

Development Management Report

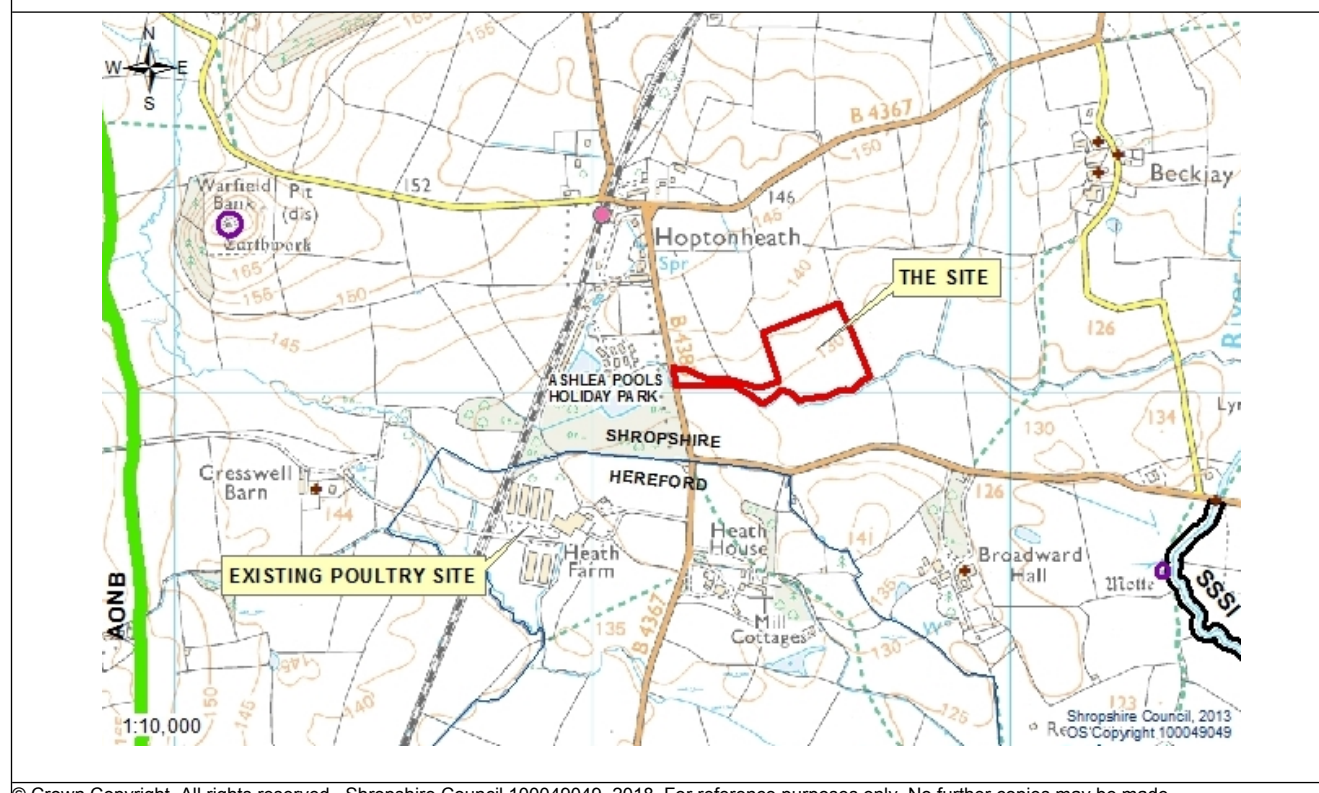
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Summary of Application

<u>Application Number:</u> 17/04546/EIA	<u>Parish:</u>	Clungunford
<u>Proposal:</u> Erection of four poultry sheds with control room/stores; landscaping scheme (amended scheme)		
<u>Site Address:</u> Proposed Poultry Units South East Of Hoptonheath Shropshire		
<u>Applicant:</u> Bedstone Growers		
<u>Case Officer:</u> Vincent Maher		<u>email:</u> planningdmsw@shropshire.gov.uk

Grid Ref: 338525 – 277077



Recommendation:- (a) approve subject to the conditions set out in Appendix 2; and (b) delegate to officers authority to negotiate a s106 legal agreement prior to the grant of planning permission to remove manure associated with the development from the Clun Catchment Area Special Area of Conservation (SAC) and ensure the air exhaust scrubber system that will limit ammonia emissions remains operational throughout the lifetime of the development and agree appropriate recourses in case the scrubber system fails or the operator closes it down.

REPORT

1.0 THE PROPOSAL

1.1 Planning permission is sought to erect four poultry rearing sheds on a 2.5 ha area of land that forms part of a larger farm that includes arable cropping, a farm biogas plant, and an existing poultry unit just over the county border into Herefordshire. The application (as revised since first submission) can be summarised as follows:

- 4 broiler buildings measuring 109m x 24.7m with each shed measuring around 4.89m to ridge height with an air exhaust scrubber system incorporated into each building.
- 10 feed bins, each measuring 7.5m in height.
- A biomass boiler measuring 22.46m x 17.69m with an eaves height of 7.58m to power the sheds.
- A new access onto the B4367 and associated extensive landscaping in the area. This will include just over 1.7 ha of native woodland around the site in belts between 9m and 50m wide which will serve to mitigate ammonia emissions and the visual impact of the proposal.

1.2 An air exhaust scrubber system is proposed as part of the development as a way of capturing ammonia emitted by the birds and addressing odour and dust emissions. This involves installing a filter system behind the fans in the sheds which cleans the used air before it is discharged into the atmosphere. The ammonia is collected and disposed of off-site. The technology purports to remove over 90% of all ammonia emissions and would also remove odour and dust from the operations. This technology is currently used in other EU member states (Belgium, the Netherlands and Germany) but is relatively new in the UK.

1.3 The revised development would accommodate 204,000 birds (originally 216,000 birds but now reduced because of the introduction of the air exhaust scrubber system). Hence, the proposals fall within Schedule 1 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2017, so the applicant has submitted an Environmental Statement. A number of technical reports accompany the Environmental Statement covering: noise; landscape assessment; ecology; ammonia screening and scrubbing; heritage assessment; an archaeological written scheme of investigation; flood risk and drainage; and a highway assessment. The statement was updated in February 2018 to take account of the exhaust scrubber system and initial concerns raised by officers about the initial landscape assessment. A supplementary landscape and visual impact assessment (LVIA) was prepared. The applicant has supplied further technical information on nitrogen to the Council's ecologist to help her assess ecological impacts. The applicant has further asserted that they have had a contract to supply chickens with a processor for more than four years.

- 1.4 In addition, the applicant submitted further information in May 2018 on existing night time vehicle movements, noise from the site and revised landscaping plans on the B4367 fronting during the processing of this application. As a result the Council has carried out three consultations during the processing of this case.
- 1.5 Pursuant to the grant of planning permission the applicant wishes to enter into a s106 agreement regarding all poultry manure arising from the development requiring it to be exported outside of the River Clun Catchment Special Area of Conservation (SAC) and has sent details of a unilateral undertaking that was prepared in connection with a recent planning appeal on the site.

Planning history of the site

- 1.6 A planning application was submitted for an almost identical scheme in 2014 (14/03290/EIA). It differs from the current revised scheme principally in that that there was no air scrubbing exhaust system and the number of birds was higher. Officers originally recommended this earlier scheme for approval at the South Planning Committee in December 2014 subject to receiving Natural England comments. The Committee endorsed this recommendation. Clungunford Parish Council subsequently instigated a judicial review and the planning permission was quashed.
- 1.7 The planning application was subsequently reported again to the South Planning Committee in October 2015 following receipt of Natural England's revised comments withdrawing a holding objection. Officers recommended this scheme for approval but the Committee refused the scheme contrary to officers' advice for two reasons: (a) it would represent large scale development in the open countryside which fails to maintain and enhance countryside vitality and character and would damage local tourism interests; (b) and the potential risk of a breakdown in control measures and associated pollution represented an unacceptable risk to the Clun Catchment Area SAC within which the site is located. An appeal was lodged.
- 1.8 The appeal inspector took account of the Council's two reasons for refusal but dismissed the appeal solely on noise grounds. The inspector considered a number of noise sources associated with the development. These include vehicles on the local road network as well as activities on site. At paragraph 29 of the decision, the inspector stated:

the proposal would introduce noisy activities into an area recognised and valued for its peace and tranquillity, which would be significantly harmful to the character of the area. The proposal would also be likely to result in a reduced appreciation of the area where local residents live and result in noise and disturbance to nearby occupiers' enjoyment of their property.

- 1.9 The Committee must consider the current proposal afresh whilst taking into account previous decisions and other material considerations. This includes the findings of three rounds of planning consultation, as well as other matters that have arisen since the last appeal decision such as adoption of the SAMDev Plan and the publication of the July 2018 NPPF.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is located in open countryside close to the county border with Herefordshire. It is south of the settlement of Hopton Heath and to the east of the Ashley Pools Caravan Park. It is some 1.5km from the Shropshire Hills Area of Outstanding Beauty boundary but located within the Clun Catchment Area SAC, an area strictly protected under the EC Habitats Directive. The SAC has been designated due to the presence of Freshwater Pearl Mussel.
- 2.2 The site can be broadly characterised as forming part of a wider “Estate Farmland” landscape characterised by mixed farming land use, clustered settlement patterns, large country houses with associated parkland, planned wooded character and medium to large scale landscapes with framed views.
- 2.3 The site itself comprises a number of open fields used for grazing with hedgerow around the edges. Land levels fall generally in a north west (140m AOD) to southerly (128m AOD) direction.
- 2.4 The development would access onto the B4367. This is a straight road linking Hopton Heath with Bedstone and Bucknell to the south. It has a single lane carriageway in each direction where the speed limit is 60 mph.

3.0 REASON FOR COMMITTEE/DELEGATED DETERMINATION OF APPLICATION

- 3.1 The proposals comprise Schedule 1 EIA development so a committee decision is mandatory under the Council’s Scheme of Delegation.

4.0 COMMUNITY REPRESENTATIONS

- 4.1 - Consultee Comments

4.1.1 Environment Agency: Comment

Site benefits from an environmental permit 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.

EA do not make detailed comments on these emissions as part of the current planning application process. Applicant responsible to undertake 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.

(Note: this scheme has been amended since with the introduction of an air exhaust scrubber system. It will not have any roof ventilation associated with other sheds)

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 Practice (COGAP) and the Nitrate Vulnerable Zones (NVZ) Action Programme where applicable.

Manure /litter is classed as a by-product of the poultry farm and is a valuable crop fertiliser on arable fields. Separate to the EP consideration, EA 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 includes 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>

4.1.2 SC Regulatory Services: Comment

Has considered the noise assessment and notes the proposed mitigation. Recommends that a condition is placed to ensure that all noise mitigation is carried out in full and maintained for the duration of the land use.

Aware of past decisions on this application and can confirm that the noise assessment proposed is considered thorough and takes into account all uncertainties noted in past applications for this land use at this site.

In relation to odour and air quality, has no conditions to recommend following consideration of these matters.

4.1.3 SC SUDS: Comment

The proposed drainage details, plan and calculations should be conditioned if planning permission were to be granted.

The drainage proposals in the Flood Risk and Drainage Assessment are acceptable in principle, however, the proposed floor space is greater than 10,000m² which is considered to be a Largescale Major Development and the surface water drainage should be designed to a 1 in 10 storm event plus 25% for climate change.

A final surface water drainage plan should be submitted for approval.

4.1.3 SC Highways: No objection

Highway Statement is sufficiently robust and demonstrates the likely impact this development might have on the adjacent public highway. Therefore, it is considered that the proposed development, would be acceptable from a highways/ transport perspective.

The Highway Statement suggests that a visibility splay of 2.4m X 215m will be provided at the new site access. However, the submitted block plan indicates a visibility splay of 2.4m X 175m. Ideally the plans/statements should be consistent with the greater visibility splay.

Recommends informatives to prevent mud on the highway and advice on works within or abutting the highway.

4.1.4 ESP Ltd (Landscape adviser to the Council):**First consultation comments: Objection**

Had a number of initial concerns with the Landscape and Visual Impact Assessment (LVIA) methodology used and application of that methodology and considered it unreliable. It has not been prepared in accordance with best practice. It has not covered a Zone of Theoretical Visibility (ZTV).

Second consultation comments : No objection

Has reviewed revised LVIA prepared by Allan Moss Associates Ltd and has viewed the proposed site from a number of perspectives. Advises that it accords with best practice (GLVIA3). Has reviewed landscape mitigation and enhancement incorporated into the scheme. Has considered the scheme in the context of the wider area including the Shropshire Hills AONB.

Considers the LVIA findings reliable and agree with them. Overall, finds that the proposal is likely to have 'Minor adverse' significance on landscape character at a site specific level; 'Moderate/Minor adverse' significance in terms of the immediate adjoining countryside; and 'Minor adverse' significance on the wider landscape and the Shropshire Hills AONB.

Has one concern relating the relationship between the existing hedgerow at the point that the proposed access road joins the highway. The Arboricultural Impact Assessment indicates that a 6m length of existing hedgerow (H1) is proposed for removal to accommodate the new access drive along with a single Wych Elm tree (T1) in order to accommodate the visibility splay.

However, the Access Arrangements Plan indicates that the new entrance would be approximately 16m wide at the point it passes through the boundary hedge. In addition, it suggests that some additional hedgerow may also be affected by the visibility splays. It is therefore unclear as to how much hedgerow is proposed to be removed, and the extent of this will be a factor in the assessment of both landscape and visual effects. It should be noted that its loss needs to be balanced with proposed planting of some 500m of new hedgerow as part of the development.

Other observations

ESP Ltd have also reviewed photographs that formed part of Clungunford Parish Council submission dated November 2017. Agrees with the assertion in Allan Moss LVIA that photographs 4 and 5 in the objection document from the parish are misleading, on the grounds that the photographs are taken from private land some distance from footpath LX12 on the Herefordshire Trail and are taken with a telephoto or zoom lens showing a very narrow field of view giving an exaggerated appearance of the proposal site.

4.1.5 SC Trees: No objection

Tree Service has no objection to this application on arboricultural grounds, providing due care is taken to protect existing trees and hedgerows to be retained from damage during development and that the Council secures through conditions the full delivery of the proposed landscape proposals. If the application is granted planning permission in the autumn of 2017 then it is not unreasonable that the proposed landscape mitigation could be established during the 2017-18 planting season and completed in advance or on a parallel time line to the construction works rather than as a subsequent and secondary operation if not done during the 2017-18 planting season then we recommend that conditions should secure the full delivery of the landscape proposal in the first planting season after the commencement of any ground or construction works including the formation of an access point.

Recommend tree protection controls set out in tree condition report and landscape conditions.

4.1.6 SC Ecology: No objection. Has recommended conditions and informatives.

Has read the application and following additional documents.

- Preliminary Ecological Appraisal prepared by Craig Emms MSc MCIEEM June 2017.
- Natural England Comment dated 7th March 2018.
- A Report on the Modelling of the Dispersion and Deposition of Ammonia from the Proposed Bedston Growers Broiler Rearing Unit at Hopton Heath in Shropshire prepared by Steve Smith, 12th April 2018.
- Landscape Masterplan SA1465-01 REVA, uploaded to the planning portal 12th February 2018.
- Bedstone Growers Total Nitrogen Applied to Hopton Heath Fields No. 7-No. 8 Manure N + Fertiliser. Map showing Bedstone Growers Field numbers/names - received via email from Ian Pick, dated 20th April 2018.
- Detail of protection of the watercourse received from Ian Pick via email on 15th June regarding sediment runoff protection.

Offers the following additional advice on dormice, bats and River Clun SAC.

Dormice

Before the western hedgerow is breached to provide access to the site a pre-removal hand search for Dormice and/or nests should be conducted by an appropriately licensed ecologist, and a watching brief carried out during the removal of the vegetation. In the unlikely event of a Dormouse or Dormouse nest being found at any stage of the hedgerow removal then works must stop and Natural England contacted (via the licensed ecologist) to establish an appropriate course of action. This work should be undertaken outside of the main Dormouse hibernation period (November to April inclusive).

In order to enhance and protect the site for Dormice the wooded watercourse will be protected during development and there will be additional planting of native species. A minimum of 10 dormouse boxes will be installed and maintained for the lifetime of the development in suitable locations along the wooded watercourse.

The applicant has provided a detailed landscape plan (1465.01 Rev C). SC Ecology would recommend that the percentage of Hazel planting is increased in order to enhance the site for dormice – currently no Hazel planting in W2, and only 5% in W1.

Bats

In order to enhance the site for bats a number of bat boxes will be installed along the wooded watercourse to the south of the site. A lighting plan will be conditioned to ensure that ecological corridors are maintained.

River Clun SAC

The planning proposal includes the use of an ammonia scrubbing system - EMMI Exhaust Air Scrubber System, which reduces ammonia emissions from the poultry units by more than 90%.

All manure will be loaded from the sheds into trailers which will be sheeted and transported away from the site for disposal. The application is subject to a Section 106 agreement regarding manure disposal, which requires all of the poultry manure arising from the development to be exported outside of the River Clun Catchment.

Dirty water will be drained into a sealed dirty water containment tank and therefore will not enter the watercourse.

The updated ammonia modelling submitted in support of this proposal indicates that the nitrogen deposition rate would be: approximately 850 kg/y over the 3 km x 3 km modelled domain. Due to a 90% reduction in nitrogen deposition, due to scrubbing, the applicant has offset the additional 85kg with arable reversion and woodland planting.

The Landscape Masterplan SA1465-01 REVC, uploaded to the planning portal 19th July 2018, includes W1 - 12,100m² and W2 - 5,175m². A minimum 17,275m² of woodland will be planted as part of this proposal within field numbers 7 and 8. Therefore 1.7 hectares of woodland planting will cover an area of land which for the last 5 years has had an average of 244.6 kg/N/ha applied. Therefore the arable reversion/reduction in nitrogen fertiliser being applied will offset the remaining 10% ammonia deposition from the poultry unit.

SC Ecology has concluded that there will be no adverse impact on the integrity of the River Clun SAC, providing works are carried out as proposed and with planning conditions recommended that aim to secure a monitoring strategy at 'source' in order to demonstrate that the ammonia emissions from the unit has achieved a minimum 90% ammonia emission reduction. The strategy will provide a schedule of mitigation measures that could be applied if the actual output is less than 90% reduction.

4.1.6 **Natural England: Comment**

Site within or in close proximity to a European designated site (also commonly referred to as Natura 2000 sites), and therefore has the potential to affect its interest features. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2010, as amended (the 'Habitats Regulations'). The application site is in close proximity to the River Clun Special Area of Conservation (SAC) which is a European site.

Natural England have reviewed the Council's HRA and acknowledge the mitigation measures proposed. These include:

- the use of an ammonia scrubbing system.
- offsetting the additional nitrogen with arable reversion and woodland planting - a minimum 17,275m² of woodland will be planted as part of this proposal.
- additional native species woodland will be created buffering the application from the un-named ditch this will reduce sediment and nutrient run off.
- proposed surface water drainage from the sheds and units will be collected at source in guttering and downspouts and then discharge direct to soakaways.
- all dirty water collected from washing down will be collected via ACO channel drainage and gullies to a piped system and will drain to a sealed 6000 gallon tank

located to the front and south of the buildings. The dirty water will be collected following the washing down and cleaning of the sheds following each crop and will be transferred by vacuum tank to be used damp down the feedstocks and used in association with the AD (Anaerobic Digester) plant. The dirty water will be stored in existing tanks used in association with the AD Unit. The tank will be provided with a high levels alarm system to advise on the level of storage and when the tank requires emptying.

Agree that an ecological monitoring plan is required.

Seek additional clarification around the construction phase of the development, with specific regard to sedimentation entering the watercourse adjacent to the development which connects to the designated site and the safeguards and methods to be put in place to ensure contaminated surface water does not enter the stream. As the development site is so close to the River Clun SAC there is a higher risk of this material reaching the designated site after any accidental release. Previous versions of this proposal incorporated extensive measures to prevent this and the applicant may wish to incorporate them.

(Note: A revised landscape pan 1465.01 Rev C has been submitted that addresses this and SC Ecology has updated the HRA accordingly).

4.1.8 **Historic England: No objection**

Recommend a comprehensive scheme of screening should be included within the proposals. The scheme should detail how the impact of the development would be reduced by design, (including materials and recessive colours), and by landscaping so as to minimise the impact of the development upon the wider landscape that includes Heath House, listed II*, (National Heritage List for England ref: 1180036), and also a scheduled ancient monument, Motte Castle at Broadward Hall, NHLE ref: 1019007). A screening plan should be approved in writing by the Council prior to any works taking place on site.

Second consultation

Confirmed no objection. Support SC Archaeology request for written statement of investigation.

4.1.9 **SC Archaeology: No objection**

No known heritage assets within the proposed development boundary. However, immediate surrounding area contains a number of designated assets including the scheduled monuments of Motte castle 510m east of Broadward Hall (National Ref: 1019007). Additionally there are several non-designated heritage assets relating to Bronze Age and later periods located within the immediate area and within the wider landscape.

Heritage assessment concludes no significant impact on any designated or non-designated heritage assets within or adjacent to the study area.

The report concludes that the extent of the ground disturbance associated with the development is quite extensive. In light of that and the extent of the known archaeology in the surrounding area the report suggests that a programme of

archaeological work including geophysical survey and trial trenching, if appropriate, should be considered.

Recommend programme of archaeological work be made a condition of any planning permission for the proposed comprising a geophysical survey in all areas of significant ground disturbance prior to work commencing on the development. Also recommend the standard landscaping condition is included in any planning permission.

4.1.10 **SC Conservation: Comment**

Heath Lodge (grade II listed) to the south and Broadward Hall (grade II listed) to the south east. Other listed buildings lie within the hamlet of Beckjay to the north-east. The site lies outside of the Shropshire Hills AONB, though the boundary is only approximately 1.5km away to the west.

The Heritage Impact Assessment (HIA) states there is limited intervisibility between the site and neighbouring listed buildings, therefore there would be no adverse impact on their relevant settings, including Warfield Bank (Scheduled Monument) and Clungunford and Bedstone Conservation Areas, nor would the proposal degrade their significance. [any other connection?] The Inspector states that the accompanying LVIA does not take into account longer range views, where he noted that the proposal would be visible from one public footpath. Overall the Inspector seems to be satisfied that the proposal would not conflict with policy CS17 of the Core Strategy, nor with policy MD13 of SAMDev. However, it is disappointing that the LVIA (referred to in the appeal scheme) has not been updated in order to take account of those long range views which then should have been cross-referenced within the HIA, that should also include a broad analysis of the wider heritage assets such as the Scheduled Monument and the respective conservation areas. It is recommended that there should be a brief summary in the submitted Design and Access Statement to cover this aspect.

Overall, it is considered that the proposal may consist of less than substantial harm as defined in the NPPF. Therefore it is considered that the proposal is on the lesser end of the harm scale, further towards negligible harm, subject to relevant mitigation through conditions on the external facing materials and colour finishes where the colour should be finished in a juniper green (BS 12B29) and their finishes including appropriate landscaping as recommended in Historic England's comments.

4.1.11 **Herefordshire Council: No response received.**

4.1.12 **Shropshire Hills AONB: Objection**

Large scale development represents significant intensification within close proximity of River Clun SAC and River Teme SSSI.

The stream that runs adjacent to the site is designated as an 'Ordinary Watercourse' and therefore a key receptor and pathway to the River Clun SAC only a short distance downstream. The applicant's reference to a 'ditch' would appear to downplay its significance. The Flood Risk Assessment and Drainage Report indicates an intention to divert exceedance flows to this watercourse. This has the potential further contribute to the already unsustainable nutrient and sediment load

and increase flood volumes to increase erosive impact at times of high flows. It is also unclear whether all the poultry manure will be processed by the biomass plant or if any will be spread to land locally, similarly how dirty water arisings are to be used in by the biomass plant and how the digestate produced by the plant are to be disposed of. This should be clarified, as any potential increase in nutrient or sediment load to the River Clun will be unsustainable for pearl mussels. Significant financial resources have been directed at the River Clun to help meet statutory targets, and the AONB Partnership has been closely involved

On this basis the Shropshire Hills AONB Partnership objects to this application. Has identified development plan policy basis for opposing this.

4.2 - **Public Comments**

First round of consultation

In the first round of consultation (October to December), the Council received around 100 submissions from local residents and businesses, visitors to the area from other parts of the country and from Australia. These objections raised the following matters:

4.2.1 **Principle of development**

- Industrial chicken units/ megafarms/ huge industrial development inappropriate in a quiet rural area. Should go to industrial sites.
- Greater levels of concern about ethics of intensive factory farming. Why not free range farming?
- Why doesn't applicant put this near his home/ why not expand Heath Farm instead? Heath Farm has grown by 25% already.
- Too many poultry sheds in Shropshire/ Herefordshire.
- Contrary to Council's Economic Growth Strategy.
- Why is applicant submitting again? Hasn't changed substantially since last refusal by planning inspector. Council should not accept the application.
- If you approve this, we will get more development on the site in time to come.
- Applicant is a bad neighbour/ doesn't respect neighbours.
- Contrary to development plan (Core Strategy Policies CS5, CS6 and SAMDev Policy MD7b).
- Fails all three tests of sustainable development set out in the NPPF.

Details of the application

- Information/ images on design and access statement inaccurate/ misleading.
- Where will staff go to the toilet?

Pollution/ health impact

- Smells will be widespread. We will gag. It will harm children's health. Will be worse in combination with smells from Heath Farm.
- Dust from sheds a problem.
- Light pollution – big change from current situation. 24 hours a day disturbance.
- Noise from site will affect sleep.
- Will cause discomfort/ distress to residents. Will downgrade quality of life.

Landscape/ rural impacts

- Blot on the landscape.
- Would harm stunning / quiet countryside. This is a beautiful setting for painting and the arts.
- Would look like a factory. Will appear like a uniform block.
- Adverse impacts locally, from rights of way and wider ahead.
- Would affect AONB. Applicant has not assessed impacts from wider area.
- Views across Clun Valley would be compromised.

Traffic and transport impact

- Area characterised by quiet country lanes and used by cyclists/ walkers. Many accidents already.
- Road network can't cope. More traffic problems.
- Traffic modelling too low. Doesn't take account of impact of manure being transported off site.
- 24 hour traffic. Traffic will generate noise.
- Main access from site onto fast stretch of road with poor visibility. Traffic hazard.
- Other impacts on B4385, B4385/ B4367 junction and B4385/ A4113.
- Traffic will harm Clungunford River bridge.

Economic impact

- Benefits of application overstated. Will only benefit the farmer. Will not benefit the community.
- Will harm local tourist businesses such as Ashlea Pools Holiday Park, Broadward Hall, Hopton Castle, local B&Bs. Other local businesses have invested in their businesses over the years.
- Much of tourist offer based on area's tranquillity.

Post construction

- Who will enforce conditions?
- Will need a fresh unilateral undertaking if approved.
- What if applicant goes bust? Will leave an eyesore. Council should ask for a bond to restore site.

Other matters

- Will devalue local house prices.
- Will affect my inheritance.
- People can't see planning documentation online/ can't submit objections online.
- Whole community opposes this. Listen to the community. Local community supports Clungunford Parish Council.
- Planning inspector got it wrong. Should have refused on more grounds than noise.

4.2.2 Four letters of support have been received raising the following matters:

- Applicant's business has been a supplier to Cargill Meats for many years. It is highly efficient. Complies with statutory requirements.
- The proposal supports the agricultural industry.

- Located nearby so less CO² emissions from vehicle movements.
- The applicant already supports local businesses (supply of biomass fuel, building sheds and electricians).
- Would provide four months of work building the sheds.
- Need to give this application a fair and reasonable hearing.

4.2.3 Other organisations and consultees

National Farmers Union: Support

As well as supporting the applicant, the NFU makes the following comments about poultry meat:

- The UK has a large market for poultry meat and the growth in the market is forecast to continue. Demand for home grown poultry meat by UK consumers has increased significantly in recent years as poultry meat is an affordable and versatile source of low fat protein.
- Farming contributes significantly to the UK economy. For every £1 that farming contributes to the UK economy, food manufacturers and wholesalers contribute a further £5.
- Rising demand for poultry meat set against background of falling UK food self-sufficiency. Across all foods, self-sufficiency has fallen to 61% in 2016, whilst the UK population is forecast to increase by 9.7 million over the next 25 years to 74.3 million people. Farmers must grow their businesses to increase UK food production.
- Poultry meat supply still relatively tight in many world regions and is further constrained by high feed costs. Fresh poultry meat is imported to the UK from the Netherlands and other countries worldwide. Prepared chicken imports also increasing and are predominantly sourced from Asia.
- Shropshire Council should continue to demonstrate its support for a strong farming industry because global and national demand for food is growing rapidly. The global population is set to grow by 38% by 2050 therefore future reliance on imports of staple food products will simply not be sustainable for a variety of reasons, particularly as the climate changes. Development of poultry sector will safeguard rural jobs, diversify local economy, and contribute towards national goals for sustainable food production.

4.2.4 CPRE Shropshire: Object

Application has not changed since the last appeal scheme. The proposal represents loss of Grade 3 agricultural land.

4.2.5 Clungunford Parish Council: Object

The parish council submitted a 159 page objection comprising a summary of the background to the application including a successful judicial review; an assessment of the current proposal against national and Shropshire planning policy; a review of the previous inspector's appeal decision; and a detailed review of the flaws of the application. The objection is also accompanied by a number of appendices which comprise:

- Photographs of the area.
- A noise study conducted by noise.co.uk Ltd.
- A detailed critique of the transport assessment which queries the assumptions made in the assumptions behind it as they relate to a poultry farm.
- Criticisms of the applicant's use of an anaerobic digester at Heath Farm over the county boundary in Herefordshire and detailed information about a planning application on that site.
- A planning appeal decision from Sussex around whether an anaerobic digester from a farm can operate separately from the farm itself.

The main points that arise from the objection are as follows:

- The Core Strategy does not support the development, particularly as this is not small scale new economic development that diversifies the rural economy; would not maintain or enhance countryside vitality and character and would be likely to have unacceptable, adverse cumulative environmental impacts.
- The proposal is an industrial estate, would affect others including the AONB and has been previously refused permission.
- Queries the data on economic impacts – not much benefit local, would harm local tourism businesses. Nearby Ashlea Pools has consented plots that would take the developer closer to the application site than at present.
- Nearby Heath Farm (in same ownership as application site) has been operating an anaerobic digester in Herefordshire in breach of a planning condition restricting the output of electricity. The farm runs for the sake of the anaerobic digester.
- Odour report flawed. Does not take cumulative impacts into account.
- Noise report flawed. The parish council has commissioned its own study showing that the report did not cover noise from lorries on the external access road or that the noise sources would be impacting at the same time. The study has not covered dust
- The proposal will cause light pollution and potential impacts on the Clun Catchment Area. There is an increased risk of runoff and flood risk.
- There are no staff toilets.
- The highways reports grossly underestimate trip generation movements.
- There are other considerations to take into account. These include: the applicant's activity at Heath Farm; the proliferation of poultry sheds in the county has negative environmental effects; a previous s106 agreement proposed would be difficult to enforce against the spreading of manure in the Clun Valley; the Committee must cover all matters afresh and not be bound by the previous inspector's dismissal of an appeal on noise grounds only.

Responses to the parish objection

The applicant has reviewed the parish's objection and offers the following rebuttal response:

- Odour is a matter for the EA to review.
- The noise assessment is robust. It is outside the requirements of BS4142:2014 to submit an assessment of traffic on the public highway.
- The traffic statement is accurate and evidence based.

- There will be no 24 hour lighting. Lighting can be controlled via a planning condition
- The parish overestimate the volume of manure to be produced.

The applicant has also presented new information on night time vehicle movements from trucks serving other chicken plants in the area.

The Council's highway adviser has also reviewed the parish council's highway information. He advises that the parish's own assessment appears equally robust, although it uses some slightly different assumptions to build up a greater number traffic movements, equating to some six additional vehicle movements per hour. However, these additional vehicle movements are not considered to be sufficient to warrant a negative response from a highway safety perspective. The vehicular access for this specific development is directly onto a B road, which is considered to be a 'rural distributor road' with a primary function of moving all traffic between settlements as well as the A road network.

Most rural B roads of this width and nature rarely operate at anywhere near their potential full capacity, therefore can accommodate significantly more traffic than is usually perceived. In the circumstances, even if the worst case scenario (Parish Council) were to be taken into account the additional number of hourly vehicle movements (i.e. 20) would equate to only a small percentage increase (<5%) in the overall capacity of the public highway.

Notwithstanding the above, the operation of a poultry farm is like no other business where efficiencies are maximised wherever possible. Therefore with transport costs being high and one of the principal areas which is constantly reviewed by the operator, then all attempts to reduce the number of unnecessary vehicle movements will likely be made in order to maximise savings. This has the added effect of reducing the operational impact of vehicle movements on the adjacent highway.

4.3 **Second round of consultation (February to March)**

4.3.1 An additional 18 residents wrote in during the second round of consultation. While many of these served to reaffirm the opposition of some residents already voiced to the application, the following additional matters were raised:

- Any new information received must be treated with suspicion. No revisions will address the fundamental objection to the scheme. Extra tree planting will not be sufficient.
- No matter what size the scheme is, the development should not proceed if it makes the community unhappy. Local people continue to support Clungunford Parish Council's objection to the scheme.
- The Council should have exercised its rights under s70A of the Town and Country Planning Act 1990 not to have accepted this new application.
- Need to consider the impacts of this development in combination with the Heath Farm development over the county border particularly with regard to noise and odour.
- Serious environmental impacts with thousands of tonnes of concrete being poured into the site.

- Query vehicle movements and responses by developer to parish's initial objection. No consistency in data prepared. The developer has confused loads with vehicle movements; the parish query bird thinning and stocking ratios. The transport study does not take account of bends in the road and blind spots.
- Proposed ammonia scrubbers untested in the UK. If they fail, catastrophic harm to the River Clun and the SAC.
- Failure to meet animal standards is a material consideration because it will have environmental impacts and therefore contrary to CS Policy CS5 and CS6.
- Proposal will still cause light pollution and harm tranquillity of the area. A E Houseman wrote of the area in "A Shropshire Lad":

*"Clunton and Clunbury,
Clungunford and Clun,
Are the quietest places
Under the sun."*

4.3.2 Clungunford Parish Council

The parish maintains its objection to the scheme. Key points summarised in their second submission are as follows:

- Residents aware that existing objections have been recorded by the Council. Council should not assume that absence of further letters should be taken as a withdrawal of objections.
- Scrubbers proposed are not widely used in the UK. In determining the application, the Council should not rely on the manufacturers' specification. If they fail, Council will not be equipped to deal with damage to Clun area. The scrubbers should be trialled first.
- Council should take into account applicant's activities on nearby Heath Farm. Heath Farm now operation as a power station (because of a bio-digester) rather than for agriculture fed by a monoculture (maize) and manure. Council cannot control manure exports from the application site.
- Revised noise report does not take account of the parish commissioned study and is based on incorrect data re: transport movements. Moreover, the report does not conclude that no impact, rather it downplays impact.
- Odour report not updated.
- Transport study not correct.
- Findings of revised landscape study are subjective.

Parish confirms that the application is contrary to development plan policy and has had a previous refusal on appeal.

4.4 Comments from technical consultees

Additional representations were submitted by SC Regulatory Services covering noise and odour.

4.4.1 SC Regulatory Services

No objection to scrubbing system that seeks to extract air to remove odour, particulates and ammonia. No objection to the proposal in respect of odour or particulates which would include microbes and bioaerosols.

Odour would be emitted from the site during cleaning down at the end of a bird cycle however as this will be only a few days in every cycle and odour emissions in general are expected to be much lower than previously proposed, these odour events will not have a significant impact on the amenity of the area.

Having considered the site and building design, officer considers this assessment suitable and would not expect noise from internal fans to have a detrimental impact on the amenity of those living in the area.

In relation to noise from the biomass boiler this has been assessed in the past and in the noise assessment found above.

The officer queried one of the assumptions in Figure 1 relative to property D (*NOTE: This was subsequently corrected in a refresh of the noise study in May 2018 and the officer is now happy with this*).

In relation to Loading of HGVs the absolute noise levels are predicted to be 25dB as a worst case. I would suggest that, based on noise inside dwellings being reduced by 10dB when passing through an open window, that this level of noise will not have a significant impact on the character and nature of the area or on residential amenity. I do not consider that night time or day time noise from HGV movements on site and loading operations will significantly impact on the area.

Finally feed delivery noise has been assessed and is found to be below background at all sites with the exception of location E where a 2dB increase over background LA90 is expected. I would suggest this noise impact will not be significant as feed deliveries will not take place for the majority of the time.

As a result of the above, following the point of clarification, and considering potential cumulative noise impacts from the above assessed sources, considers there to be no noise issues with this site. Recommends conditions to be placed on feed delivery times to ensure that there are no feed deliveries at night when background noise levels are reduced. In order to reduce the impact of night time HGV movements on the surrounding road network also suggests a condition to limit HGV movements between the hours of 2300 - 0700 hours to two one way movements an hour e.g. one movement to the site and one movement leaving the site.

4.5 **Third round of consultation (May/ June 2018)**

Officers sought comments from the public and other consultees on three additional matters submitted by the applicant. These were: an updated noise report; additional information on vehicle movements past the applications site over a seven day period; and revisions to the front of the site to provide sightlines appropriate for a road where the speed limit is 60mph. This involves the removal of additional hedgerow and trees and further additional planting.

4.5.1 **Residents' comments**

14 more objections have been received at the time of writing which raise the following new matters with regard to this information.

Noise study

Noise study needs to be reviewed by an independent expert. Noise from traffic will harm local residents. New information does not change objections.

Traffic information

This is biased. Twenty percent increase in night time traffic amounts to two extra movements an hour. Extra night time traffic and noise will harm residents (acceleration, breaking etc). Data submitted proves residents' concerns. Extra traffic will cause more potholes. Road network congested already/ local congestion elsewhere. Noise from traffic will harm wildlife.

Landscape details on front of site

Will harm countryside contrary to Core Strategy Policy CS5. Will take many years to become established. New planting would dry up the brook. Proposed entrance on a dip in the road which is a rat run for commuters.

Local respondents raised other matters including:

- Proposal will harm local habitats (otters, Bechstein's bat spotted) including through light pollution, will result in an increase in vermin (rats and mice) attracted to the site.
- Large industrial use out of proportion and not suitable for the area. Would harm AONB, Clun Catchment SAC. Smells would affect local people/ local businesses. No economic benefits.
- Applicant a bad neighbour.

Vermin problems

Vermin a problem locally. Will get worse. Bait applied on site could affect protected wildlife.

Need to require applicant to achieve COSHH approval.

4.5.2 Clungunford Parish Council: objection

Noise –evidence does not deal with the Inspector's concerns from the applicants' last application, in particular:

- Inaccuracies as to inputs and noise measurement are repeated. We rely on manufacturers' advertising material on noise.
- Goods vehicle noise is played down to an unacceptable degree and noise on public roads is not considered.
- Impact on nearby sensitive noise receptors. Breach EU directive. Not aggregated noise from site with off-site noise.
- Traffic –new evidence unhelpful to its case.
- Traffic current using B roads faster than expected confirming parish council's safety concerns. Traffic exceeds 60mph speed limit.
- The applicants are seeking a threefold increase in HGV traffic at unsocial hours.
- Landscaping – parish acknowledges efforts to alleviate landscaping concerns, still considers the proposed development disastrous to the overall landscape of the area. Proposal will still be visible from Stormer Hall.

THE MAIN ISSUES

- Planning policy context: principle of and justification for the development;
- Siting of the development, scale and design – impact on landscape;
- Odour and dust;
- Noise;
- Traffic;
- Drainage;
- Heritage;
- Ecological issues and section 106 agreement;
- The planning balance; and
- Other matters raised in public comments received during the processing of this application

6.0 OFFICER APPRAISAL

6.1 Planning policy context: principle of and justification for the development

National Policy:

- 6.1.1 The July 2018 National Planning Policy Framework (“NPPF”) advises that the purpose of the planning system is to contribute to achieving sustainable development (para 7) and establishes a presumption in favour of sustainable development (para 10). This means “approving development proposals that accord with the development plan without delay” and supporting sustainable economic growth (para 11c). There are three dimensions to sustainable development: an economic role, a social role and an environmental role (para 8). Significant weight should be placed on the need to support economic growth through the planning system where it builds on the strength of a local area (para 80). In the rural area, the NPPF advises that the planning system should enable the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings;
- b) the development and diversification of agricultural and other land-based rural businesses; and c) sustainable rural tourism and leisure developments which respect the character of the countryside. While the NPPF seeks to promote economic growth, it also states that the planning system should help achieve well-designed spaces (section 10), contribute to and enhance the local environment (para 109) and ensure that effects of pollution on health, the natural environment or general amenity are taken into account (sections 12 and 15 in particular).

Development plan policy

- 6.1.2 CS Policy CS1 supports investment and new development. In rural areas outside of settlements this will primarily be for “economic diversification”. CS Policy CS13 states that “Shropshire Council will plan positively to develop and diversify the Shropshire economy, supporting enterprise, and seeking to deliver sustainable economic growth ... In so doing, particular emphasis will be placed on ... supporting the development and growth of Shropshire’s key business sectors ... particularly food and drink production ... [and] ... in the rural areas, recognising the continued importance of farming for food production”. The current proposal promotes further diversification to the business, and the strengthening of poultry farming in the county through sites

such as the application site adds to the diversity of Shropshire's rural economy and fortifies the county's strength in this field as evidenced in other publications by organisations such as the Marches Local Enterprise Partnership area (for example, its Strategic Economic Plan (2014) identifies that 12.2% of the UK poultry comes from the Marches area).

- 6.1.3 Some residents have suggested that the promotion of this business will be at the expense of other local economic sectors including tourism, holiday homes and B&Bs. This matter is considered below through an assessment of the proposal's landscape, odour, noise and traffic impacts.
- 6.1.4 CS Policy CS5 supports agricultural development, provided the sustainability of rural communities is improved by bringing local economic and community benefits. Proposals should however be "on appropriate sites which maintain and enhance countryside vitality and character" and have "no unacceptable adverse environmental impact". Whilst the Core Strategy aims to provide general support for the land based sector, larger scale agricultural ...related development, including ... poultry units ... can have significant impacts and will not be appropriate in all rural locations. The proposal is for more intensive agricultural use of the site and is therefore a use that is at face value consistent with this policy.

6.2 Siting of the development, scale and design: impact on landscape

- 6.2.1 CS Policy CS6 requires development to be appropriate in scale and design taking account of local context and character. CS Policy CS17 further asserts, among other things, the importance of protecting and enhancing Shropshire's natural environment, heritage and ecological assets. SAMDev Plan Policy MD7b requires applications for agricultural development to be of a scale consistent with their required agricultural purpose and where possible sited close to existing farm buildings. SAMDev Plan Policy MD12 seeks to protect the natural environment. Proposals likely to have a significant adverse effect, directly, indirectly or cumulatively, on it will only be permitted if 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. In this case, it is necessary to have regard to the AONB even though the site is located some distance from the boundary.
- 6.2.2 Some consideration needs to be given to the justification for site selection before assessing landscape issues, especially as the development is not close to existing farm buildings at Heath Farm. The applicant asserts that there is no further land available for expansion on the existing site at Heath Farm due to boundaries formed by the B road to the west, trees to the north (Decoy Wood), buildings and trees to the east and watercourse to the south. There are already eight sheds at Heath Farm which is a large number of broilers to be housed on a single site. Additional buildings would start to cause operational difficulties during the clean-out period. The flocks are currently cleaned out on a single site basis so there is a very busy clean out period in time for the next flock to arrive. Additional buildings would present a difficulty in cleaning out effectively in time for the next flock. It would also increase the possibility of odour issues occurring during the clean-out period. A site an appropriate

distance from the existing buildings could be operated on a separate timescale – allowing different flock changeover dates from the existing site. This would offer significant benefits in terms of overall site management, efficiency and biosecurity. However, if that site is too far from the existing site, there can be losses in efficient site management (e.g. travel time between the sites, vehicle storage etc). The current site meets these locational criteria.

6.2.3 The initial assessment of site suitability narrowed the choice down to two sites both to the north of Heath Farm. The first is the chosen site, and the second was the adjoining field to the east. The applicant states that these are both a good distance from the holiday park (Ashlea Pools) to the west and the prevailing wind from the south-west blows away from Hopton Heath and the holiday park. The proposed site was chosen due to its greater proximity to the B4367 and greater separation from the cluster of sensitive receptors at Beckjay. In particular:

- It is within 700m of the existing farm buildings which are the hub for management of the farm unit;
- It has sufficient space to accommodate the development and can accommodate the required infrastructure (power, drainage, access);
- It benefits from the screening effect of natural topography and existing vegetation;
- It is not affected by any statutory environmental designations; and
- It is separated from the nearest privately owned residential properties;

The siting of the proposed development can be justified this way having regard to SAMDev Plan Policy MD7b.

6.2.4 The revised scheme is accompanied by a new LVIA consistent with industry best practice which has overcome deficiencies identified by the Council's landscape advisers and SC Conservation in the first round of consultation. The LVIA is also accompanied by a schedule of photographs (see Appendix 1).

6.2.5 The overall findings of the new LVIA are that the proposals will have a 'Minor adverse' significance on landscape character at a site specific level; 'Moderate/Minor adverse' significance in terms of the immediate adjoining countryside; and 'Minor adverse' significance on the wider landscape and the Shropshire Hills AONB. The Council's landscape adviser concurs with this assessment overall having conducted accompanied site visits with the planning case officer to the viewpoints with potential views of the proposed development. The visual receptors identified include walkers, motorists, visitors (Ashlea Pools holiday lodges) and residents of seven dwellings. The influence on susceptibility for users of the promoted Herefordshire Trail long distance recreational route has been used appropriately in reaching judgements on receptor sensitivity and gives an enhanced sensitivity for these receptors.

6.2.6 One minor deficiency in the scheme remains the fact that in order to achieve adequate sightlines onto a road where the national speed limit applies, it would theoretically mean that it would be necessary to remove additional hedgerow (refer drawing 1465.01 Rev C) to achieve 2.4m x 215m sightlines which will take some time to become established. This does not represent a fundamental flaw when taking account of the other factors in the scheme, including the substantial landscaping

proposals. This particular issue was not raised by the inspector. The applicant has agreed to a condition that would require existing hedgerow that would have to be removed to achieve adequate visibility splays to be translocated rather than replanted with new stock.

6.3 Odour and dust

6.3.1 When assessing this aspect of the proposal, it is important to take account of the NPPF's advice about pollution control (para 183). The focus on planning decisions should be whether the development is an acceptable use of the land and the impact of the use rather than the control of processes or emissions which are subject to the pollution control regime monitored here by the Environment Agency (EA).

6.3.2 Odour

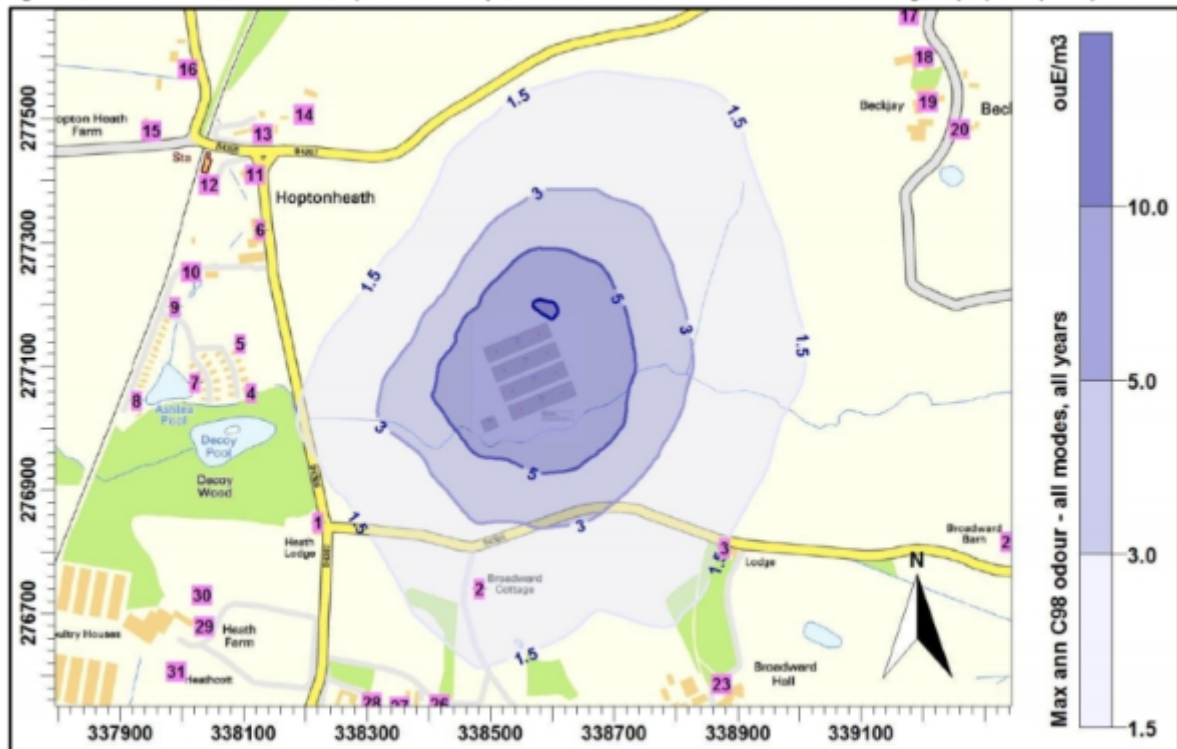
On the subject of odour, the applicant has submitted an odour dispersion modelling study that predicts "98th, 99.5th and 99.8th percentile hourly mean odour concentrations" from 31 receptors. The critical finding of the 98th percentile (equivalent to 3.0 ou_E/m³ – the indicative criterion for moderately offensive odours applied by the Environment Agency) shows that no dwelling would be affected by the proposal (refer Figure 1).

6.3.3 SC Regulatory Services has reviewed the findings and accords with them. He has not objected to the proposal. It is to be noted that the EA has powers to manage and monitor the development when approved.

6.3.4 Officers have also considered some residents' concerns about the potential cumulative impact of this development with the Heath Farm operations to the south and offer the following observations on this matter.

Figure 1: Plan from odour report indicating predicted maximum (worst case) odour concentration in the area surrounding the proposed poultry unit

Figure 6. Predicted maximum annual 98th percentile hourly mean odour concentration in the area surrounding the proposed poultry unit



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- 6.3.5 The prevailing wind throughout Shropshire is from the south west direction. It follows that the only property in Shropshire that could be impacted by odours from the proposed poultry installation and the existing in combination at the same time at Heath Farm is over 700m away from the proposed poultry installation (Beckjay) and some 1400m away from the existing poultry installation at Heath Farm. As a result there is more than enough dispersion to minimise odour to a level that would not be expected to have a significant detrimental impact. There are no other receptors which would conceivably receive odour from both poultry units at the same time. This may occur where odour is to come from both installations at different times. However, it should be noted that modern poultry units generally produce much less odour than units in the past due to technological improvements in aspects such as feed and ventilation.
- 6.3.6 In addition the proposed poultry installation will have scrubbing technology anticipated to remove the majority of potential odours including 90+% of ammonia and the majority of dusts which are in themselves an odour source or may carry odour into the environment. Due to the scrubbing technology proposed at this site, the proposed cumulative impact of the proposed and existing poultry installation at Heath Farm will not be significantly detrimental to residential amenity in the area as the odour impact of the proposed units will be minimal.

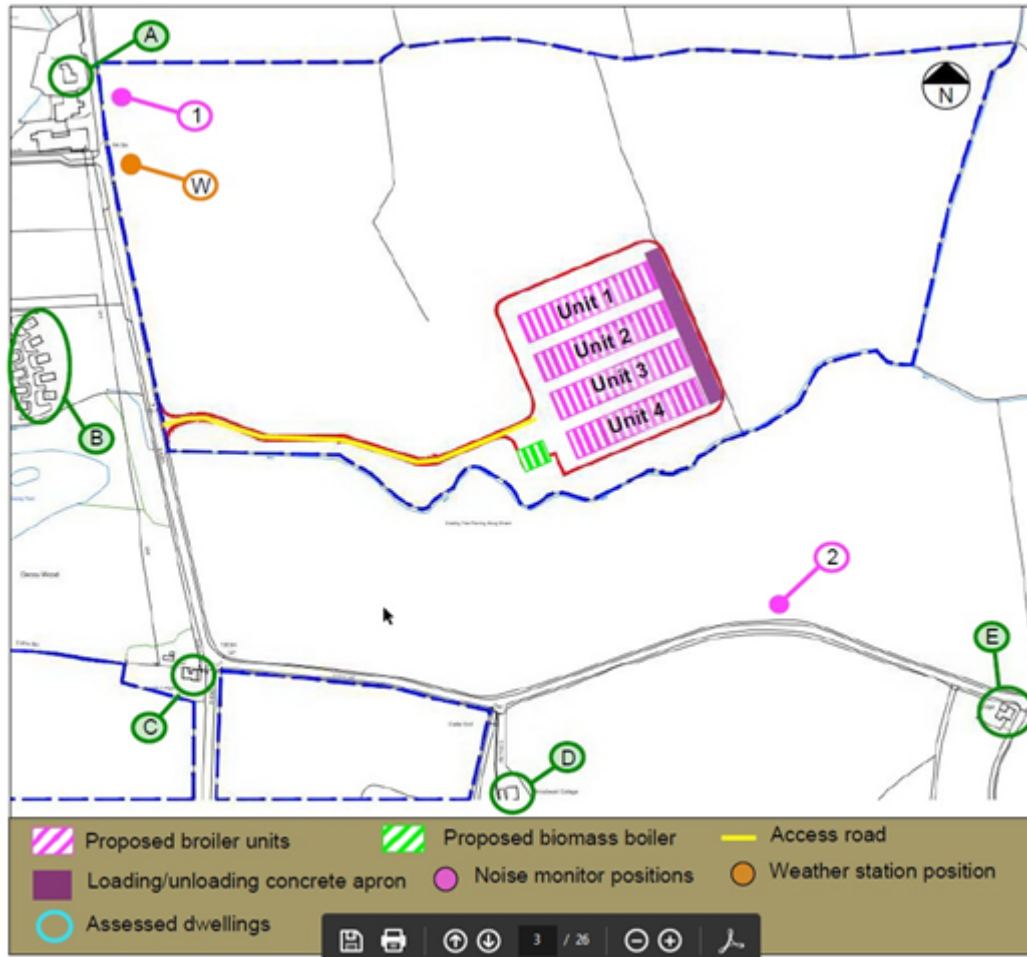
- 6.3.7 In addition to odour from the growing cycle it is noted that odour occurs when the units are cleaned down at the end of a cycle. This is likely to be a one or two day exercise on the proposed units. With prevailing wind taking odour away from the nearest houses the clean down of the proposed sheds is not anticipated to be significant. It is likely that on occasion it will be noticed in the area however it will be relatively short lived and not considered to have a significant impact on residential amenity and in line with nationally recognised standards stated in Environment Agency guidance. The threshold level for impact is not exceeded.

Dust

- 6.3.8 Turning to dust, DEFRA has carried out research on dust emissions from poultry units. Their advice is that unfiltered emissions from poultry units in terms of particulate matter reduced to background levels by 100m downwind of the highest emitting poultry houses. The research shows that levels of particulate matter are sufficiently diluted over a short distance so as not to pose a risk to those living in the vicinity of poultry operations. The application site is more than 270m from the closest house and therefore beyond the distance where dust issues can occur. Moreover, the air scrubbing system proposed will further serve to reduce the potential for residents to be affected by dust emissions. Finally, dust emissions will be monitored by the EA as part of the permit regime. It is not considered that refusal on the grounds of amenity impact can be justified on this basis.

6.4 Noise

- 6.4.1 The applicant has submitted a new noise study by Matrix Ltd (which has undergone two iterations since first submission with the planning application to take account of the air exhaust scrubbing system) to address comments in the Inspector's appeal decision and has provided additional information on vehicle movements that serves to assess the impact of the proposal off site and in the wider area. It has been prepared consistent with the relevant British Standards and assesses noise emissions from the extract fans, biomass boiler, HGVs loading and feed delivery activity including the use of electric forklifts. It has assumed that HGVs would be fitted. The modelling assumes a 3m high acoustic barrier to the rear of the sheds away from the road. The study then assesses the impact of on site activity on the four dwellings and the Ashley Pools Holiday Lodge (see Figure 2).
- 6.4.2 The main findings of the Matrix noise study are that the impact on all five receptors is low and during night time hours substantially below the World Health Organisation 'Night Noise Guidelines for Europe' L_{Amax,F} 42dB threshold limit with regard to sleep disturbance. The calculated 1 hour ambient noise emissions of HGVs travelling along the access road is assessed to be significantly below the existing environmental ambient noise levels during the day and result in very low noise ingress levels via an open window during the night. The Council's Regulatory Services officer concurs with these findings and does not object to the development on noise grounds.
- 6.4.3 The parish council has commissioned its own noise study. This does not raise any new matter that would justify refuting the applicant's own study.

Figure 2 Noise receptors considered for Matrix Ltd noise study

6.4.4 The applicant has also provided data on vehicle movements on the B4367 over a seven day period in May 2018. This data records 1689 vehicles a day passing the site that generally accord with the assumptions in the Highway Statement accompanying the Environmental Statement. The applicant accepts that the proposal will generate some extra traffic during unsocial hours. However, this would be limited to three days per flock over 24 days a year and staged so that no more than one vehicle an hour would leave the site. Officers are of the opinion that this would not have a seriously adverse impact on the living conditions of local residents and additional vehicle movements through the AONB (some 1.5km away) would not affect its tranquillity.

6.5 Traffic

6.5.1 The highway statement submitted as part of the Environmental Statement has considered impacts on the highway network during construction and when the development is up and running with manure being removed from site. The statement

asserts that the increase in vehicle movements for 44 of the 48 days of the crop cycle would amount to less than one per day which would have no impact on the road network. During the four day clearance phase associated with chickens there will be up to 13 movements per day but these will occur when the highway is used least intensively. The Council's highway adviser confirms the statement is robust and does not consider the proposal would have any adverse impact on the highway, noting that the B4367. The proposals are capable of complying on balance with Policy CS7.

6.5.2 The parish council has come to a different view on trip generation based on different assumptions about on site activity and movements which gives a greater number of traffic movements.

6.5.3 The Council's highway adviser assumes that the difference between the applicant's and the parish's modelling equates to some six additional vehicle movements per hour. This would not warrant a negative response from a highway safety perspective. He advises further that most B roads of the width and nature of the B4367 rarely operate at anywhere near their potential full capacity, therefore can accommodate significantly more traffic than is usually perceived. It is further asserted that based on a road likely to carry around 1500 to 2000 vehicles per day (the applicant's own study in the week of May 2018 recorded 1689 vehicles a day on average), this higher assumption of the parish's will not have an adverse impact on the living conditions of local residents.

6.6 **Drainage**

6.6.1 CS Policy CS18 requires sustainable water management to reduce flood risk and avoid an adverse impact on water quality. The site is located in Flood Zone 1, the least vulnerable area for flooding and is located over a minor aquifer. A Flood Risk and Drainage assessment concludes that the proposals will not give rise to significant adverse effects on water or flooding given that the proposed Sustainable Urban Drainage Systems (SuDS) would restrict site run-off to greenfield run-off rates. A suitable means of dirty water drainage disposal from the proposed development is proposed. Neither the EA nor the Council's Drainage section object to these measures. Appropriate conditions are recommended to address this matter.

6.7 **Heritage**

6.7.1 A Heritage Impact Statement and archaeological Written Scheme of Investigation have considered the potential impact of the proposals on individual heritage assets within a 1km area surrounding the proposed development. They conclude there will be no significant impact on any heritage or archaeological features. Neither the Council's Conservation or Archaeology adviser have objected to the scheme in this respect subject to a condition requiring the findings of the archaeological study to be implemented during construction. The proposal would not conflict with CS Policy CS17, SAMDev Plan Policy MD13 or advice in the NPPF (especially para 196).

6.7.2 The study demonstrates and the relevant consultee responses from SC Conservation and Historic England do not assess that the proposal would not affect the setting of any listed building. It is further considered that the proposal will not affect the setting of Stormer Hall or its gardens in Leintwardine by reason of its distance.

6.8 Ecological issues and section 106 agreement

- 6.8.1 The development plan and the NPPF place high importance on the protection of biodiversity interests. Planning permission should be refused where significant harm from a development cannot be avoided. CS Policies CS6 and CS17 require development proposals to respect the natural environment of Shropshire and its biodiversity interests. SAMDev Plan Policy MD12 encourages development which appropriately conserves, enhances, connects, restores or recreates natural assets, particularly where this improves the extent or value of those assets which are recognised as being in poor condition. Development should minimise impacts upon biodiversity and provide net gains in biodiversity wherever possible.
- 6.8.2 The applicant has submitted an ecological survey with the Environmental Statement and provided additional ammonia and nitrogen disposal information during the processing of the application.
- 6.8.3 The Council's Ecologist has assessed this technical data and she has prepared a Habitat Regulations Assessment (HRA) (refer Appendix 3) which includes an appropriate assessment. The HRA confirms that, as the proposal fails the significance test, it is necessary to carry out an appropriate assessment. Taking into account the mitigation measures that form part of the application in the appropriate assessment and with the imposition of appropriate planning conditions, she concludes the proposal will not have an adverse impact on the integrity of the River Clun SAC and River Teme SSSI from ammonia emissions and nitrogen deposition. Some of her suggested conditions have been merged into other conditions (for example, covering landscaping) to avoid repetition of conditions.
- 6.8.4 Her advice on other site specific ecological issues relating to dormice and bats application has been incorporated into planning conditions covering landscaping, lighting to protect and enhance habitat opportunities, identifying a clerk of works to oversee works that could affect dormice. Other conditions have been imposed to protect the River Clun SAC from dirty water run-off.
- 6.8.5 The applicant proposes that no manure would be stored on site following shed cleaning and has offered to enter into a section 106 agreement with the Council requiring the applicant (and his successors) to remove manure from the site and deposit it outside the Clun Catchment Area SAC. Such an agreement meets the three tests for a planning obligation set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (the CIL Regulations). It is: (a) necessary to make the development acceptable in planning terms as a means of protecting the SAC; is (b) directly related to the development; and (c) fairly and reasonably related in scale and kind to the development. The Environment Agency, SC Ecology and Natural England advise that an agreement of this sort is necessary and manure management will be regulated at its destination in accord with the Code of Good Agricultural Practice (COGAP) and the Nitrate Vulnerable Zones (NVZ) Action Programme where applicable. A similar arrangement was approved by the South Planning Committee at its 29 August 2017 in connection with a proposal at Footbridge Farm, Tasley (17/01033/EIA).
- 6.8.6 A letter has been received from the applicant's agricultural contractor. This confirms

that all manure generated by the proposed development would be removed to AD sites outside of the Clun Catchment under existing contract arrangements with the applicant. Records of the locations for removal of all manure must be kept under the contract arrangements, so can be readily supplied to Shropshire Council or Natural England should this be required.

6.8.7 Officers have also discussed the operation of the ammonia scrubbers with the applicant's agent to understand what would happen if they were to fail or to be put out of service. The applicant has therefore agreed to extend the heads of terms of a s106 agreement to cover appropriate recourse in case they fail. This could mean, for example, closing a shed temporarily or, over the longer term, providing additional compensatory planting as set out in the original application. Officers consider that a legal agreement covering this matter would also be consistent with the CIL Regulations.

6.8.8 Some residents have queried how an agreement to oversee off site manure removal would be enforced. The s106 agreement will include clauses that cover enforcement of the agreement and courses of action in the event of a breach of agreement. Aside, the Council has powers to sue for breaches of a s106 agreement that it can apply in a speedier and more certain way than would be open to it if it were investigating a breach of a condition on a planning permission.

6.9 **Need**

6.9.1 The Parish Council has questioned whether there remains a need for the proposed facility which would supply poultry to an Avara Foods processing facility in Hereford. This follows a recent announcement by Avara Foods (a joint venture between the poultry processor Cargills and another poultry firm) that the company is not intending for any future expansion to take place at its Hereford facility.

6.9.2 The agent has responded that the announcement does not mean that there is no demand for chicken, and is more concerned with the processing capabilities of a single factory. Essentially Avara is confirming that they have sufficient supply into the Hereford factory with current production and their commitments to new projects. The current proposals are for a committed project which has been in the plans of the poultry integrator for around 5 years since the original application was submitted in 2014.

6.9.3 The agent advises that the Hereford Factory is only one of at least 5 factories which are supplied by Shropshire poultry producers, some of whom have a significant demand for new growers at the present time. There is significant, and increasing demand for UK produced chicken, and the country is still importing chicken meat to keep up with that demand.

6.10 **The planning balance**

6.10.1 The proposal would generate economic benefits through the further diversification of the farm and would make a further contribution to the county's economic strength in the food sector. This should be given considerable weight in the decision consistent with the AONB and outweigh the less than significant harm to heritage assets identified by the SC Conservation officer. The various studies submitted with the Environmental Statement show the facility could operate without harming the quality

of life of local residents materially and therefore other local economic sectors. The site is in a relatively sensitive location though not a designated landscape and is outside the AONB. The LVIA has shown that the site would generally fit well in its surrounding context.

6.10 Other matters raised in the public consultation

6.10.1 This application has generated a significant number of objections which officers have carefully considered in drafting this report. The foregoing sections of this report have addressed the relevant “technical” objections. Some residents have suggested the proposal would generate light pollution. The applicant states that the proposal will not be lit 24 hours a day. Rather, a condition controlling lighting on site has been proposed to protect bat habitat that will also serve to restrict lighting on site.

6.10.2 A number of other objections received cannot be given any weight in a recommendation (for example, claims about the loss of property values). Others have queried the principle of intensive agricultural development of this form. Animal welfare is covered by other agencies and is not a legitimate land use planning concern. The parish has referred to the applicant’s activities off site in Herefordshire being in breach of planning control. That is a matter for Herefordshire Council to investigate. Some residents have referred to the applicant as a bad neighbour. Such an objection fails to take account of the fact that planning decisions are made relating to the use of the land and not on the basis of what some people think of their neighbour.

6.10.3 Some residents have referred to this proposal being a precedent for something larger in the long term. The Council must determine what is before it and any future development proposals would be the subject of a fresh assessment if they were to come in. Finally, the Council cannot and must not withhold permission solely based on the number of objectors.

7.0 CONCLUSION

7.1 The proposal involves the growth of an existing cross county rural business. An assessment of the application against local and national policy shows that the proposal is in principle consistent with the development plan. The proposal would be generally satisfactorily sited and not likely to affect the setting of any heritage asset. Both the Council’s ecologist and Natural England confirm there are no significant ecological issues that arise from the proposal subject to the imposition of conditions and a s106 agreement to manage the disposal of manure and ensure ammonia scrubbers remain operational as a means of protecting the Clun Catchment Area SAC.

7.2 The odour study demonstrates that the impacts on nearby houses are acceptable. Noise studies show the activity on site would be acceptable and it has addressed the inspector’s concern at the recent appeal. Measurements of late night traffic counts in the area show that the proposal will not have a serious adverse impact on highway safety or the living conditions of local residents. Planning conditions are proposed to address vehicle movements.

- 7.3 Concerns have been expressed about the impacts on local leisure and tourism facilities. The Environment Agency has not objected and has issued an environmental permit which contains detailed controls with respect to odour and air quality. This will serve to provide further controls during the operations of the site. The site would be downwind of the majority of the nearest properties relative to the prevailing south westerlies and separation distances have been maximised for these properties by placing the shed doors on the eastern facades. There would be some odour impact during shed cleaning and some potential for noise during feedstock delivery.
- 7.4 Officers are content that sufficient information has been submitted to determine the application and the technical documents in the Environmental Statement are satisfactory. Officers have carefully considered all comments and objections received and other material considerations but find nothing to alter their recommendation. It is concluded on balance that the benefits of the scheme are sufficient to outweigh any residual impacts and meet relevant development plan tests, having regard to the available controls and mitigation measures.
- 7.5 A schedule of conditions has been proposed consistent with internal consultee advice but some suggested conditions have been tweaked to make them compliant with the six tests of planning conditions set out in the NPPF.

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

National Planning Policy Framework

Core Strategy (CS) :

CS1 - Strategic Approach

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

CS7 – Transport

CS8 – Local Amenities

CS13 - Economic Development, Enterprise and Employment

CS16 - Tourism, Culture and Leisure

CS17 - Environmental Networks

CS18 – Sustainable Water Management

SAMDev Plan

MD2 - Sustainable Design

MD7B - General Management of Development in the Countryside

MD12 - Natural Environment

MD13 - Historic Environment

RELEVANT PLANNING HISTORY:

14/03290/EIA Construction of four poultry sheds and feed bins, ancillary works, formation of new vehicular access, erection of biomass building and associated landscaping REFUSE 14th October 2015

Appeal

16/02402/REF Construction of four poultry sheds and feed bins, ancillary works, formation of new vehicular access, erection of biomass building and associated landscaping DISMIS 25th May 2017

11. ADDITIONAL INFORMATION

View details online:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=details&keyVal=OWHMLYTDGNH00>

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

None. See planning portal.

Cabinet Member (Portfolio Holder)

Cllr R. Macey

Local Member

Cllr Nigel Hartin

Appendices

APPENDIX 1 – Photographs of site and context taken from LVIA

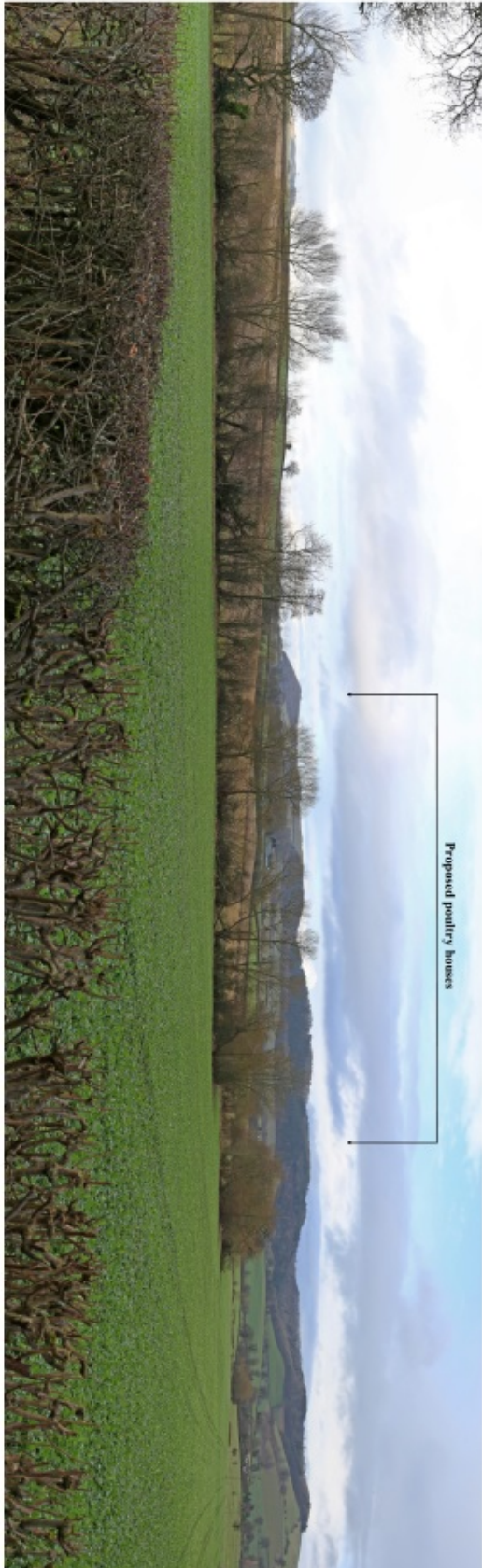
APPENDIX 2 - Conditions

APPENDIX 3 - Habitat Regulations Assessment

APPENDIX 1 PHOTOGRAPHS OF SITE AND CONTEXT TAKEN FROM LVIA



Photograph 1: View from south on B4385.



Photograph 2: View from south-west on B4385.



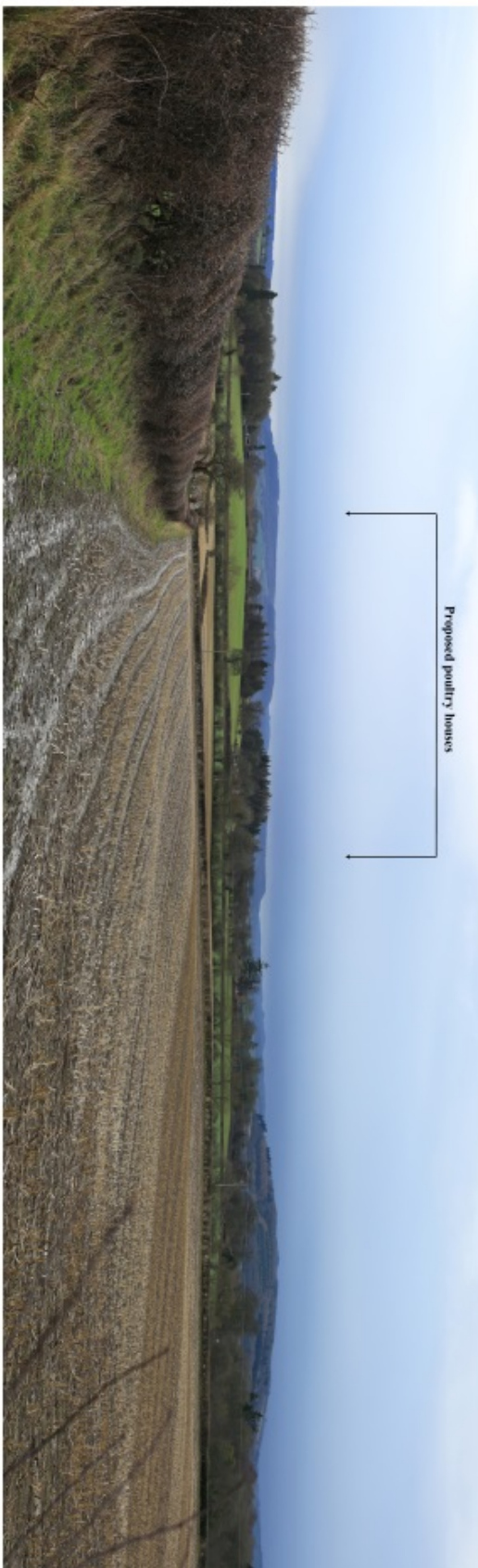
Photograph 3: View from west on B4385.



Photograph 4: View from north-west on Footpath 0521/70.



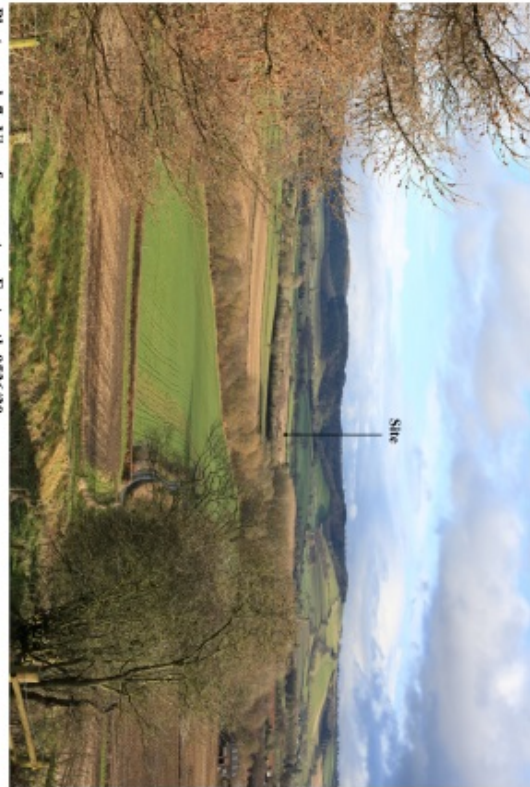
Photograph 5: View from south-east on Footpath 0521/70.



Photograph 6: View from north on Church Road (B4367).



Photograph 9: View eastwards from Hopton Titterhill northern viewpoint.



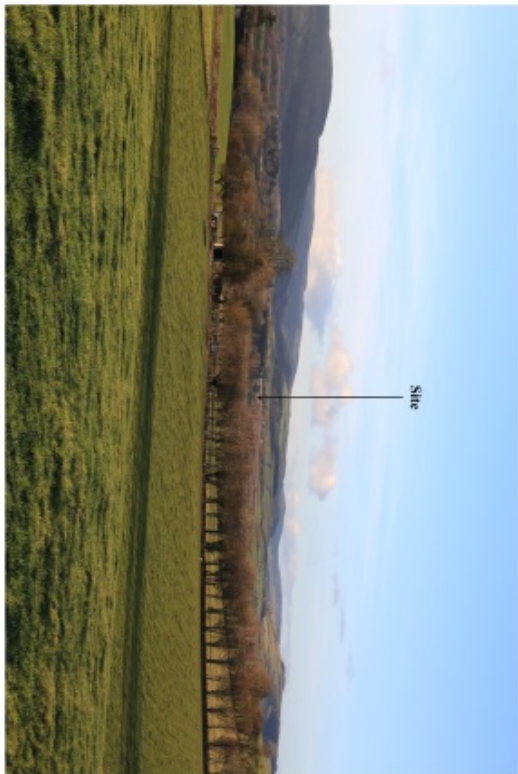
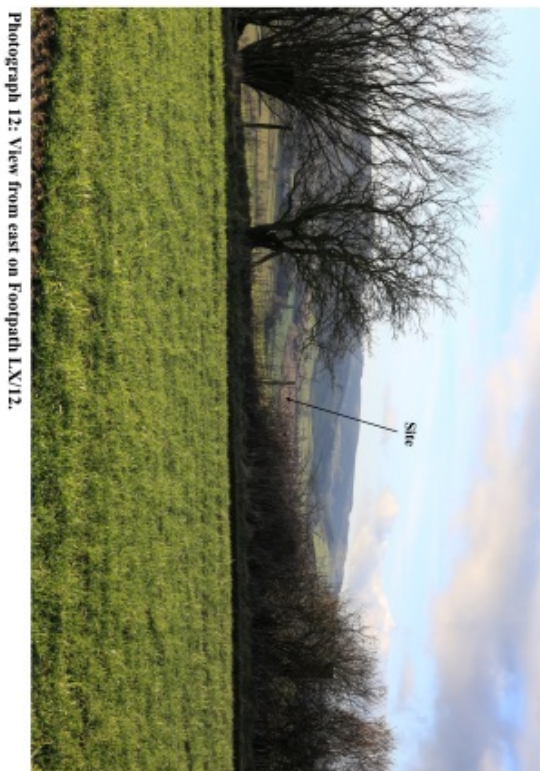
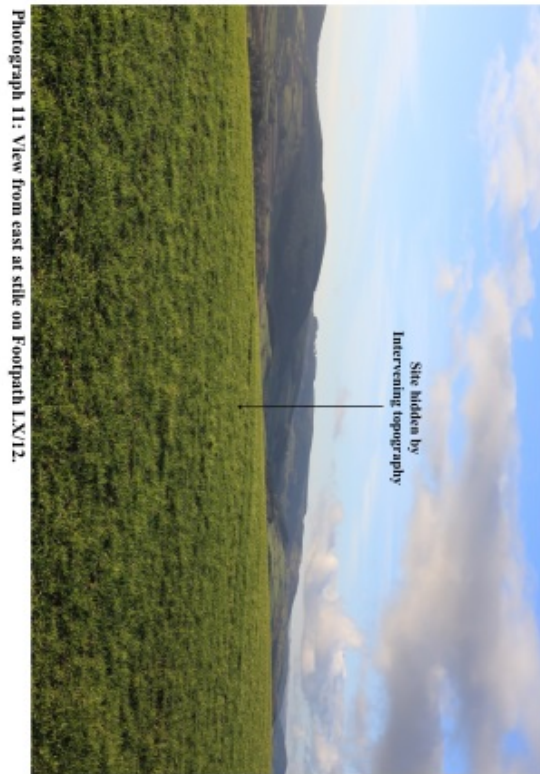
Photograph 7: View from west on Footpath 0536/30.



Photograph 10: View from east on Footpath 0521/57.



Photograph 8: View eastwards from Hopton Titterhill western viewpoint.



APPENDIX 2

Conditions

STANDARD CONDITIONS

1. The development to which this planning permission relates shall be commenced within three years beginning with the date of this permission.

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

2. The development shall be carried out strictly in accordance with the approved plans. Details of any further works shall be submitted to the Local Planning Authority and approved in writing prior to those works being carried out.

Reason: To avoid doubt and in the interests of good planning and to ensure reduction of nutrient rich run-off and sediment entering the watercourse, to protect the River Clun SAC, a European protected site.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

3. Notwithstanding the information submitted with the tree works and tree protection measures identified in the tree condition report, arboricultural impact assessment and tree protection plan (Terry Merchant, 13/05/2014, updated on 2/10/2017) and the Tree Location and Protection Plan, no development shall take place until a final tree protection plan and including measures to protect trees has been submitted to and approved in writing by the local planning authority. Thereafter the tree protection measures shall be retained for the lifetime of the development.

Reason: To protect retained trees and hedges contributing to the character of the location from damage and accord with the landscape plan.

4. No development shall take place until a scheme of soft and hard landscaping has been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved before the development is first occupied. The submitted scheme shall include:

- a) Means of enclosure, including all security and other fencing
- b) Hard surfacing materials
- c) Minor artefacts and structures (e.g. lighting)
- d) Planting plans, including wildlife habitat and features (e.g. bat box, dormouse box)
- e) Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment)
- f) Schedules of plants, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate. Native species used to be of local provenance (Shropshire or surrounding counties)
- g) Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works (fenced buffer of 20m)
- h) Implementation timetables

All planting and seeding shall be carried out in accordance with the approved landscaping plan within twelve months of completion of the construction phase. Any tree, shrub or other planted material which dies or is otherwise lost during the first five years post-planting shall be replaced with a tree, shrub or other plant of similar size and species.

Reason: To ensure landscaping and mitigation/ enhancement measures are carried out and managed in a way that will provide the best conditions for it to reach maturity/use and thereby provide the intended mitigation and amenity benefits in the long term.

5. No development shall take place until a Construction Management Plan (CMP) has been submitted to and approved in writing by the local planning authority. The scheme shall amongst other matters confirm that measures that will be put in place so that there is no possibility of contaminated water entering and polluting surface or ground waters and no possibility of any building material or rubbish must finding its way into the watercourse. The scheme shall be implemented fully in accordance with the approved details for the duration of the construction period.

Reason: In the interests of highway safety and the wider amenity of the area.

6. No development shall take place until a scheme providing for monitoring of water quality at an agreed location on the Folly Brook at its nearest point to the Site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall make provision for monitoring to establish baseline conditions prior to the Commencement Date and for monitoring at agreed intervals throughout the life of the permitted development and shall identify appropriate water quality thresholds. The scheme shall be implemented fully in accordance with the approved details.

The Local Planning Authority shall be notified in writing if monitoring under the scheme referred to in this condition indicates that the water quality thresholds have been exceeded. Such notification shall take place not later than one week after such exceedance has first been identified. The developer shall then arrange for an investigation into the cause of the exceedance to be carried out, including, if necessary, by an appropriate hydrological consultant. If the investigation indicates that the cause of the exceedance is attributable to the permitted development then the applicant shall submit mitigation proposals for the approval in writing of the Local Planning Authority. Such mitigation proposals shall be implemented in full within a timescale to be agreed by the Authority.

Reason: To facilitate monitoring of nutrient levels and water quality entering the Folly Brook, to protect the River Clun SAC, a European protected site and to allow for appropriate remedial measures to be undertaken in the event that a problem attributable to the permitted development is identified.

7. No development shall take place, including ground works and vegetation clearance until a biodiversity monitoring strategy has been submitted to, and approved in writing by, the local planning authority. The purpose of the strategy shall be to monitor the ammonia emissions from the proposed poultry unit to ensure that a minimum reduction of 90% of ammonia emissions is achieved at source. The content of the strategy shall include the following:

- a) Aims and objectives of monitoring to match the stated purpose.

- b) Appropriate success criteria, thresholds, triggers and targets against which the effectiveness of the various conservation measures being monitored can be judged.
- c) Methods for data gathering and analysis.
- d) Location of monitoring.
- e) Timing and duration of monitoring,
- f) Responsible persons and lines of communications.
- g) Review, and where appropriate, publication of results and outcomes.

A report describing the results of monitoring shall be submitted to the local planning authority at intervals identified in the strategy. The report shall also set out (where the results from the monitoring show that conservation aims and objectives are not being met) how contingencies and/or remedial action will be identified, agreed with the local planning authority, and then implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The monitoring strategy will be implemented in accordance with the approved details.

Reason: To protect the biodiversity of the area.

8. No development shall take place until an appropriately qualified and experienced Ecological Clerk of Works (ECW) shall be appointed to ensure that the Dormouse Mitigation and Enhancement Strategy and Method Statement (and other ecological mitigation and enhancement measures) are adhered to. The ECW shall provide brief notification to the Local Planning Authority of any pre-commencement checks and measures in place.

Prior to first occupation / use of the building [or each phase of the buildings], an appropriately qualified and experienced Ecological Clerk of Works (ECW) shall provide a report to the Local Planning Authority demonstrating implementation of the ecological mitigation and enhancement measures appropriate to the approved development. This shall include photographs of installed features such as bat and dormice boxes, woodland planting, and buffer zones.

Reason: To protect features of recognised nature conservation importance and to ensure the protection of dormice in particular which are European and UK protected species and other wildlife.

9. Prior to the commencement of the development a 20m buffer shall be fenced off parallel to the banks along the length of the water course, put in place within the site to protect the watercourse during construction works. No access, material storage or ground disturbance should occur within the buffer zone. The fencing shall be as shown on a site plan.

Reason: To protect features of recognised nature conservation importance.

10. Notwithstanding the information submitted with this application, no development shall take place until a details of a surface water drainage scheme have been submitted to and approved in writing by the local planning authority. The scheme shall be installed in accordance with the approved drainage details prior to the first occupation of any of the development hereby approved. Details of the flow control structure should be submitted for

approval prior to the commencement of the works. No proposed soakaway shall be placed within 20m of any watercourse.

Reason: To ensure that the surface water drainage system is adequate, to minimise flood risk and to protect watercourses from potential pollution.

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

11. A habitat management plan shall be submitted to and approved by the local planning authority prior to the occupation of the development. The plan shall include:
- a) Description and evaluation of the features to be managed;
 - 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 a 5 year project register, 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.
- The plan shall be carried out as approved for the lifetime of the development.

Reason: To protect features of recognised nature conservation importance.

12. 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 lighting plan shall demonstrate that the proposed lighting will not impact upon ecological networks and/or sensitive features, e.g. bat and bird boxes. 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). The development shall be carried out strictly in accordance with the approved details and thereafter retained for the lifetime of the development.

Reason: To protect the amenity of the area and to minimise disturbance to bats, which are European Protected Species.

13. No rainwater contaminated with silt/soil from disturbed ground during construction shall drain to the surface water sewer or watercourse unless a scheme detailing of measures to ensure settlement of silt/soil has first been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details. Any fuels and/or chemicals used on site shall be stored on hardstanding in bunded tanks.

Reason: To protect surface and ground water resources from pollution.

14. Construction works shall not take place outside 06:30 to 19:00 hours Monday to Saturday and at no time on Sundays or Bank Holidays.

Reason: To protect the amenity of the area.

15. No more than 2 single traffic movements (single traffic movement having the meaning of one HGV either moving to or from the site) by lorries transporting birds to or from the Site shall occur in any given hour between the times of 23:00 and 07:00 hours.

Poultry manure removal and feed delivery shall not take place outside the hours of 07:00 to 18:00 hours Monday to Friday, Saturday 08.00 to 13.00 hours and at no times during Sundays and bank or public holidays.

Reason: To protect neighbouring properties.

16. No development or clearance of vegetation shall take place until a wildlife protection (mitigation) plan has been submitted to and approved in writing by the local planning authority. The plan shall include:

- a) An appropriately scaled plan showing 'wildlife/habitat protection zones', where construction activities are restricted and where protective measures will be installed or implemented;
- b) Details of protective measures (both physical measures and sensitive working practices) to avoid impacts during construction (including a fenced buffer of 20m from the bank of the watercourse during construction);
- c) A timetable to show phasing of construction activities to avoid periods of the year when sensitive wildlife could be harmed (dormice/nesting birds);
- d) Persons responsible for:
 - i) Compliance with legal consents relating to nature conservation;
 - ii) Compliance with planning conditions relating to nature conservation;
 - iii) Installation of physical protection measures during construction;
 - iv) Implementation of sensitive working practices during construction;
 - v) Regular inspection and maintenance of physical protection measures and monitoring of working practices during construction;
 - vi) Provision of training and information about the importance of 'Wildlife protection zones' to all construction personnel on site.

All construction activities shall be implemented in accordance with the approved details and timing of the plan.

Reason: To protect features of recognised nature conservation importance.

17. A total of 4 woodcrete bat boxes suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected on the site prior to first use of the building hereby permitted as shown on a site plan. A minimum of 10 dormouse nest boxes shall be erected on the site as shown on a site plan. All boxes shall be sited in accordance with the latest guidance and thereafter retained for the lifetime of the development.

Reason: To ensure the provision of roosting opportunities for bats and dormice which are European Protected Species in accordance with Shropshire Local Development

Framework Core Strategy Policy CS17, Shropshire Council Site Allocations and Management of Development (SAMDev) Plan Policy MD12 and paragraph 118 of the National Planning Policy Framework.

18. The programme of archaeological work for the development approved by this permission shall be carried out in complete accordance with the specification (written scheme of investigation) by Castlering Archaeology (July 2016).

Reason: The site is known to hold archaeological interest.

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

19. The external materials and colour treatment of all plant and buildings hereby approved shall be finished in colour BS 12B29 (juniper green). The development shall be undertaken in accordance with the approved details, and retained as such for the lifetime of the development.

Reason: To ensure an acceptable appearance to protect visual quality.

INFORMATIVE

Proactive working

In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the paragraph 38 of the National Planning Policy Framework

Ecology

Hazel dormice are a European Protected Species under the Habitats Directive 1992, The Conservation of Habitats and Species Regulations 2010 and the Wildlife and Countryside Act 1981 (as amended). It is a criminal offence to kill, injure, capture or disturb a dormouse; and to damage, destroy or obstruct access to its resting places. There is an unlimited fine and/or up to six months imprisonment for such offences.

If a dormouse should be discovered on site at any point during the development then work must immediately halt and an appropriately qualified and experienced and Natural England (0300 060 3900) contacted for advice. The Local Planning Authority should also be informed.

Great Crested Newts are protected under the European Council Directive of 12 May 1992 on the conservation of natural habitats and of wild fauna and flora (known as the Habitats Directive 1992), the Conservation of Habitats and Species Regulations 2010 and under the Wildlife & Countryside Act 1981 (as amended).

If a Great Crested Newt is discovered on the site at any time then all work must halt and Natural England should be contacted for advice.

Badgers, the setts and the access to the sett are expressly protected from killing, injury, taking, disturbance of the sett, obstruction of the sett etc by the Protection of Badgers Act 1992.

An experienced ecologist should assess whether any badger setts are present in the hedgerows. If any hedgerow removals are planned within 30m of the sett then it may be necessary to apply for a Licence to interfere with a Badger Sett for the Purpose of Development from Natural England.

The applicant should follow the advice of their experienced ecologist throughout the works. If the applicant does not follow the procedure advised above then they may find themselves vulnerable to prosecution for an offence under the Protection of Badgers Act 1992.

Where possible trenches should be excavated and closed in the same day to prevent any wildlife becoming trapped. If it is necessary to leave a trench open overnight then it should be sealed with a closefitting plywood cover or a means of escape should be provided in the form of a shallow sloping earth ramp, sloped board or plank. Any open pipework should be capped overnight. All open trenches and pipework should be inspected at the start of each working day to ensure no animal is trapped.

All species of bats found in the UK are European Protected Species under the Habitats Directive 1992, the Conservation of Species and Habitats Regulations 2010 and the Wildlife & Countryside Act 1981 (as amended).

Any trees within the hedgerows may have potential for roosting bats. If these trees are to be removed then an assessment and survey for roosting bats must be undertaken by an experienced, licensed bat ecologist in line with The Bat Conservation Trusts Bat Surveys Good Practice Guidelines prior to any tree surgery work being undertaken on these trees.

If a bat should be discovered on site at any point during the development then work must halt and Natural England should be contacted for advice.

The active nests of all wild birds are protected under the Wildlife and Countryside Act 1981 (as amended). An active nest is one being built, contains eggs or chicks, or on which fledged chicks are still dependent.

It is a criminal offence to kill, injure or take any wild bird; to take, damage or destroy an active nest; and to take or destroy an egg. There is an unlimited fine and/or up to six months imprisonment for such offences.

All vegetation clearance, tree removal, scrub removal, conversion, renovation and demolition work in buildings, or other suitable nesting habitat, should be carried out outside of the bird nesting season which runs from March to August inclusive.

If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out. If vegetation or buildings cannot be clearly seen to be clear of nests then an appropriately qualified and experienced ecologist should be called in to carry out the check. Only when there are no active nests present should work be allowed to commence. No clearance works can take place with 5m of an active nest.

If during construction birds gain access to any of the buildings/vegetation and begin nesting, work must cease until the young birds have fledged.

Where it is intended to create semi-natural habitats (e.g. hedgerow/tree/shrub/wildflower planting), all species used in the planting proposal should be locally native species of local provenance (Shropshire or surrounding counties). This will conserve and enhance biodiversity by protecting the local floristic gene pool and preventing the spread of non-native species.

Highways

Protection of visibility splays on private land

The applicant's attention is drawn to the need to ensure that the provision of the visibility splay(s) required by this consent is safeguarded in any sale of the application site or part(s) thereof.

Works on, within or abutting the public highway

This planning permission does not authorise the applicant to:

- construct any means of access over the publicly maintained highway (footway or verge) or
- carry out any works within the publicly maintained highway, or
- authorise the laying of private apparatus within the confines of the public highway including any a new utility connection, or
- undertaking the disturbance of ground or structures supporting or abutting the publicly maintained highway.

The applicant should in the first instance contact Shropshire Council's Street works team. This link provides further details:

<https://www.shropshire.gov.uk/street-works/street-works-application-forms/>

Please note: Shropshire Council require at least 3 months' notice of the applicant's intention to commence any such works affecting the public highway so that the applicant can be provided with an appropriate licence, permit and/or approved specification for the works together and a list of approved contractors, as required.

APPENDIX 3**Habitat Regulations Assessment (HRA) Screening Matrix**

Application name and reference number:

17/04546/EIA
 Proposed Poultry Units South East Of Hoptonheath
 Shropshire
 Erection of four poultry sheds with control room/stores; landscaping scheme (amended scheme)

Date of completion for the HRA screening matrix:

19th July 2018

HRA screening matrix completed by:

Nicola Stone *MSC, Grad CIEEM*
 SC Planning Ecologist
Nicola.Stone@Shropshire.Gov.UK
 01743-252556

Table 1: Details of project or plan

Name of plan or project	17/04546/EIA Proposed Poultry Units South East Of Hoptonheath Shropshire Erection of four poultry sheds with control room/stores; landscaping scheme (amended scheme)
Name and description of Natura 2000 site and Nationally designated site which has potential to be affected by this development.	<p>River Clun SAC (14.93ha) supports a significant population of Freshwater Pearl Mussel <i>Margaritifera margaritifera</i>. The River Clun SAC is currently failing its water quality targets particularly relating to ortho-phosphates. The current phosphate target for the river and particularly at the SAC is 0.02mg/l. Shropshire Council is working closely with Natural England and Environment Agency on developments within the Clun catchment. Shropshire Council formally consults Natural England on any planning application within this area.</p> <p>Annex II Species that are a primary reason for selection of site:</p> <ul style="list-style-type: none"> Freshwater pearl mussel <i>Margaritifera margaritifera</i> <p>River Teme SSSI The River Teme (441 ha) is designated as a Site of Special Scientific Interest (SSSI) along its whole length. In addition, the SSSI includes the lower reaches of the River Clun. The features for which the SSSI is of special interest are: Type VI sandstone river with mudstones and hard limestones; Type VII river showing mesotrophic status derived from an oligotrophic catchment; Otter; Twaite Shad; White-clawed Crayfish; Freshwater Pearl Mussel; Riffle Beetle Assemblage.</p>

Description of the plan or project	<p>Erection of four poultry sheds with control room/stores; landscaping scheme (amended scheme). The proposed application will house 204,000 broilers.</p> <p>SC Ecology has identified the following potential effect pathways which have been addressed by the applicant with appropriate supporting documents:</p> <ol style="list-style-type: none"> 1. <i>Possible impact of ammonia emissions and nitrogen deposition on the River Clun SAC.</i> 2. <i>Possible increase in sediment flow to the southern stream impacting upon the designated features of the SAC.</i> 3. <i>Increase on phosphate/nitrogen from spreading additional digestate on the land.</i>
Is the project or plan directly connected with or necessary to the management of the site (provide details)?	No
Are there any other projects or plans that together with the project or plan being assessed could affect the site (provide details)?	<p>Applications for dwellings or employment projects generating waste water are being assessed against an interim guidance note agreed with NE and EA.</p> <p>The mitigation and compensatory measures included within the proposal has led SC Ecology to conclude that the proposal will not adversely affect the integrity of the site. SC Ecology considers that this application does not need to be assessed in combination with applications in the River Clun catchment.</p> <p>Please refer to reasoned statement below.</p>

Statement**Justification;**

The information provided by the applicant is summarised below and listed under the appropriate potential effect pathway;

1. Possible impact of ammonia emissions on the River Clun SAC

- Pre-application report from the Environment Agency 13/03/2014
- The Environment Agency has granted a permit for the works proposed under planning application 17/04546/EIA.
- The EA has screened out the ammonia impacts from the proposed development on SAC, SPA and Ramsar sites within 10km; SSSIs within 5km; NNRs, LNRs & LWS within 2km. The EA have stated that detailed modelling is not required.

Supporting Evidence;

- A Report on the Modelling of the Dispersion and Deposition of Ammonia from the Proposed Bedston Growers Broiler Rearing Unit at Hopton Heath in Shropshire prepared by Steve Smith, 12th April 2018.
- The proposal includes the use of an ammonia scrubbing system - EMMI Exhaust Air Scrubber System, which reduce ammonia emissions from the poultry units by >90%.
- The updated ammonia modelling submitted in support of this proposal indicates that the nitrogen deposition rate would be: approximately 850 kg/y over the 3 km x 3 km modelled domain. Due to a 90% reduction in nitrogen deposition, due to scrubbing, the applicant has also offset the additional 85kg N with arable reversion and woodland planting.

- The Landscape Masterplan SA1465-01 REVA, uploaded to the planning portal 12th February 2018, includes W1 - 12,100m² and W2 - 5,175m². A minimum 17,275m² of woodland will be planted as part of this proposal within field numbers 7 and 8. Therefore 1.7 hectares of woodland planting will cover an area of land which for the last 5 years has had an average of 244.6 kg/N/ha applied. Therefore the arable reversion/reduction in nitrogen fertiliser being applied will offset the remaining 10% ammonia deposition from the poultry unit.
- SC Ecology has concluded that there will be no adverse impact on the integrity of the River Clun SAC & River Teme SSSI from ammonia emissions and nitrogen deposition.

2. Possible increase in sediment flow to the southern stream impacting upon the designated features of the SAC.

Supporting Evidence;

- Drawing number 1465.01 dated 19th July 2018, prepared by Allan Moss Associates Ltd, showing location of protective Hy-Tex Terrastop silt filter fabric fence which is to be erected prior to commencement of development.
- Additional native species woodland will be created buffering the application from the un-named ditch this will reduce sediment and nutrient run off.
- The proposed surface water drainage from the sheds and units will be collected at source in guttering and downspouts and then discharge direct to soakaways.
- All dirty water collected from washing down will be collected via ACO channel drainage and gullies to a piped system and will drain to a sealed 6000 gallon tank located to the front and south of the buildings. The dirty water will be collected following the washing down and cleaning of the sheds following each crop and will be transferred by vacuum tank to be used damp down the feedstock's and used in association with the AD (Anaerobic Digester) plant. The dirty water will be stored in existing tanks used in association with the AD Unit. The tank will be provided with a high levels alarmed system to advise on the level of storage and when the tank requires emptying.

3. Increase on phosphate/nitrogen from spreading digestate on the land.

- There will be no spreading of digestate from the new proposed poultry sheds within the Clun catchment.

Conclusion

Providing the following conditions are on the decision notice and are appropriately enforced Shropshire Council has concluded that the proposed development will not impact on the integrity of the River Clun SAC or River Teme SSSI.

20. No works shall be carried out other than in accordance with the approved plans. Details of any further works shall be submitted to the Local Planning Authority and approved in writing prior to those works being carried out.

Reason: To ensure reduction of nutrient rich run-off and sediment entering the watercourse, to protect the River Clun SAC, a European protected site.

21. Biodiversity Monitoring Strategy Condition

No development shall take place, including ground works and vegetation clearance until a biodiversity monitoring strategy has been submitted to, and approved in writing by, the local planning authority. The purpose of the strategy shall be to monitor the ammonia emissions from the proposed poultry unit to ensure that a minimum reduction of 90% of ammonia emissions is achieved at source. The content of the strategy shall include the following:

- a) Aims and objectives of monitoring to match the stated purpose.
- b) Appropriate success criteria, thresholds, triggers and targets against which the effectiveness of the various conservation measures being monitored can be judged.
- c) Methods for data gathering and analysis.
- d) Location of monitoring.
- e) Timing and duration of monitoring,
- f) Responsible persons and lines of communications.
- g) Review, and where appropriate, publication of results and outcomes.

A report describing the results of monitoring shall be submitted to the local planning authority at intervals identified in the strategy. The report shall also set out (where the results from the monitoring show that conservation aims and objectives are not being met) how contingencies and/or remedial action will be identified, agreed with the local planning authority, and then implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The monitoring strategy will be implemented in accordance with the approved details.

22. The first submission of reserved matters shall include a scheme of landscaping and these works shall be carried out as approved. The submitted scheme shall include:
- a) Means of enclosure, including all security and other fencing
 - b) Hard surfacing materials
 - c) Minor artefacts and structures (e.g. lighting)
 - d) Planting plans, including wildlife habitat and features (e.g. bat box, dormouse box)
 - e) Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment)
 - f) Schedules of plants, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate. Native species used to be of local provenance (Shropshire or surrounding counties)
 - g) Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works (fenced buffer of 20m)
 - h) Implementation timetables

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

23. A habitat management plan shall be submitted to and approved by the local planning authority prior to the occupation of the development. The plan shall include:
- a) Description and evaluation of the features to be managed;
 - 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 a 5 year project register, 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.
- The plan shall be carried out as approved, unless otherwise approved in writing by the local planning authority, for the lifetime of the development.

Reason: To protect features of recognised nature conservation importance.

Informative

Where it is intended to create semi-natural habitats (e.g. hedgerow/tree/shrub/wildflower planting), all species used in the planting proposal should be locally native species of local provenance (Shropshire or surrounding counties). This will conserve and enhance biodiversity by protecting the local floristic gene pool and preventing the spread of non-native species.

The Significance test

SC Ecology has identified that the proposed works in application No. 17/04546/EIA for the Proposed Poultry Units South East Of Hoptonheath, Shropshire - Erection of four poultry sheds with control room/stores; landscaping scheme (amended scheme), has potential effect pathways that could have a likely significant effect on the River Clun SAC (as detailed above). The Habitat Regulation Assessment process cannot be satisfied and an Appropriate Assessment is required.

The Integrity test

An Appropriate Assessment has been undertaken and mitigation has been proposed and secured through that planning process which should mean that the proposal will not have an adverse effect on the integrity of the River Clun SAC.

Conclusion;

SC Ecology has concluded that the proposed works under planning application No 17/04546/EIA, Proposed Poultry Units South East Of Hoptonheath, Shropshire - Erection of four poultry sheds with control room/stores; landscaping scheme (amended scheme), will not adversely affect the integrity of the European Designated Site at the River Clun SAC or the River Teme SSSI providing the development is implemented in accordance with the above conditions and submitted documents.

Conclusions

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

Guidance on completing the HRA Screening Matrix**The Habitat Regulation Assessment process**

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

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

61. (1) A competent authority, before deciding to undertake, or give any consent, permission or other authorisation for a plan or project which –
- (a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and
 - (b) is not directly connected with or necessary to the management of that site,
- must make an appropriate assessment of the implications for that site in view of that site's conservation objectives.

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

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

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

Habitat Regulation Assessment Outcomes

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

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

Duty of the Local Planning Authority

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