

Development Management Report

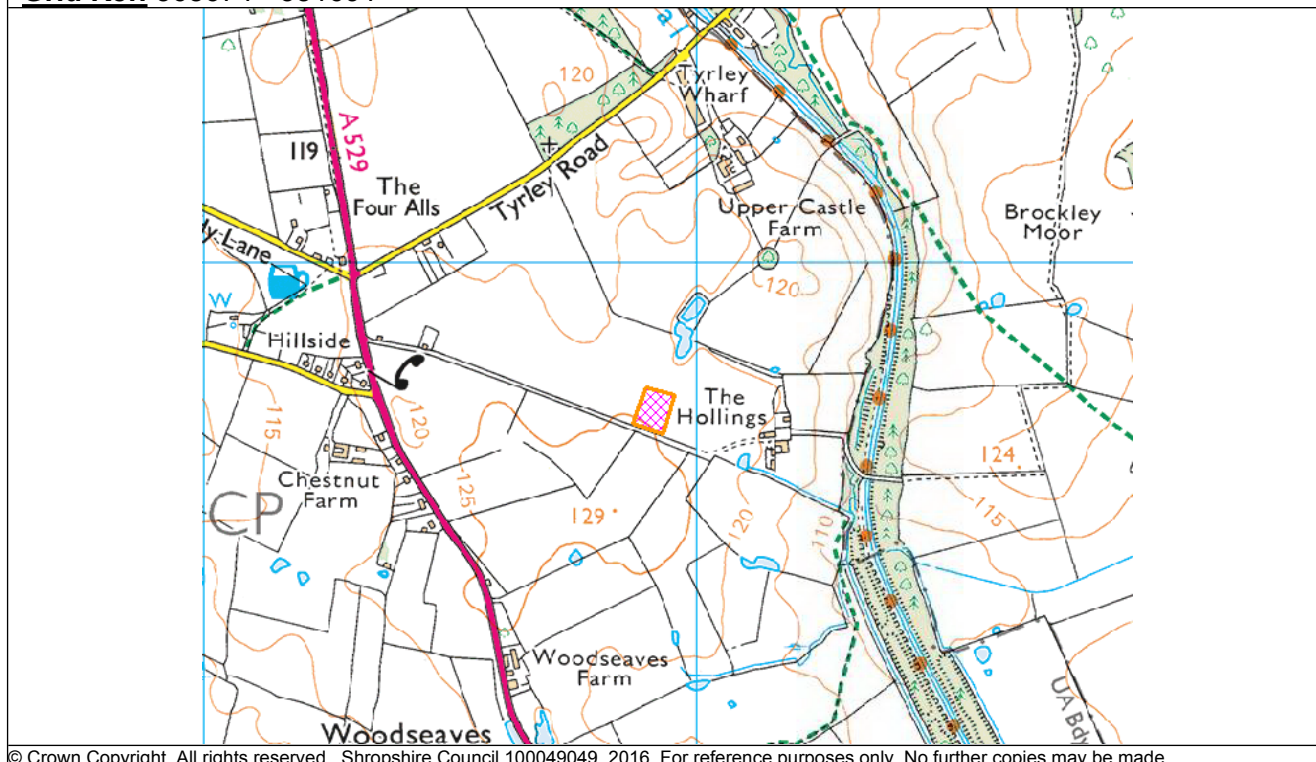
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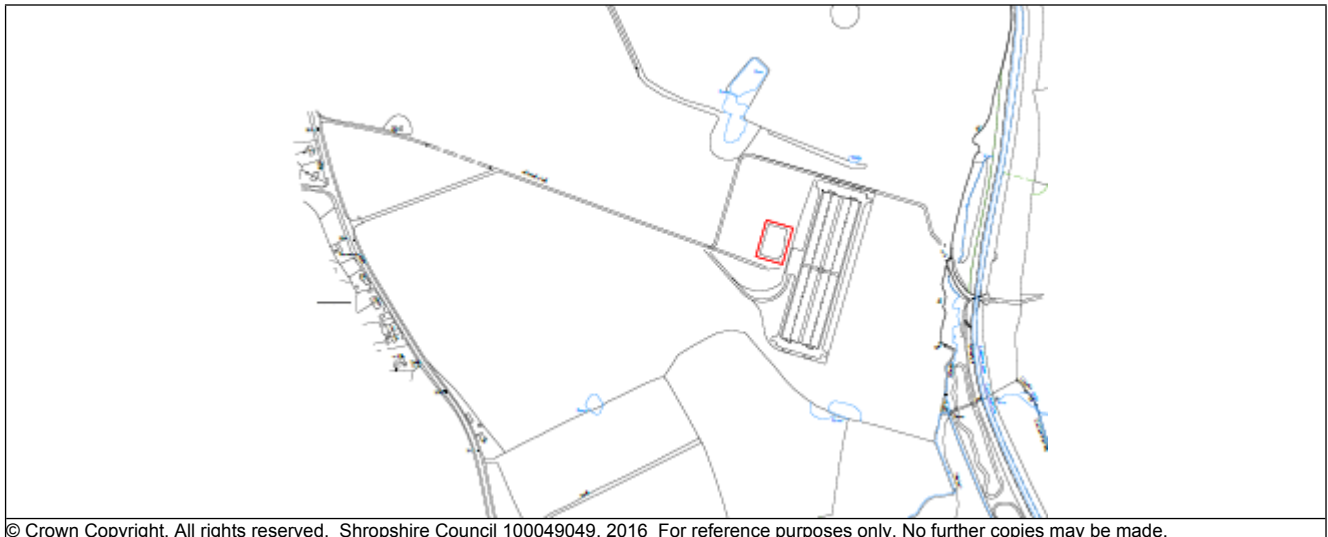
Summary of Application

<u>Application Number:</u> 17/05286/FUL	<u>Parish:</u>	Sutton Upon Tern
<u>Proposal:</u> Application under Section 73A of the Town and Country Planning Act 1990 for the alterations to approved agricultural building and installation of six additional biomass boilers and a drying floor		
<u>Site Address:</u> Land South Of Hollins Lane Newport Road Woodseaves Market Drayton		
<u>Applicant:</u> HLW Farms		
<u>Case Officer:</u> Kelvin Hall		<u>email:</u> planningdmc@shropshire.gov.uk

Grid Ref: 368674 - 331691



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Recommendation: Subject to no adverse comments being received from the Council's ecology team which cannot be addressed through planning conditions, delegate authority to the Head of Planning Services to grant planning permission subject to the conditions set out in Appendix 1 and any ecological conditions as considered necessary.

REPORT

1.0 THE PROPOSAL

- 1.1 The planning application seeks permission for alterations to an existing building and the installation of six additional biomass boilers and a drying floor at Hollins Lane, Market Drayton. Planning permission for a building on this site was granted in 2015 as part of a proposed anaerobic digester (AD) facility. That permission allowed for the installation of two biomass boilers within the building which were to be used to heat adjacent poultry sheds. It is no longer proposed to install the AD plant, however the building has now been constructed. Instead, it is proposed that the building would house eight biomass boilers in total, i.e. six additional ones. Two of these would operate alongside the permitted two to heat the sheds. The four further boilers would be used to heat a drying floor which dries crops produced at the farm.
- 1.2 The dimension of the permitted AD building are approximately: 49 metres x 24 metres x 9 metres to eaves and 12.5 metres to ridge. The building as constructed sits on the same footprint but is wider and shorter than approved, measuring approximately 49 metres x 33 metres x 7.6 metres to eaves and 11 metres to ridge.
- 1.3 The use of the boilers commenced in January 2017 and as such the application is retrospective.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site is located approximately 2.5km to the south-east of Market Drayton, and approximately 500 metres to the east of the settlement of Woodseaves. The site lies adjacent to a large broiler unit. Surrounding land is in agricultural use for the growing of miscanthus grass. Access to the site is gained via a recently-constructed new access road from the A529 to the west. The nearest properties are those at Tyrley Farm, approximately 400 metres to the north. Other residential properties in the area include

those along the A529 to the west, the nearest being 445 metres to the southwest; a property along Hollins Lane (owned by the applicant) approximately 515 metres to the west; and properties along Tyrley Road approximately 550 metres to the north-west.

- 2.2 A number of ponds are located in the surrounding area, the nearest being approximately 30 metres to the north-west. The Shropshire Union Canal runs in a generally north-south orientation approximately 285 metres to the east. This section of the canal (over the Shropshire border) is designated as a Conservation Area. Public rights of way in the area include a footpath to the south-east, approximately 290 metres to the south-east, and a footpath along the towpath of the canal to the east. The nearest Listed Building is a Grade II Listed canal bridge, approximately 285 metres to the east. Further afield, there is a Grade II Listed direction post adjacent to the canal, approximately 480 metres to the north-east. The Tyrley Cutting SSSI, designated for geological interest, is located approximately 680 metres to the south-east. Tyrley Spoil Banks, a Local Wildlife Site designated by the Staffordshire Wildlife Trust, is located approximately 240 metres to the east. The application site lies close to the Shropshire – Staffordshire border, approximately 230 metres to the east.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Local Member has requested that the application is referred to Planning Committee for consideration. The Parish Council's views are contrary to the officer recommendation. The Principal Planning Officer in consultation with the Committee Chairman and Vice Chairman considers that it is appropriate for the application to be determined by Planning Committee.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

- 4.1.1 **Sutton upon Tern Parish Council** Objects, on grounds of amenity impact, air quality, size of the drying area and hours of operation.

If Shropshire Council are minded to grant permission the Parish Council strongly recommends that a site visit is held, that the application is taken to committee and that a temporary permission is considered that measures the amenity impact, enforces any air quality infringements, restricts the size of the drying area that disallows the import of materials not grown locally and restricts the hours of operation particularly for the delivery of materials to reasonable hours of the week and not weekends.

- 4.1.2 **Loggerheads Parish Council (adjacent parish council, in Staffordshire)** Objects.

This application needs to be considered in conjunction with the applicant's other retrospective planning application for the retention of 17 biomass boilers at Old Springs Farm (17/00545/FUL) which has been under consideration by Newcastle Planning officers since August 2017. That application has been objected to by a large number of residents and by the local MP Sir William Cash.

One of the main grounds of objection is the excessive over-capacity of the unauthorised boilers installed at that location in relation to the claimed uses to which the boilers would be put.

The installation of a further 8 boilers at Hollins Lane brings the total to 25 boilers, far exceeding the capacity needed for the stated uses. All of the boilers are registered under the Ofgem Renewable Heat Incentive scheme and are believed to be eligible for payments from the public purse totalling £27,000 per week and guaranteed for twenty years. We have reason to believe that this is the main reason for the over-capacity.

The Department for Business, Energy and Industrial Strategy has recently conducted a consultation over the RHI scheme and is likely to recommend that crop drying will no longer be eligible for incentive payments. This is unlikely to affect existing registered installations. The government is also working to close the loophole which allows applicants without planning approval to register for the scheme.

The Hollins Lane application is presented in such a way as to give the impression that this is a purely local agricultural use, all of the material to be dried or used as fuel coming from the applicant's holding. It is stated that the virgin wood to be chipped and dried comes from the applicant's own holding. There is no significant mature wood present on the applicant's holding capable of being harvested in this way and we have reliable information that thousands of tons of timber is being imported to Old Springs from commercial suppliers and chipped there to be sold on as biomass fuel.

There is widespread evidence, including by the applicant's own publicity, that miscanthus, the applicant's main crop, is "easily" harvested at the optimum moisture content and does not therefore require any drying before use as biomass fuel or for animal bedding. The applicant has taken account of the objections raised to the Old Springs application and is now claiming that the miscanthus does require drying because of recent mild and wet winters.

Although the miscanthus is grown on the holding and on land rented by the applicant it has to be transported to this site by unsuitable roads. It is therefore misleading to claim that the development "will not lead to an increase in traffic movements".

This applicant has a long history of ignoring planning regulations and consequently we believe that applications should be considered with greater scrutiny than would normally be the case.

If the Council are minded to approve the application we would strongly recommend that as a condition of approval the applicant be required to keep detailed records of the volumes of crops and timber imported to the site, the source location and route taken and type of conveyance, the moisture content before and after drying and that these records be regularly examined by the planning department.

4.1.3 **Environment Agency**

Environmental Permitting Regulations (2010): Under the Environmental Permitting Regulations, we regulate Part A (1) activities and installations as defined by Schedule 1. The relevant part of Schedule 1 is:

Section 1.1 Combustion Activities: burning any fuel in an appliance with a rated thermal input of 50MW or more and burning any fuel manufactured from, or comprising, waste in an appliance with a rated thermal input of 3MW or more but less than 50 MW. An Environmental Permit is required for such activities.

The Hollins Lane site now operates two sets of 4 biomass boilers, each set with an aggregated thermal rated input not exceeding 4.43MWth. The Farm currently operates under an EP for its associated poultry operations and the operator has applied for, and been granted, a variation to the existing Permit.

The EP controls relevant point source and fugitive emissions to water, air and land; including odour, noise, dust, from the intensive poultry, and associated biomass, activities within the permit 'installation boundary'. It controls day to day general management, including operations, maintenance and pollution incidents. It will include the following key areas:

- ☐ Management – including general management, accident management, energy efficiency, efficient use of raw materials and waste recovery.
- ☐ Operations - including permitted activities and Best Available Techniques (BAT).
- ☐ Emissions - to water, air and land including to groundwater and diffuse emissions, odour, noise and vibration, monitoring.
- ☐ Information – records, reporting and notifications.

Our consideration of the relevant environmental issues and emissions as part of the EP only apply to the permitted boundary.

With reference to the Permit the number of biomass boilers has increased from 4 to 8 (with an aggregated thermal rated input of 8.86m). The additional 4 units are for drying approved biomass fuel and not for site heating requirements.

As stated above, the Permit Variation has now been granted (Ref: EPR/NP3930JP/V002, dated 3 May 2018). Please see the attached permit decision for your information. Please note that the Permit now regulates the existing and additional boilers as an additional source of emission related to the currently regulated activities. However, the Permit does not regulate the drying floor. Fuel dried on the floor will predominantly be removed from site and not serve the permitting poultry sheds. As such this element of the development is not considered directly linked to the Permitted activity and will not be regulated by the Environment Agency.

Note - For the avoidance of doubt, we do not 'directly' control any issues arising from activities outside of the permit installation boundary including the abovementioned drying floor. Your Public Protection team may advise you further on these matters. However a management plan may address some of the associated activities both outside and inside of the installation boundary.

Noise: As part of the permit determination, we do not normally require the applicant to carry out noise modelling. We require a 'risk assessment' be carried out and if there are sensitive receptors (such as residential properties or businesses) within 400 metres of the proposed installation boundary then noise management plans (NMP) are required to reduce emissions from the site.

The NMP should help to manage and reduce emissions from the site, but it will not necessarily completely prevent all noise. A Management Plan should set out the best available techniques that the operator intends to use to help prevent and minimise odour and noise nuisance, illustrating where this is and is not possible.

Bio-aerosols and dust: Intensive farming, and the associated biomass activities, has the

potential to generate bio-aerosols (airborne particles that contain living organisms) and dust. It can be a source of nuisance and may affect human health.

Sources of dust particles may include delivery, storage, wastes, ventilation fans and vehicle movements.

As part of the permit determination, we do not normally require the applicant to carry out dust or bio-aerosol emission modelling. We do require a 'risk assessment' be carried out and if there are relevant sensitive receptors within 100 metres of the installation boundary, including the farmhouse or farm worker's houses, then a dust management plans is required.

A dust management plan (DMP) will be required similar to the noise management plan process. This will secure details of control measures to manage the risks from dust and bio-aerosols. Tables 1 and 2 and checklist 1 and 2 in 'assessing dust control measures on intensive poultry installations' (available at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/297093/gho0411btra-e-e.pdf) explain the methods the operator should use to help minimise and manage these emissions.

Water Management: Buildings which have roof or side ventilation extraction fans present, may deposit aerial dust on roofs or "clean" yards which is washed off during rainfall, forming lightly contaminated water. The EP will normally require the treatment of such water, via french drains, swales or wetlands, 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>

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>

- 4.1.4 **Canal and River Trust** The Canal & River Trust (the Trust) is the guardian of 2,000 miles of historic waterways across England and Wales. We are among the largest charities in the UK. Our vision is that "living waterways transform places and enrich lives". We are a statutory consultee in the development management process.

Although the application site falls outside of the Trust's notified area we have reviewed the application and based upon the information available we have the following general advice to offer:

The submitted Application Form is for full planning permission though the description of development indicates that this is a S73 submission. However, there is no detail as to the original application reference or condition(s) which are sought to be varied.

The Trust previously commented on application ref: 15/00924/EIA and raised concerns with regards to drainage and noise/odour consideration.

The drainage methods of new developments can have significant impacts on the structural integrity, water quality and the biodiversity of waterways. It is important to ensure that no contaminants enter the canal from surface water drainage and full details should be submitted and agreed. It should be ensured that the current submission considers these factors and that any approval is subject to the same conditions as the previously approved scheme.

The noise/ air quality impacts from the proposed development should be considered in combination with the existing poultry units. The submission states that the anaerobic digestion (AD) plant is not to be progressed. However, it is also stated that the proposed building will be built on the same footprint as that previously approved. Therefore, there would still appear to be opportunity to install the AD plant at a later date in accordance with the planning permission that has been implemented.

The Local Planning Authority should satisfy themselves on this matter and ensure that the combined impacts of all development permitted on the site (extant or proposed) would not have any adverse impacts to the character or amenity of the canal corridor and impose conditions as necessary.

4.1.5 **Natural England** No comments to make.

Natural England has not assessed this application for impacts on protected species. Natural England has published [Standing Advice](#) which you can use to assess impacts on protected species or you may wish to consult your own ecology services for advice.

Natural England and the Forestry Commission have also published standing advice on [ancient woodland and veteran trees](#) which you can use to assess any impacts on ancient woodland.

The lack of comment from Natural England does not imply that there are no impacts on the natural environment, but only that the application is not likely to result in significant impacts on statutory designated nature conservation sites or landscapes. It is for the local planning authority to determine whether or not this application is consistent with national and local policies on the natural environment. Other bodies and individuals may be able to provide information and advice on the environmental value of this site and the impacts of the proposal to assist the decision making process. We advise LPAs to obtain specialist ecological or other environmental advice when determining the environmental impacts of development.

We recommend referring to our SSSI Impact Risk Zones (available on [Magic](#) and as a downloadable [dataset](#)) prior to consultation with Natural England. Further guidance on when to consult Natural England on planning and development proposals is available on gov.uk at <https://www.gov.uk/guidance/local-planning-authorities-get-environmental-advice>

4.1.6 **SC Ecology** Additional information is required relating to the impact on designated sites. Please refer to the Environment Agency's formal memo dated 29th November 2017. In the absence of this additional information (detailed below) I recommend refusal since it is not possible to conclude that the proposal will not be contrary to NPPF & MD12.

Natural England have formally responded to this planning application and have confirmed

that the SSSI in 5km of this proposal is designated for its geological interest features – therefore no further assessment is required to assess impacts on National designated sites.

Environment Agency Comments: As part of the planning submission and Permit application, in consideration of the proximity of sensitive receptors, including the adjacent Site of Special Scientific Interest (SSSI), we would expect greater detail on the proposed biomass boiler (including fuel type and stack height) and design of the building to ensure no adverse impact and minimise the likelihood of pollution, emissions etc. Specifically, we would expect the applicant to consider air quality in greater detail. An assessment of emissions and dispersion would inform details on the scale and nature of the stack. The planning application should provide a reasonable degree of certainty on whether the development is an acceptable use of the land and ‘no likely significant effects’ (to inform pollution control measures).

EA would request that the applicant submits a quantitative assessment of air emissions in consideration of the proximity of sensitive receptors. As there is currently a Permit Variation being progressed the abovementioned assessment work may have been undertaken and we would request that it is submitted (twin-tracked) with the planning application.

Shropshire Local Plan Policy: Shropshire’s Site Allocations and Management of Development Policy MD12: The Natural Environment states:

“Ensuring that proposals which are likely to have a significant adverse effect, directly, indirectly or cumulatively, on any of the following:

- i. the special qualities of the Shropshire Hills AONB;
- ii. locally designated biodiversity and geological sites;
- iii. priority species;
- iv. priority habitats
- v. important woodlands, trees and hedges;
- vi. ecological networks vii. geological assets;
- viii. visual amenity;
- ix. landscape character and local distinctiveness.

will only be permitted if it can be clearly demonstrated that: a) there is no satisfactory alternative means of avoiding such impacts through re-design or by re-locating on an alternative site and; b) the social or economic benefits of the proposal outweigh the harm to the asset. In all cases, a hierarchy of mitigation then compensation measures will be sought.

SC Ecology would expect the assessment of air emissions to take into consideration in-combination assessment with other plans and projects and the background level, in line with the Wealden judgement. To aid this SC Ecology has not identified any planning application within 2km of Natural Assests (The Sydnall LWS, Colehurst Wood Ancient Woodland, and Unnamed Woodland 367562, 331105) which have been in the planning system since 2016. Background ammonia and nitrogen deposition levels should be taken from APIS.

- 4.1.7 **SC Public Protection** No objections. Having considered the air quality assessment it is noted that the conclusions of the report suggest no air quality objectives will be exceeded.

This is generally agreed with given the emissions being produced and the distances involved. However, I would suggest the EA are invited for comment as they, as previously noted in correspondence, will be regulating the development under an Environmental Permit.

4.1.8 SC Highways No objections.

The application is seeking retrospective approval for an additional six biomass boilers and alterations to a previously approved agricultural building. The submitted Supporting Statement describes the development and the associated farming operations, with Section 3.6 confirming that the additional biomass boilers will not result in an increase in traffic movements. It is considered that there are no reasons to question the contents of the statement and while it would appear that an unspecified quantity of the dried crops are exported for sale this would be the case with any traditional crops or livestock.

A previous planning approval for the erection of two poultry sheds (reference 15/00924/EIA) required the completion of an improved vehicular access junction and visibility splays to the A529. A recent site visit confirms that the access works have been completed and appear to be well maintained.

In view of the Highway access arrangements which are in place and in use for the permitted farming operations, the current proposal is not considered to give rise to concerns in terms of Highway safety.

4.1.9 SC Drainage Advice provided as an informative which can be added to the decision notice.

4.1.10 Shropshire Fire Service Advice provided (see Informatives).

4.2 Public comments

4.2.1 The application has been advertised by site notice. In addition, 53 residential properties in the local area have been individually notified. Objections have been received from 23 households. The representations include detailed letters of objection. The concerns raised are summarised below and the full text can be viewed on the Council's online planning register.

- Flues are not in keeping with the rural setting and do not enhance the environment
- Visual impact from canal banks
- Boilers are not needed for heating of the poultry units
- Installation is over-capacity; if the RHI payments were not available it would never have been installed
- 4MW unit is capable of drying 16,000 tonnes of biomass fuel
- 4MW of boilers are not needed to heat a poultry unit of this size
- More boilers are proposed than are required as the miscanthus self dries in the field
- Additional traffic on small narrow lanes
- Lorries cause damage to verges
- No traffic assessment submitted to indicate the suitability of the current highways infrastructure
- Tyrley Road is mostly a single track road with few passing places and no

- pavement
- Misleading comments regarding traffic impacts
- Noise from lorry traffic
- A529 is one of Britain's most dangerous roads
- No noise assessment undertaken
- Noise from fans
- Dust from blow drying miscanthus
- Impact on walkers from the canal, cyclists and horse riders
- No guarantee that miscanthus would only be sourced from the holding
- Pollution concerns
- Large plumes of smoke seen from the biomass boilers
- Concerns over emission of PM₁₀ particulates
- Particulate matter PM_{2.5}, PM₅ and PM₁₀ and nitrous oxide being discharged in large quantities
- High levels of dioxins and flue emissions with heavy metals and carcinogenic compounds
- Permits are issued without any real checks or adequate regulation
- Gaps in regulation resulting in gaps in scrutiny and poor public protection
- Query whether Council has the level of expertise to reach a fully informed and objective decision
- Environmental Health need to carry out a full assessment
- Odour from combustion
- No information regarding spacing of flues; spaced too tightly
- No details regarding fire risk or fire control
- Boilers should have been included in the original application
- Incentive of government subsidies is the drive behind the development
- Queries over accreditation process
- Impact on listed buildings from noise and vibration from additional HGV vehicles
- No air quality assessment; emission dispersion modelling; all uses of boilers; operating hours
- Environmental assessment of air quality for site operatives is required
- Lack of information submitted
- No details of handling, storage or disposal of fly ash which contains particulates harmful to health
- Odour is greater than would be the case from the AD plant
- Landscape planting for existing permissions has not been carried out
- Ground modelling for poultry sheds not undertaken as approved
- Drying floor also being used to dry chopped miscanthus for use as biomass fuel
- Has been a change of use at the site to industrial
- Proposal is contrary to planning policy including MD7, CS5, CS1, CS6, CS7, CS8, CS13, CS17
- Alternative sites have not been considered, as required by EIA regulations
- Conflicts with NPPF
- The matter should be referred for judicial review if permitted
- Possibility of maladministration by the Council

5.0 THE MAIN ISSUES

- ☐ Principle of development
- ☐ Siting, scale and design; impact upon landscape character
- ☐ Historic environment considerations

- ☐ Highways considerations
- ☐ Residential and local amenity; ecological and pollution considerations

6.0 OFFICER APPRAISAL

6.1 Principle of development

- 6.1.1 Planning permission for a building for pelleting/storage of biomass crop at the site was granted in 2013 (ref. 11/04052/FUL). This approved building had similar dimensions to the current application but was never constructed. Subsequently, planning permission was granted in 2015 for an anaerobic digester (AD) on land at Hollins Lane (ref. 15/01108/MAW). Separate planning permission was granted at the same time for four poultry rearing units on adjacent land (ref. 15/00924/EIA). It was the intention that the AD plant would process 3,200 tonnes per annum of chicken litter arising at the poultry sheds, together with 11,000 tonnes per annum of energy crops grown on land farmed by the applicant. The poultry development is now operational. The permitted AD facility included two biomass boilers and associated litter storage area within a large building. This building has been constructed however the applicant has decided not to install the AD plant. It is now proposed that the building is used instead for the drying of energy crops from the applicant's holding, and for the heating of the adjacent poultry sheds. The principle therefore of a building on this site to support the adjacent agricultural and poultry rearing enterprises has been established by existing permissions.
- 6.1.2 The applicant states that the proposed boilers would help to dry the miscanthus grass that is grown on surrounding land, to reduce its moisture content and improve the standard of the product for sale to the bedding market. Core Strategy policy CS13 seeks to deliver sustainable economic growth. It states that in rural areas the continued importance of farming for food production and supporting rural enterprise in particular areas of economic activity associated with sectors such as agricultural and farm diversification. The proposal is in line with this policy. Concerns raised through representations over the capacity and use of the building are noted. It is considered that these can be addressed through the imposition of conditions restricting the source of energy crops and the principal uses to be carried out within the building.
- 6.1.3 Core Strategy policy CS5 provides support for agricultural related development in the countryside which maintain and enhance countryside vitality and character and bring local economic and community benefits. The proposal would allow energy crops that are grown on surrounding land to be dried in order to improve their value to the bedding market. The proposal would also enable a greater proportion of heat that is required by the adjacent poultry sheds to be derived from sustainable sources. It is considered that the proposal would provide environmental and economic benefits to the adjacent agricultural operations and can be supported in principle under policy CS5.
- 6.1.4 The National Planning Policy Framework supports the transition to a low carbon future as one of its core planning policies, and states that local planning authorities should recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gases. The Shropshire Core Strategy provides similar support by stating that the generation of energy from renewable sources should be promoted (Strategic Objective 9), and that renewable energy generation is improved where possible (Policy CS6). As such the proposal is supported in principle by national and local planning policies.

6.1.5 Environmental impact assessment: Due to its size and capacity the proposed development falls below the criteria and thresholds for needing to be screened as to whether the application should be accompanied by an Environmental Impact Assessment (EIA) under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. As such an EIA is not required.

6.2 Siting, scale and design; impact on landscape character

6.2.1 Core Strategy policy CS6 seeks to ensure that development is appropriate in scale and design taking into account local context and character. Policy CS17 also seeks to protect and enhance the diversity, high quality and local character of Shropshire's natural environment and to ensure no adverse impacts upon visual amenity, heritage and ecological assets. SAMDev Plan policy MD7b states that applications for agricultural development should be of a size/scale which is consistent with its required agricultural purpose, and where possible are sited so that it is functionally and physically closely related to existing farm buildings.

6.2.2 The building is of a similar scale and design to that permitted for the pelleting building in 2013 (which was never constructed) and for the AD plant building in 2015. The building is close to the adjacent poultry sheds and therefore well situated to provide heat to those buildings. It is also well located in terms of the source of miscanthus grass which is grown on surrounding land. It is considered that the proposed building is of an appropriate design and scale for its intended new purpose.

6.2.3 A landscaping scheme for the AD facility was previously agreed. Now that that development is not going to be built it is appropriate to re-visit the landscaping requirements and a condition can be added to the decision notice if permission is granted. The comments raised regarding the progress of landscaping to date have been raised with the site manager and this matter is being dealt with separately.

6.3 Historic environment considerations

6.3.1 Core Strategy Policy CS17 requires that developments protect and enhance the diversity, high quality and local character of Shropshire's historic environment. SAMDev Plan policy MD13 requires that heritage assets are conserved, sympathetically enhanced and restored by ensuring that the social or economic benefits of a development can be demonstrated to clearly outweigh any adverse effects on the significance of a heritage asset, or its setting. Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regards is 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.

6.3.2 The proposed building would be similar in appearance and scale to the permitted AD building, and would occupy the same footprint. As such it is not considered that the proposal would result in any additional harm to heritage assets. Consequently the proposal is acceptable in relation to the above policies and legislation.

6.4 Highways considerations

6.4.1 Core Strategy policy CS6 requires that development is designed to be safe and accessible to all. The application states that the fuel for the biomass boilers, and the crops to be dried on the drying floor, would all be sourced from the agricultural holding. It states that as such the development would not lead to an increase in traffic movements.

The application does not specify whether crops from the holding would be transported via internal access tracks or whether it would need to use the public highway network. In addition, as noted by the Council's highways consultant, no details of the amount of traffic that would be associated with the export of the dried product for sale have been included in the application.

- 6.4.2 The concerns raised through public representations are acknowledged. As part of the requirements of previous planning permissions, vehicular access to the site and poultry sheds is gained from a recently-constructed dedicated access from the A529. This has been constructed to accommodate large vehicles and is of an appropriate design. No objections to the proposal have been raised by the Council's highways consultant on the grounds of highway safety. It is considered that this access can satisfactorily accommodate traffic from both the proposed operation and existing operations.

6.5 Residential and local amenity; drainage; pollution and ecological considerations

- 6.5.1 Core Strategy policy CS6 requires that developments safeguard residential and local amenity. SAMDev Plan policy MD7b states that planning applications for agricultural development will be permitted where it can be demonstrated that there would be no unacceptable impacts on existing residential amenity. One of the core planning principles of the NPPF is that planning should always seek a good standard of amenity for all existing and future occupants of land and buildings. Core Strategy policy CS17 seeks to protect and enhance the diversity, high quality and local character of Shropshire's natural environment and to ensure no adverse impacts upon visual amenity, heritage and ecological assets. SAMDev Plan policies MD2 and MD12 require that developments enhance, incorporate or recreate natural assets. Para. 118 of the NPPF states that local planning authorities should aim to conserve and enhance biodiversity.
- 6.5.2 Drainage: The matters raised by the Canal and River Trust are noted, and these can be addressed by requiring the submission of a drainage scheme for approval, in line with the requirements of the planning permission for the AD plant.
- 6.5.3 Noise and dust: The nearest residential properties are in excess of 400 metres away. As such there is a significant buffer which would act to reduce noise and dust impacts on local residents. Similarly the nearest public rights of way are a significant distance from the site. The boilers are situated within the building which would provide noise attenuation. The Council's Public Protection Officer has raised no comments in respect of noise and dust impact implications. It should be noted that, given the capacity of the boilers, they are required to be regulated under an Environmental Permit from the Environment Agency. The EA has recently issued a variation to the existing Permit for the adjacent poultry rearing operation so that it now also encompasses the proposed biomass boiler operation. The EA has confirmed that the Permit controls relevant fugitive emissions including noise and dust from the Permitted site.
- 6.5.4 Fire protection: The Permit covers matters relating to fire protection, including steps and procedures to be followed to minimise or mitigate impacts on people or the environment in the event of a fire on the site.
- 6.5.5 Air emissions: In terms of potential air pollution, the Environment Agency initially raised concerns that insufficient details had been submitted in relation to the design of the boiler and flues, and requested further assessment of emissions and dispersion. The Council's ecology team similarly requested further details of emissions to enable an assessment of

potential impacts on designated ecological sites. An air quality assessment has now been undertaken by specialist consultants which considers the likely impacts from the operation of eight biomass boilers utilising miscanthus grass.

The report has assessed potential impacts in relation to the nearest residential receptors and also designated ecological sites.

- 6.5.6 The report advises that process contribution is negligible at all residential receptor locations for nitrogen dioxide, carbon monoxide and PM₁₀ particulates. It states that there is no realistic potential for a breach of the air quality objectives at residences. In terms of ecological receptors, the report identifies that critical level impacts are insignificant either alone or in combination with other source and require no further assessment. It concludes that there are no sensitive designated ecological receptors of European or national importance within 2km and there are no significant effects on ecological receptors. . It states that no further mitigation is required and that all stack heights are suitable.
- 6.5.7 As noted above, officers acknowledge that the EA have issued a variation to the existing Environmental Permit for the poultry operation and that the Permit now applies to the biomass boiler operation as well. This will provide control over emissions. As part of the Permit variation the EA has concluded that 'our assessment shows that the emissions from the biomass boiler pose such a sufficiently low risk of a significant affect at human receptors that a detailed assessment is not required'. In considering planning applications, the NPPF 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. It states that planning authorities should assume that these regimes will operate effectively (para. 122). The conclusions of the air quality report and the advice received from specialist consultees lead officers to conclude that the proposed operation would not impact significantly on the local environment.
- 6.5.8 The Council's ecology team have raised some queries over the submitted air quality information and clarification has been received from the consultants. Members will be updated on any further comments that are received from the Council's ecology team.

7.0 CONCLUSION

- 7.1 Planning permission is in place to construct an anaerobic digester plant at this site, and this permission includes the construction of a building to house the plant and two biomass boilers. It is no longer proposed to develop the AD plant. The current proposal would provide eight biomass boilers in the building. The proposal would support the existing energy crop production operations that take place on surrounding land by providing drying facilities for the harvested crop. The proposal would also provide an additional source of heat for the adjacent broiler units. The use of energy crops would constitute a sustainable means of providing the required heating. The physical alterations proposed to the building would not result in a significant change to its visual appearance and can be accommodated within the landscape. The proposal would not result in adverse levels of emissions in the local environment, and drainage and landscaping matters can be dealt with through planning conditions. Subject to controls being imposed over the operation, as specified in conditions set out in Appendix 1, it is considered that the location is acceptable in relation to supporting the surrounding agricultural activities.

- 7.2 Whilst it is acknowledged that there have been extensive letters of objections to this

application from members of the public as well as Parish Councils, these issues and those of the statutory consultees have been given careful consideration in the assessment above.

- 7.3 Subject to no adverse comments being received from the Council's ecology team which cannot be addressed through planning conditions, it is considered that the proposal is in line with Development Plan and national policy and that planning permission can be granted subject to the conditions in Appendix 1 and any further conditions as considered necessary by the Council's Planning Ecologist.

8.0 **Risk Assessment and Opportunities Appraisal**

8.1 **Risk Management**

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

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

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

8.2 **Human Rights**

Article 8 give the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community.

First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents.

This legislation has been taken into account in arriving at the above recommendation.

8.3 **Equalities**

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of

‘relevant considerations’ that need to be weighed in Planning Committee members’ minds under section 70(2) of the Town and Country Planning Act 1970.

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework

Core Strategy and Saved Policies:
CS5 - Countryside and Greenbelt
CS6 - Sustainable Design and Development Principles
CS13 - Economic Development, Enterprise and Employment
CS17 - Environmental Networks
CS18 - Sustainable Water Management
MD2 - Sustainable Design
MD7B - General Management of Development in the Countryside
MD12 - Natural Environment
MD13 - Historic Environment

RELEVANT PLANNING HISTORY:

11/04052/FUL Erection of a building for pelleting/storage of biomass crop (Miscanthus) with attached office; installation of roof mounted PV solar panels; provision of a weighbridge; provision of visibility splay and associated works; landscaping scheme to include earth bund (Amended Description) GRANT 5th April 2013
13/04495/DIS Discharge of conditions 3 (access), 4 (sound insulation), 5 (head walls of access), 8 (landscaping) and 9 (closing of existing access) of planning permission reference 11/04052/FUL for the erection of a building for pelleting/storage of biomass crop (Miscanthus) with attached office; installation of roof mounted PV solar panels; provision of a weighbridge; provision of visibility splay and associated works; landscaped scheme to include earth bund. DISAPP 2nd December 2013
14/05167/SCO Scoping opinion for the erection of four poultry units, feedstock clamps and anaerobic digester plant SCO 17th February 2015
15/00924/EIA Erection of two poultry sheds and feed bins, ancillary works including access track and associated landscaping works GRANT 15th September 2015
15/01108/MAW Installation of an 800kW agricultural Anaerobic Digester (AD) Plant and associated infrastructure GRANT 11th September 2015
15/05255/DIS Discharge of Conditions 3, 4, 5, 6, 7, 9 and 10 of Planning Permission 15/01108/MAW for the Installation of an 800kW agricultural Anaerobic Digester (AD) Plant and associated infrastructure DISPAR 16th March 2016

15/05256/DIS Discharge of Conditions 3, 4, 5, 6, 7, 8, and 10 of Planning Permission
15/00924/EIA for the erection of two poultry sheds and feed bins, ancillary works including
access track and associated landscaping works. DISPAR 16th March 2016
17/05286/FUL Application under Section 73A of the Town and Country Planning Act 1990 for
the alterations to approved agricultural building and installation of six additional biomass boilers
and a drying floor PDE

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 Rob Gittins

Appendices APPENDIX 1 - Conditions

APPENDIX 1 - Conditions**STANDARD CONDITION(S)**

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

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

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

2. Within two months of the date of this permission a landscaping plan shall be submitted to the Local Planning Authority. The plan shall include:
- a) Planting plans, creation of wildlife habitats and features and ecological enhancements;
 - 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 and in accordance with the approved timescales.

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

3. Within two months of the date of this planning permission a scheme for the disposal of surface water and all treated foul sewage, to include discharges to any watercourses and discharge rates, shall be submitted to the Local Planning Authority, together with a timetable for its installation. The development shall thereafter only be implemented in accordance with the approved scheme.

Reason: To ensure that appropriate drainage arrangements are in place which minimise the risk of flooding of adjoining land, prevent pollution and minimises the risk of creating land instability in the adjacent Woodseaves Canal Cutting.

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

4. Biomass or energy crops that have not been grown on land owned by HLW Farms shall not be brought into the building.

Reason: To control the scale of the operation in order to protect local amenity and maintain highway safety.

5. Unless specified otherwise by the approved landscaping scheme, the landscaping shall be undertaken during the first available planting season following approval of the scheme. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscape in accordance with the approved designs.

6. The development hereby permitted shall be limited principally to the supply of heat to the adjacent broiler units and the drying of energy crops.

Reason: To restrict the operations occurring at the site in order to maintain local amenity, and maintain a link between the operation and associated agricultural operations on the holding in line with planning policy.

Informatives

1. In arriving at this decision Shropshire Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework, paragraph 187.

2. Your attention is specifically drawn to the conditions above that require the Local Planning Authority's approval of materials, details, information, drawings etc. In accordance with Article 21 of the Town & Country Planning (Development Management Procedure) Order 2010 a fee is required to be paid to the Local Planning Authority for requests to discharge conditions. Requests are to be made on forms available from www.planningportal.gov.uk or from the Local Planning Authority. The fee required is £116 per request, and £34 for existing residential properties.

Failure to discharge pre-start conditions will result in a contravention of the terms of this permission; any commencement may be unlawful and the Local Planning Authority may consequently take enforcement action.

3. Drainage team advice:
A sustainable drainage scheme for the disposal of surface water from the development should be designed and constructed in accordance with the Council's Surface Water Management: Interim Guidance for Developers document. It is available on the council's website at: <http://new.shropshire.gov.uk/media/5929/surface-water-management-interim-guidance-for-developers.pdf>.

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

Preference should be given to drainage measures which allow rainwater to soakaway naturally. Soakaways should be designed in accordance with BRE Digest 365. Connection of new surface water drainage systems to existing drains / sewers should only be undertaken as a last resort, if it can be demonstrated that infiltration techniques are not achievable.

4. Advice from Fire Service:

As part of the planning process, consideration should be given to the information contained within Shropshire Fire and Rescue Service's "Fire Safety Guidance for Commercial and Domestic Planning Applications" which can be found using the following link:

<http://www.shropshirefire.gov.uk/planning-applications>

Specific consideration should be given to the following:

Enclosed Agricultural Buildings over 280m²

Access for Emergency Fire Service Vehicles

It will be necessary to provide adequate access for emergency fire vehicles. There should be sufficient access for fire service vehicles to within 45 metres of every point on the projected plan area or a percentage of the perimeter, whichever is less onerous. The percentage will be determined by the total floor area of the building. This issue will be dealt with at the Building Regulations stage of the development. However, the Fire Authority advise that early consideration is given to this matter.

'THE BUILDING REGULATIONS, 2000 (2006 EDITION) FIRE SAFETY APPROVED DOCUMENT B5.' provides details of typical fire service appliance specifications.

Water Supplies for Fire fighting - Building Size

It is important to note that the current Building Regulations require an adequate water supply for firefighting. If the building has a compartment of 280m² or more in area and there is no existing fire hydrant within 100 metres, a reasonable water supply must be available. Failure to comply with this requirement may prevent the applicant from obtaining a final certificate.

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