development on the surrounding heritage assets including the listed buildings is limited, ensuring their preservation in terms of setting and special interest in accordance with Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as well as the relevant local and national policies.

- 4.5 **SC Archaeology Manager** raises no objections indicating:

It is considered that the Heritage Impact Assessment by Richard K Morris and Associates meets the requirements of Paragraph 128 of the NPPF and Policy MD13 of the Local Plan with regard to the archaeological interest of the proposed development. We confirm that we concur with its conclusion that the archaeological potential of the proposed development site is low, such that any impacts will be very limited. Given these findings, we advise that no further archaeological mitigation is required and have no other comments to make.

- 4.6 **Shropshire Fire and Rescue** has responded to the application indicating:

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>

- 4.7 **SC Transportation** raises no objections. The response indicates:

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

The application proposes two poultry buildings in addition to those previously approved under planning permission 14/05776/FUL to provide for a maximum of 170,000 birds overall.

The application documents include both Planning and Highways Statements which set out the details of the development and the traffic expected to be generated by the additional poultry buildings. The traffic movements for the additional poultry units are set out within Table 2.5 of the Highways Statement but do not take into account any savings in vehicle movements which would naturally occur in respect of the servicing of the full site (i.e., the existing and proposed poultry units). There is no reason to question the vehicle movement figures provided in the table, however there appears to be a minor discrepancy between the “Poultry Collection” vehicle movements figure in the table and that in the “Peak Daily Event” summary, which is not considered to be significant.

The documents clearly identify a route for development related traffic to and from

the north via Ollerton Lane, Heathcote and the A41/A53 with traffic avoiding Childs Ercall village. The application also offers improvement to sections of this route in the form of road haunching at three identified locations. These improvements are offered in light of the provision of passing bays which are understood to be required in relation to developments at Ollerton Business Park which shares the access route. Whilst the principle of these improvements is acceptable, the length/extent of the works and precise location of each is considered to require a more detailed review under the Section 278 agreement technical audit process.

It is proposed to utilise the existing vehicular access to Crow Lane which provides acceptable visibility, however, it is considered that the access requires some improvement to cater for the traffic associated with the construction and operation of the additional poultry units. It is noted from both the Highways and Design & Access Statements submitted in respect of the previous two poultry units (14/05776/FUL) that the access was to be upgraded for a distance of 15 metres from the edge of the classified road to provide an improved carriageway width and junction radii.

4.8 **SC Land Drainage** has responded indicating the proposed surface water drainage is acceptable.

4.9 **Natural England** raises no objections. Their response indicates:

Natural England has previously commented on this proposal and made comments to the authority in our letter dated 26 April 2017

The advice provided in our previous response applies equally to this amendment although we made no objection to the original proposal.

The proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal. Should the proposal be amended in a way which significantly affects its impact on the natural environment then, in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again. Before sending us the amended consultation, please assess whether the changes proposed will materially affect any of the advice we have previously offered. If they are unlikely to do so, please do not re-consult us.

A previous response indicated:

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on designated sites and has no objection.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

Hodnet Heath Site of Special Scientific Interest

Based on the plans submitted, Natural England considers that the proposed development will not damage or destroy the interest features for which the site has been notified and has no objection.

- 4.10 **SC Regulatory Services, (Public Protection)**, raises no objections. Having again reviewed the noise assessment it is noted that it states: On day 36 there will be typically a maximum of five HGV movements per hour between 00:00 and 07:00 hours. These noise events would only occur on a limited number of nights per year. This conflicts with previous comments made by regulatory services. For clarification last comments should have read limiting night time HGV movements to one two way movement in an hour between the times of 23:00 - 07:00 hours, e.g. the coming and going of an HGV to and from the site between 23:00 and 07:00 hours. I would recommend this aspect is conditioned. It is known that night time depopulation is not necessary given that other operators have stated that depopulation will occur during day time hours only.

In addition I note that Air Source Heat Pumps are proposed to heat the installation. These generate noise however considering the noise levels likely and the noise levels currently found in the assessment I do not consider this noise will cause a significant change to the predicted noise levels and I do not require any amendments to the noise assessment.

- 4.11 **SC Public Rights of Way** makes the following comments:
It appears that Public Footpath 5 runs through the area in question and I attach a plan of the area showing rights of way information onto which I have overlaid the current proposed block plan which shows that footpath.

As this footpath appears to be obstructed by the proposed development an application to legally divert the footpath under the provisions of the TCPA 1990 will be required (fees apply). It is requested that the developers contact the Mapping & Enforcement Team to discuss the matter further.

- 4.12 **Public Comments**
No comments have been received from members of the public at the time of writing this report.

5.0 **THE MAIN ISSUES**

- Environmental Impact Assessment
- Planning policy and principle of development
- Siting, scale and design of structures and visual landscape impact.
- Residential amenity and public protection.
- Ecological issues
- Drainage
- Public Highway access
- Historic environment considerations.

6.0 **OFFICER APPRAISAL**

6.1 **Environmental Impact Assessment**

- 6.1.1 The Town and Country Planning (Environmental Impact Assessment) Regulations 2017, (came into force on 16th May 2017 replacing the 2011 Regulations), 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. As such the current proposal is EIA development. The planning

application is accompanied by an Environmental Statement, as required by the 2017 Regulations.

- 6.1.2 The Environmental Statement in support of the application makes reference to a sequential site selection, (alternative locations), as set out in Section 3.1 of the Environmental Statement and Officers consider detail as set out on site selection is considered satisfactory with consideration to the farming business concerned and the location and impacts etc.

6.2 Planning policy and principle of development

- 6.2.1 The National Planning Policy Framework (NPPF) 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 enterprises 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 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 placed 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 SAMDev Policy MD7b indicates planning applications for agricultural development will be permitted where it can be demonstrated that the development is of a size/scale and type which is consistent with its required agricultural purposes and the nature of the agricultural enterprise, well designed and located and, where possible, sited so that it is functionally and physically closely related to existing farm buildings, with no unacceptable impacts on environmental quality and existing residential amenity.
- 6.2.4 The above policies indicate that there is strong national and local policy support for development of agricultural businesses which can provide employment to support

the rural economy, and improve the viability of the applicant's existing farming business. In principle therefore it is considered that the provision of an extension to the poultry unit in this location as an extension of acceptable scale to the existing poultry enterprise can be supported. Policies 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 of structures and visual landscape impact.

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. Policy MD12 of the SAMDev also puts emphasis on the avoidance of harm to Shropshire's natural assets and their conservation, enhancement and restoration. It is noted that the site is not located within an area designated for landscape value.

6.3.2 The application site is located alongside two existing intensive poultry sheds, also in the control of the applicants, producing broilers and therefore this application is to be considered as a proposal to extend the existing intensive poultry enterprise.

6.3.3 The surrounding landscape is characterised by fields with hedgerow boundaries and small copses of native woodland. Adjacent to the site are two existing intensive poultry units. A public footpath crosses the site and this will require a diversion, this is considered acceptable in principle and it is considered visual impact in relationship to this footpath in the context of the surrounding countryside character is acceptable. It is considered that the two further intensive poultry units and three feed silos as proposed will impact on the landscape visually and its character. Poultry sheds may have a significant impact on the surrounding landscape and it is considered that the impact can be mitigated with further landscaping. As such it is necessary to attach a condition to any approval notice issued, in order to ensure adequate landscaping is carried out in order to mitigate the development into the surrounding landscape to an acceptable manner.

6.3.4 The Environmental Statement in support of the application includes a chapter that refers to a Landscape and Visual Impact Assessment (LVIA). This concludes that the direct effects on landscape will be limited. The proposed development is on an agricultural site adjacent to existing buildings and no important landscape features or elements will be lost as a direct consequence of the development. The proposed development will be compatible with the surrounding agricultural land uses and comprehensive mitigation will be implemented. The landscape assessment concludes that the development will overall cause slight adverse significance effects on the landscape character of the area. The visual assessment has only identified limited views of the site from certain locations. The receptor groups most susceptible to adverse visual effects are associated with isolated dwellings and farmsteads locally and users of the close public rights of way to the north and west. The properties likely to experience the greatest level of adverse effect are at 3 and 4 Ollerton Lane, although due to the separation distance, and the existing farm buildings the significance of the visual impact is considered to be slight. Users of the rights of way will experience views from sections of the paths when

approaching from the north, but the overall significance on footpaths is considered to be slight. Mitigation will also help to lessen the visual impacts. The footpath that goes past the site is proposed for diversion into the wood which will be an improvement from going right past the buildings. There will be an overall slight adverse significance on the landscape and a limited number of adverse visual effects that are able to be mitigated through appropriate landscaping. Based on planning policy context, it is considered that the development complies with the relevant planning policies on landscape character and visual matters.

6.3.5 In conclusion, although the development would be visible to certain receptors within the 2km study area, the low level of the buildings, existing buildings, and the restricted/ partial views are such that the development would not dominate the overall scenery. In overall terms, despite a degree of potential impacts, Officers share the findings of the LVIA in that the location of the proposed poultry unit is not considered to be out of scale or keeping with the local setting, or the areas visual amenity and character.

6.3.6 It is also acknowledged that this application is for an extension to an existing poultry unit and as such with landscape mitigation in the form of native tree and hedge planting development on site, can be mitigated to an acceptable level, both visually and cumulatively with consideration to the existing on site. Existing screening on site is not considered adequate in relationship to the scale of the development on site in relationship to the overall character of the existing landscape, and as such this further strengthens the requirements for landscape mitigation. It is also acknowledged that detail in support of the application indicates the applicants' willingness for further landscape mitigation.

6.3.7 With consideration to the above-mentioned, and further landscape mitigation as discussed, on balance, the development is acceptable in relationship to siting, scale and landscape and visual impact, and as such in accordance with the overall aims and objectives of the NPPF, Policies CS5, CS6 and CS17 of the Shropshire Core Strategy and relevant policies of the SAMDev.

6.4 **Residential amenity and public protection**

6.4.1 The proposed development is located approx. some 470 metres from the nearest residential dwelling outside the control of the applicants. The National Planning Policy Framework in paragraph 122 states that 'local planning authorities should focus on whether the development itself is an acceptable use of the land, and the impact of the use, rather than the control of processes or emissions themselves where these are subject to approval under pollution control regimes. Local planning authorities should assume that these regimes will operate effectively.

6.4.2 The applicants will need to obtain from the Environment Agency an Environmental Permit in order to operate from the site, this will control issues in relationship to residential amenity. The Environment Agency's response to the application raises no objections indicating that they have not received an environmental permit application from the applicants, (an email from the applicants agent confirms that an application for an Environmental permit to the Environment Agency has since been made). This will cover issues such as on site noise, emissions and waste and their management, the permit will also covers issues of concern in relationship to surrounding residential amenity. An odour management plan will also form part of

the Environmental Permit. The response also refers to planning advice as set out in the NPPF. Management operations are as outlined in the EA response as indicated in paragraph 4.1.3 of this report. The EA response indicates that they have provided the applicants with an initial ammonia screening assessment as part of a pre-permit application consultation and that their report concludes that, based on the information provided, the applicant would not need to submit detailed modelling on environmental issues with their EP application. It is noted Natural England raises no objections to the development.

- 6.4.3 Information submitted in support of the application, as part of the Planning Statement is considered acceptable in relationship to residential amenity as it is noted that none of the statutory consultees raise any objections on this matter.
- 6.4.4 It is also noted that SC Public Protection have responded to the application indicating that based on the information submitted in support of the application that there will be no significant adverse impact on the amenity of the area and that the permit issued and regulated by the Environment Agency will control these elements.
- 6.4.5 However the Environmental permit issued and monitored by the Environment Agency only covers on site activities and therefore feed deliveries to the site and manure movements off the farming unit concerned will not be covered by the permit, (other than on-site activities), and as such it is recommended that conditions are attached to any approval notice issued restricting times for feed deliveries and that any manure removed off site is done so in sealed and covered containers/trailers. Manure disposal on site will form part of the Environmental Permit regime and is a matter for the applicants to address as part of their environmental permit.
- 6.4.6 The previous application for the existing intensive poultry development alongside the application site raised concerns in relation to HGV movements. With consideration to the location and intensity of development and the existing farming enterprise and voluntary routing system as referred to by the applicants in connection to the development and with consideration to the response to the application from Shropshire Council's Highways Manager it is considered that transportation issues in relation to this proposal is acceptable with a condition attached to any approval notice issued in respect of feed deliveries to the site. It is recognised that feed deliveries outside normal working hours can potentially create noise and in particular in relation to the unloading of feed into the silos on site. It is recommended that a condition is attached to any approval notice issued restricting times for feed deliveries and this will also contribute towards protection of use of surrounding public highways during anti social hours.
- 6.4.7 The Council's Regulatory Services response also refers to restricting night time HGV movements to one two way movement in an hour between the times of 23:00 - 07:00 hours, e.g. the coming and going of an HGV to and from, the site between 23:00 and 07:00 hours. This recommendation is in consideration of bird depopulation on site and subsequent removal of the birds from site. Information submitted in support of the application indicates there will be 30 movements in relation to bird removal off site per crop and that this will be restricted to two per hour. The highway leading to the site and referred to by the Public Protection

Manager is not a private drive/right of way shared or lived alongside by occupants of dwellings outside the control of the applicants, where residents could and would expect in consideration of such a location, a reasonable degree of peace and quiet, but a public highway, and as such with consideration to the nature and scale of the proposal, impacts on amenity are considered acceptable in relation to the potential amount of night time movements as a result of this application.

- 6.4.8 Enforcement of any restrictions along a public highway as proposed by the Council's Regulatory Services would prove difficult to sustain in relation to bird depopulation, where as feed deliveries are more noisy in their on site activities and as such on this occasion should and can be restricted by imposition of condition to any approval notice issued, as this activity, it is considered if necessary can be monitored and enforced against it considered unreasonable, with an appropriately worded condition in place.
- 6.4.9 With consideration to the above-mentioned, and conditions attached to any approval notice issued restricting amount of birds retained on site, and restrictions in relation to bulk feed deliveries, on balance the proposal is considered acceptable in relationship to surrounding residential amenity issues subject to the applicants obtaining an environmental permit for the operations as proposed from the EA. As such the proposal on balance is considered to be in accordance with relevant policies of the Shropshire Core Strategy, the SAMDev and the National Planning Policy Framework on issues in relationship to residential amenity and public protection.
- 6.5 **Ecological issues.**
- 6.5.1 The application is accompanied by an ecological assessment The Council's Planning Ecologist initially raised concerns with regards to Great Crested Newts, requesting additional information relating to great crested newts, as it was established that a pond is located within a plantation woodland, approximately 10 metres west of the proposed site boundary (referred to as pond 1). The total area of the pond is approximately 300m² and it is fed by a field drain at its south-western extent. A medium breeding population of Great Crested Newts was confirmed in Pond 1 in 2014, with a peak of five female and nine males recorded (14 adults).
- 6.5.2 The spoil piles and hedgerows along the boundaries of the application field provide suitable opportunities for foraging and hibernating Great Crested Newt. There is also piles of rubble and building materials within the site which could provide shelter to Great Crested Newts.
- 6.5.3 In response to this concern, the applicants submitted further information in relation to great crested newts. They also concluded that works on this site will require an EPS mitigation licence from Natural England. The site will be fenced using Temporary Amphibian Fencing, newts will be translocated, and optimal great crested newt habitat will be created, all in line with Natural England Guidelines.
- 6.5.4 The loss of newt habitat will be offset by the creation of a vegetated earth bund along the western end of the proposed development site (0.08 ha), which will provide optimal foraging and hibernation habitat within 50 metres of the pond. The bund will be created using excavated material and other available clean wood or rubble to essentially produce a linear hibernacula. It will be planted up with scrub

tree species, such as hawthorn and blackthorn, seeded with a grassland seed mix and left unmanaged. Information in support of the application also indicates that a rough grass buffer will also be created along the northern and southern edges of the site and the existing sparse and poorly connected hedgerows will be planted-up to create enhanced foraging and hibernation habitats (approximately 0.1 ha), along with a 10 metre scrub habitat creation along the south of the woodland edge and up to the edge of the field boundary (220 metres long) this will total 0.22 hectares of habitat creation (drawing number SA25893/05 dated Feb 2017). Surface water will be controlled and there will be pollution control measures protecting the ditch and the pond.

6.5.5 A Habitat Regulations Assessment has been carried out and this is attached to the report as appendix 2 for reference purposes.

6.5.6 Natural England and SC Ecology now raise no objections and the latter recommend the attachment of conditions to any approval notice issued with regards to site clearance procedures, barn owl and bat enhancement measures, external lighting detail and landscaping and habitat enhancement. Also recommended are the attachment of informatives in order to remind the applicants/ developer with regards to issues of an ecological nature relevant to the site subject to the development.

6.5.7 On ecological issues the proposal is considered acceptable and in accordance with Policies CS6 and CS17 of the Shropshire Core Strategy, Policy MD12 of the SAMDev and other relevant local plan policies as well as the National Planning Policy Framework and the Conservation of Habitats and Species Regulations (2010)

6.6 **Drainage**

6.6.1 Policy CS18 of the Shropshire Core Strategy seeks to reduce flood risk and avoid adverse impacts on water quality and quantity.

6.6.2 The Environment Agency whilst raising no objections to the proposed development acknowledges that the site is within flood zone one, (least risk). The response refers to the flood risk assessment submitted in support of the application (water resources report), and defers to the Council's Land Drainage Manager for further consideration on flood and drainage issues.

6.6.3 The Council's Land Drainage Manager has responded on receipt of further clarification on drainage issues raising no objections, indicating that surface water drainage proposals are acceptable.

6.6.4 On flooding and drainage issues the proposal is considered acceptable and in accordance with Policy CS18 of the Shropshire Core Strategy, the SAMDev and the NPPF.

6.7 **Public Highway access**

6.7.1 Information in support of the application indicates a route for development related traffic to and from the north via Ollerton Lane, Heathcote and the A41/A53 with traffic avoiding Childs Ercall village. The application also offers improvement to sections of this route in the form of road haunching (edge of carriageway

strengthening) at three identified locations. These improvements are offered in light of the provision of passing bays which are understood to be required in relation to developments at Ollerton Business Park which shares the access route. Whilst the Council's Highways Manager's response to the application indicates that the principle of these improvements is acceptable, the length/ extent of the works and precise location of each it is considered will require a more detailed review under the Section 278 agreement technical audit process. As such there are adequate controls in place to address this matter.

- 6.7.2 The applicants agent by means of an updated Highways Statement has also confirmed in relation to the description of the retrospective element of the planning application which refers to a "plant room" whilst the original Highways Statement makes reference to a "biomass building" and provides details of fuel (woodchip) deliveries the updated highways statement removes reference to the biomass boilers and therefore traffic movements associated with them.
- 6.7.3 As a result of the proposal there will clearly be a small increase in traffic. Based on the analysis provided in this assessment, there does not appear to be any significant transport related reasons to warrant refusal to the application, confirmation that HGV movements in relation to wood chip or/ raw timber material for processing in a on site wood chip processor greatly improves the proposal in relation to highway movements and residential amenity. It is noted that the Council's Highways Manager raises no objections to the proposed development subject to conditions attached to any approval notice issued with regards to no development taking place until the existing vehicular access has been widened to provide a carriageway width of 6 metres for a minimum distance of 15 metres from Crow Lane with 10.5 metre junction radii and highway improvement works being completed at the three locations indicated within Section 2.2.1 of the submitted Highways Statement in accordance with full road layout and construction details.
- 6.7.4 It is concluded that the vehicle movements generated by the development can be accommodated on the existing highway network and that there will be limited impact of no significance in relation to the existing public highways. As such the conclusions of the amended Highways Statement submitted in support of the application are shared by Officers who on balance consider the proposed development to be in accordance with Policies CS5 and CS6 of the Shropshire Core Strategy, the SAMDev and the NPPF in relationship to highway and transportation matters.
- 6.8 **Historic environment considerations.**
- 6.8.1 Shropshire Core Strategy Policy CS17 requires that developments protect and enhance the diversity, high quality and local character of Shropshire's historic environment. Paragraph 134 of the NPPF requires that, where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. In addition, special regard has to be given to the desirability of preserving Listed Buildings or their setting or any features of special architectural or historic interest which it possesses and preserving or enhancing the character or appearance of the Conservation Area as required by section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

- 6.8.2 It is considered that information submitted in support of the application, in relationship to impacts on heritage assets, is acceptable, observations by the Case officer, which has included a visit to the site and surrounding area and a desk top exercise, and taking into consideration the existing development on site the development is considered acceptable with regard to the nearest historic receptors.
- 6.8.3 It is noted that the County Archaeology Manager raises no objections to the proposal, the response requiring no further information or mitigation.
- 6.8.4 With consideration to the above-mentioned in relationship to the historic environment, the proposed development is considered acceptable and in accordance with Core Strategy Policy CS17, SAMDev Policy MD12 and the NPPF in relationship to historic and archaeology matters of interest.

7.0 **CONCLUSION**

- 7.1 The proposal is for two intensive broiler units, three feed silo's and yard area and access improvements, as an extension to an existing broiler production unit adjacent to the site which will increase broiler production from 82,000 to 170,000 birds in four separate bird rearing units in total, as part of an appropriate farming venture for the existing family farming business.
- 7.2 It is acknowledged that the development as proposed is significant in scale and will have an impact on the landscape, however it is considered on balance with consideration to the location, size and scale and cumulative impacts, that this will not be of an adverse effect and with consideration to the economic benefits to the business concerned and production of local food with further landscape mitigation in the form of native plantings and consideration to the external colour of all the development on site to be acceptable in principle. Public highway access matters are considered acceptable, with consideration to the access route as indicated in information submitted in support of the application, as the site is ideally located in relationship to satisfactory and adequate access to the surrounding public highway network. Residential amenity and privacy issues in general on balance are considered acceptable.
- 7.3 The development raises no adverse concerns from any of the statutory consultees to the application, or from the local Parish Council, and members of the public. The applicants will need to obtain from the Environment Agency a variation to the existing environmental permit in order for the site to operate.
- 7.4 The findings and conclusions as indicated in the Environmental Statement submitted in support of the application are considered on balance acceptable.
- 7.5 As such the proposed development is considered acceptable and in accordance with relevant policies as set out in the Shropshire Core Strategy, the SAMDev, the National Planning Policy Framework and other relevant planning guidance. The recommendation is therefore one of approval subject to conditions as attached to this report.
- 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.

10. Background

Relevant Planning 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

MD2 - Sustainable Design

MD7B - General Management of Development in the Countryside

MD12 - Natural Environment

National Planning Policy Framework

Relevant planning history:

09/03728/REM Details of the layout, scale, external appearance and landscaping for the erection of agricultural workers dwelling following the grant of outline planning permission numbered NS/08/00476/OUT. GRANT 5th February 2010

14/01372/SCR Screening Opinion Request made under The Town and Country Planning (Environmental Impact Assessment, England and Wales) Regulations 1999 for the erection of an agricultural building to be used for the rearing and fattening of 800 pigs EAN 2nd April 2014

14/01794/FUL Erection of livestock building following removal of existing GRANT 24th June 2014

14/02501/SCR Screening Opinion Request made under The Town and Country Planning (Environmental Impact Assessment, England and Wales) Regulations 1999 for the erection of two poultry units at Bradeley Farm for the proposed rearing of 80,000 broilers EAN 7th July 2014

17/01954/FUL Erection of agricultural building for fodder/straw storage GRANT 22nd June 2017

17/01956/FUL Erection of general purpose agricultural building GRANT 22nd June 2017

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 Rob Gittins
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, drawings and information submitted in support of the application unless otherwise indicated in conditions as attached to this approval notice

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

3. No development shall take place until the existing vehicular access has been widened to provide a carriageway width of 6 metres for a minimum distance of 15 metres from Crow Lane with 10.5 metre junction radii. The full width of the improved access shall be constructed/surfaced in a bound material for a distance of 15 metres rear of the Highway carriageway edge.

Reason: To ensure a satisfactory means of access to the Highway.

4. Prior to either of the poultry buildings first being brought into use, Highway improvement works shall be completed at the three locations indicated within Section 2.2.1 of the submitted Highways Statement in accordance with full road layout and construction details, which shall first be submitted to, and approved in writing by, the Local Planning Authority.

Reason: In the interests of Highway safety.

5. No development, demolition or site clearance procedures shall commence until a European Protected Species (EPS) Mitigation Licence with respect to great crested newts has been obtained and submitted to the local planning authority for the proposed work prior to the commencement of works on the site. Work shall be carried out strictly in accordance with the granted EPS Mitigation Licence.

Reason: To ensure the protection of great crested newts, a European Protected Species

6. No development shall take place (including demolition, ground works and vegetation clearance) until a habitat management plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include:

a) Description and evaluation of the features to be managed as identified in the Ecological Survey Report conducted by Turnstone Ecology (March 2017, Revision 00), and shown on drawing SA25893/05 Proposed Great Crested Newts mitigation foraging areas (Feb 2017);

- b) Ecological trends and constraints on site that may influence management;
 - c) Aims and objectives of management;
 - d) Appropriate management options for achieving aims and objectives;
 - e) Prescriptions for management actions;
 - f) Preparation of a works schedule (including an annual work plan and the means by which the plan will be rolled forward annually);
 - g) Personnel responsible for implementation of the plan;
 - h) Monitoring and remedial/contingencies measures triggered by monitoring;
 - i) The financial and legal means through which the plan will be implemented.
- The plan shall be carried out as approved, unless otherwise approved in writing by the Local Planning Authority.

Reason: To protect and enhance features of recognised nature conservation importance, in accordance with MD12, CS17 and section 118 of the NPPF.

7. A minimum of 2 external bat boxes or integrated bat bricks suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected on the site. The boxes shall be sited in accordance with the latest guidance (currently http://www.bats.org.uk/pages/bat_boxes.html) and thereafter retained for the lifetime of the development.

Reason: To ensure the provision of roosting opportunities for bats, in accordance with MD12, CS17 and section 118 of the NPPF.

8. 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's Artificial lighting and wildlife: Interim Guidance: Recommendations to help minimise the impact artificial lighting (2014).

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

9. No development shall take place (including demolition, ground works and vegetation clearance) until a landscaping plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include:

- a) Planting plans, creation of wildlife habitats and features and ecological enhancements (e.g. hibernacula, integrated bat and bird boxes);
- b) Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment);
- c) Schedules of plants, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate;
- d) Native species used are to be of local provenance (Shropshire or surrounding counties);
- e) Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works;
- f) Implementation timetables.

The plan shall be carried out as approved, unless otherwise approved in writing by the Local Planning Authority.

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

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

10. A Barn Owl roosting/nesting box shall be provided for Barn Owls prior to first occupation of the buildings hereby permitted. The barn owl nest box shall be thereafter maintained for the life of the development.

Reason: To secure the long-term protection of Barn Owls

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

11. All manure removed off site will be done so in sealed and contained trailers.

Reason: In consideration of surrounding amenity.

12. No feedingstuffs will be delivered to the site outside the hours of 8am - 6pm Monday - Saturday or at any times during a bank holiday.

Reason: In the interests of surrounding residential amenity.

13. All building development on site, (including all the feed silo's and the feed operations room), are to be all externally in accordance with colour code BS12B29, (juniper green).

Reason: In consideration of the visual impact and to mitigate the development into the surrounding landscape.

14. (a) The number of birds kept at the intensive poultry complex as a whole (comprising the four poultry rearing buildings) within the poultry rearing buildings shall not exceed 170,000 birds at any time. (In accordance with detail as set out in the Planning Statement submitted in support of the application).

(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 over intensification of the development

EUROPEAN PROTECTED SPECIES – Consideration of the three tests

Application name and reference number:

17/01799/EIA
Bradeley Farm
Crow Lane
Childs Ercall
TF9 2DB
Erection of two additional poultry sheds and associated plant room (part retrospective)

Date of consideration of three tests:

20th July 2017

Consideration of three tests carried out by:

Nicola Stone
Planning Ecologist
Shropshire Council

1 Is the development ‘in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment’?

Economic.

2 Is there ‘no satisfactory alternative’?

No, this site is sequentially the most appropriate in relation to the existing business.

3 Is the proposed activity ‘not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range’?

I have read the above application and the supporting documents including the;

- Ecological Survey Report conducted by Turnstone Ecology (March 2017, Revision 00)
- SA25893/05 Proposed Great Crested Newts mitigation foraging areas (Feb 2017)

Great Crested Newts

A pond is located within the plantation woodland, approximately 10 m west of the proposed site boundary (pond 1). The total area of the pond is approximately 300m² and it is fed by a field drain at its south-western extent. A medium breeding population of Great Crested Newts was confirmed in Pond 1 in 2014, with a peak of five female and nine males recorded (14 adults).

The spoil piles and hedgerows along the boundaries of the application field provide suitable

opportunities for foraging and hibernating Great Crested Newt. There is also piles of rubble and building materials within the site which could provide shelter to Great Crested Newt.

The proposed development will mainly affect ecologically poor improved grassland, spoil heaps, rubble piles and bare earth habitat. It also has the potential to affect boundary hedgerows, trees and a ditch.

Turnstone Ecology have concluded that works on this site will require an EPS mitigation licence from Natural England. The site will be fenced using Temporary Amphibian Fencing, newts will be translocated, and optimal great crested newt habitat will be created, all in line with Natural England Guidelines.

The loss of newt habitat will be offset by the creation of a vegetated earth bund along the western end of the proposed development site (0.08 ha), which will provide optimal foraging and hibernation habitat within 50m of the pond. The bund will be created using excavated material and other available clean wood or rubble to essentially produce a linear hibernacula. It will be planted up with scrub tree species, such as Hawthorn and Blackthorn, seeded with a grassland seed mix and left unmanaged.

A rough grass buffer will also be created along the northern and southern edges of the site and the existing sparse and poorly connected hedgerows will be planted-up to create enhanced foraging and hibernation habitats (approximately 0.1 ha).

An updated proposed mitigation strategy has been submitted and now also shows a 10m scrub habitat creation along the south of the woodland edge and up to the edge of the field boundary (220m long) this will total 0.22 hectares of habitat creation (drawing number SA25893/05 dated Feb 2017).

Surface water will be controlled and there will be pollution control measures protecting the ditch and the pond.

The proposed development will not be detrimental to the maintenance of the population of great crested newts recorded at a favourable conservation status within their natural range provided that the following conditions detailed in the response from Nicola Stone to Philip Mullineux dated 20th July 2017 are on the decision notice and are appropriately enforced:

1. No development, demolition or site clearance procedures shall commence until a European Protected Species (EPS) Mitigation Licence with respect to great crested has been obtained and submitted to the local planning authority for the proposed work prior to the commencement of works on the site. Work shall be carried out strictly in accordance with the granted EPS Mitigation Licence.

Reason: To ensure the protection of great crested newts, a European Protected Species

2. No development shall take place (including demolition, ground works and vegetation clearance) until a habitat management plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include:

- a) Description and evaluation of the features to be managed as identified in the Ecological Survey Report conducted by Turnstone Ecology (March 2017, Revision 00), and shown on drawing SA25893/05 Proposed Great Crested Newts mitigation foraging areas (Feb 2017);
- b) Ecological trends and constraints on site that may influence management;
- c) Aims and objectives of management;
- d) Appropriate management options for achieving aims and objectives;
- e) Prescriptions for management actions;
- f) Preparation of a works schedule (including an annual work plan and the means by which

the plan will be rolled forward annually);

g) Personnel responsible for implementation of the plan;

h) Monitoring and remedial/contingencies measures triggered by monitoring;

i) The financial and legal means through which the plan will be implemented.

The plan shall be carried out as approved, unless otherwise approved in writing by the Local Planning Authority.

Reason: To protect and enhance features of recognised nature conservation importance, in accordance with MD12, CS17 and section 118 of the NPPF.

Guidance for filling in the EPS form

The three tests detailed below must be satisfied in all cases where a European Protected Species may be affected and where derogation under Article 16 of the EC Habitats Directive 1992 would be required – i.e. an EPS licence to allow an activity which would otherwise be unlawful.

In cases where potential impacts upon a European Protected Species can be dealt with by appropriate precautionary methods of working which would make derogation unnecessary; since no offence is likely to be committed, it is not appropriate to consider the three tests.

Test 1 'overriding public interest' and test 2 'no satisfactory alternative' should be addressed by Shropshire Council planning team. Test 3 'favourable conservation status' should be addressed by Shropshire Council Ecologists with guidance from Natural England.

1. Is the purpose of the development/damaging activity for '*Preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment*'?

NB in order to meet this test, the purpose of preserving public health or public safety must also be shown to constitute a reason of overriding public interest. You would need to demonstrate that action is required to alleviate a clear and imminent danger to members of the general public.

If an unstable structure (e.g. buildings, trees) is involved, either through neglect or outside influences (e.g. severe weather or seismic events), supporting evidence from an appropriately qualified person such as a structural engineer, arboriculturalist or tree surgeon should be sought.

If vandalism or trespass is used as an argument, evidence of reasonable measures to exclude the general public from the site must be presented. Evidence may be provided by the local police or fire services in relation to the number of incidents dealt with.

Only public interests can be balanced against the conservation aims of the EC Habitats Directive (1992), projects that are entirely in the interest of companies or individuals would generally not be considered covered.

2. Is there no satisfactory alternative?

An assessment of alternatives needs to be provided. If there are any viable alternatives which would not have an impact on a European Protected species, they must be used in preference to the one that does. Derogations under the EC Habitats Directive (1992) are the last resort.

Where another alternative exists, any arguments that it is not satisfactory will need to be convincing. An alternative cannot be deemed unsatisfactory because it would cause greater inconvenience or compel a change in behaviour.

This test should identify a) the problem or specific situation that needs to be addressed, b) are there any other solutions, and c) will the alternative solutions resolve the problem or specific question in (a)?

3. Is the proposed activity 'not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range'?

Assessment of the impact of a specific development will normally have to be at a local level (e.g. site or population) in order to be meaningful in the specific context.

Two things have to be distinguished in this test: a) the actual conservation status of the species at both a biogeographic and a (local) population level; b) what the impact of the proposal would be.

In such cases where the conservation status is different at the different levels assessed, the situation at the local population level should be considered first, although ultimately both should be addressed.

No derogation under the EC Habitats Directive (1992) can be granted if it has a detrimental effect on the conservation status or the attainment of favourable conservation status for a species at all levels. The net result of a derogation should be neutral or positive for a species.

In the case of destruction of a breeding site or resting place it is easier to justify derogation if sufficient compensatory measures offset the impact and if the impact and the effectiveness of compensation measures are closely monitored to ensure that any risk for a species is detected. Compensation measures do not replace or marginalise any of the three tests, all three tests must still be satisfied.