

Development Management Report

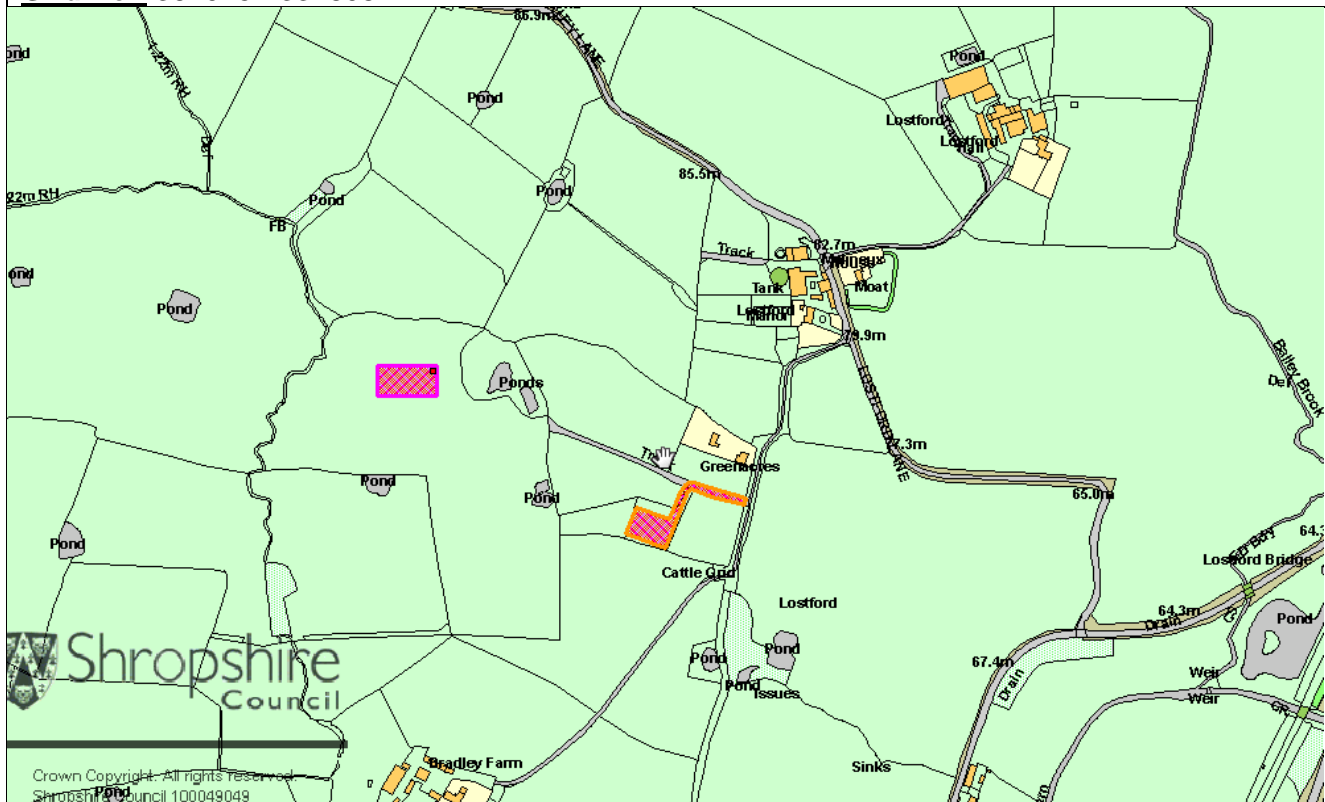
Responsible Officer: Tim Rogers

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Summary of Application

Application Number: 14/04787/VAR	Parish:	Hodnet
Proposal: Variation of Condition No.1 (approved plans) attached to planning application 11/04429/FUL approved on appeal to amend the approved plans		
Site Address: Land At Lostford Lane Wollerton Shropshire		
Applicant: Cheshire Game Supplies		
Case Officer: Sue Collins	email: planningdmne@shropshire.gov.uk	

Grid Ref: 362075 - 331808



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Recommendation:- Grant Permission subject to the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

- 1.1 This application seeks planning permission to vary condition 1 (approved plans) attached to planning permission 11/04429/FUL that was granted on appeal on the 2nd January 2013. The variation relate to the size and cladding of the agricultural building and the duck and geese sheds. The works have already been commenced and therefore development is for retrospective approval.
- 1.2 The planning permission allowed for an agricultural building measuring 30.48 metres x 12.192 metres with a height to ridge of 5.892 metres. It is proposed with this application that the agricultural building will measure 32.3 metres by 15.826 metres with a maximum height to ridge of 6.413 metres. The original sizes of the bird sheds were 5 buildings of 7.315 metres by 5.486 metres with a maximum height of 2.787 metres. The proposed bird sheds will be 20 buildings 3.05 metres by 3.66 metres with a height of 1.88 metres with and 3 buildings 2.44 metres x 2.44 metres and 1.52 metres high.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site forms part of a larger holding of four fields totalling 10.96 hectares and is within an area of open countryside where there is a sporadic scattering of residential dwellings, farms and equine facilities. The site originally consisted of five adjoining fields which are defined by a mix of hedgerows, post and wire fences and mature trees. Only one of the four fields is proposed to be used for the pens which will occasionally be relocated within that field. The first field, which lies closest to the road, would have the access track and storage building. Within the wider land ownership there are two small ponds and another two lie immediately outside the applicants ownership. Some of these are known to contain great crested newts.
- 2.2 The nearest dwelling to the site is Greenacres, a bungalow adjacent to the access track that formed part of the proposal. Other dwellings in the vicinity are Bradeley Farm to the south of the site, and Lostford Manor Farm to the north east. There are a number of dwellings to the north and north east of the site
- 2.3 The nearest settlement as identified in the Council's Settlement Strategy (Policy G1 of the adopted Local Plan – see Appendix 1 to this Statement) is Hodnet which lies approximately 3.5 km away.
- 2.4 The site is set within an area characterised by large open fields and sporadic development. The fields are marked by hedgerows of varying quality, some post and rail fencing and some trees. The trees are mainly mature or over-mature and parts of the hedgerow have not been managed and therefore present an open structure. Views of nearby properties are readily available from within the site and the reverse is equally true due to the gentle changes in contours around the site.
- 2.5 The Shropshire Landscape Typology 2006 identifies this area as lying within or on the edge of the Principal Settled Farmlands. The Key characteristics of this landscape type are:
- Mixed farming land-use

- Varied pattern of sub-regular, hedged fields
The area has a mix of clusters of houses and farmsteads set in open countryside with labourers cottages set along the roadside. Furthermore, the site is visible from a public footpath and a road.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 Applications requested to be referred, by the Local Member, to the relevant Planning Committee within 21 days of electronic notification of the application and agreed by the Service Manager with responsibility for Development Management in consultation with the committee chairman or vice chairman to be based on material planning reasons. A Practice Note is available in relation to “material planning considerations”.

Cllr Calder requested that if this application were to be recommended for approval that it should be considered by the Planning Committee as the planning permission was granted by the Inspector with specific conditions in place. The floor area of the storage shed is, according to this new application, exactly 50% larger than that for which consent was secured.

The storage building is 523mm higher than that permitted and thus significantly more visible from, for instance, Lostford junction of Hodnet By-pass.

The building is built of corrugated asbestos roof and concrete panel walls, whereas the consent specified plastic coated box section steel.

This request has been discussed with the Chair of the Planning Committee who has confirmed that the application should be considered by members.

4.0 COMMUNITY REPRESENTATIONS full details of the responses can be viewed online

4.1 Consultee Comments

4.1.1 **Highways Development Control:** No objection

4.1.2 **Drainage:** No objection. However confirmation of the revised drainage area of the portal shed is required.

4.1.3 **Natural England:** No comment.

4.1.4 **Rights of Way:** No objection.

4.1.5 **Hodnet Parish Council:** Cheshire Game Farms have not met the terms of their successful application in the size and scope of the permitted development neither have they carried out the accompanying measures to mitigate that development as listed by the Planning Inspector. Hodnet Parish Council opposed the original development and object to this variation. Further we would remind the planning officers that Cheshire Game Supplies are breaking the terms of permission by rearing birds for shooting - the appeal Inspector granted permission for the rearing of ducks because that is "agriculture", whereas the rearing of game birds is as deemed "industry". It is imperative that the applicant meet the terms laid out by the Planning Inspector.

4.2 **Public Comments**

4.2.1 13 Letters of representation have been received in connection with the application.

The areas of concern relate to:

- Failure by the applicant to discharge conditions previously imposed.
- The development shows a flagrant disregard for planning regulations and should be refused and the conditions enforced.
- The justification for changing the approved buildings is not acceptable.
- At the appeal the approved scheme was described as being appropriate for the business. There is no justification for a larger building.
- The full impact of the development on the countryside should be given consideration.
- The storage building, bird sheds and pens are a significant increase over the original approval.
- The development is visually a major scar on the landscape and increasing the size of the buildings has increased this impact.
- The increase in the floor space of the building will cause an increase in the number of birds and therefore the flies, odour and run-off.
- The external cladding of the storage building is more industrial and therefore detrimental to the rural surroundings.
- Policy CS5 of the Shropshire Core Strategy protects the countryside from unnecessary development
- The increase in the sizes of the buildings will cause more traffic to be generated to the detriment of other road users.
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5.0 **THE MAIN ISSUES**

- Policy & Principle of Development
- Design, Scale and Character
- Impact on Residential Amenity
- Highways
- Impact on Trees
- Ecology
- Drainage

6.0 **OFFICER APPRAISAL**

6.1 **Policy & Principle of Development**

6.1.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Since the adoption of the Councils Core Strategy the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given weight in the determination of planning applications. The NPPF advises that proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. The NPPF constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications.

6.1.2 Para 28 of the NPPF supports the principle of a prosperous rural economy including the sustainable growth and expansion of all types of business and enterprise in rural areas. Within the NPPF paras 109 to 125 deal with the issue of

the impact of development on the natural environment. It requires development to protect and enhance the natural environment.

- 6.1.3 Policy CS13 in the Shropshire Core Strategy supports the principle of economic development within rural areas recognising the continued importance of farming for food production. This is provided the development accords with the principles contained in policy CS5.
- 6.1.4 The issues regarding the design, scale and other material planning considerations will be discussed further within this report.

6.2 **Design, Scale and Character**

- 6.2.1 Policy CS5 'Countryside and Green Belt' of the Shropshire Core Strategy Policy requires that new development in the countryside be strictly controlled. It identifies that agricultural related development, although it may be large scale, will be required to demonstrate that there are no unacceptable adverse environmental impacts. CS6 'Sustainable Design and Development Principles' requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character. The development should also safeguard residential and local amenity, ensure sustainable design and construction principles are incorporated within the new development. Policy 7 'Requiring Good Design' of the National Planning Policy Framework indicates that great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.
- 6.2.2 Concerns have been received regarding the scale and external appearance of the building and the pens. It is considered by local residents and the Parish Council that the larger building and the increase in the number of pens has a detrimental impact on the rural landscape of the area. There is further concern that at the appeal the previously approved buildings were considered large enough for the business and there is insufficient to warrant the changes.
- 6.2.3 In the appeal in 2013 the issue of the size of the agricultural building and the pens was considered by the Inspector. Evidence submitted at the time indicated that the sizes were the minimum to allow the agricultural business to operate.
- 6.2.4 The approved agricultural building measured 30.48 metres x 12.19 metres with an eaves height of 3.95 metres and a ridge height of 5.89 metres. Externally the building was to have been clad in slate blue coloured box profile cladding to its roof and walls. Two roller shutter doors were included, one at each end of the northern elevation.
- 6.2.5 As built the building measures 32.2 metres x 15.85 metres with a height to eaves of 3.94 metres and a ridge of 6.4 metres. This represents an approximate increase of 38% in the floor area of the building. The height will also be increased by approximately 0.6 metres. Externally the walls will be part clad in slate blue box profile sheeting, part Yorkshire boarding and part pre-cast concrete panels. Part of the northern elevation and the western elevation will remain open. Doors will be included on the western and eastern elevations. The roof is clad in anthracite grey cement fibre sheeting.

- 6.2.5 When submitted the justification given for the change in the sizes of the approved buildings was due to an incorrect order being made for the agricultural building, and the smaller pens for the geese and ducks being more readily available given the timescales available to the applicant. Further justification regarding the size of the building has been submitted regarding the agricultural building. This states that the agricultural business not only includes the ducks and geese but also sheep and cattle and that the building will be required to house them at various times of the year. The building will also need to accommodate agricultural equipment, feed and bedding.
- 6.2.6 Whilst the external materials have changed, these are not uncommon materials used in agricultural buildings. Yorkshire boarding over concrete panels is regularly used in buildings that will house livestock as it provides the shelter, air and protection required for animals. The anthracite coloured roof is also a regularly used material in agricultural buildings as particularly in the UK climate the colour blends better with the natural surroundings.
- 6.2.7 The proposed duck and geese pens have been changed to 20 triangular prisms which are much smaller in their cubic capacity. As a result more of these are required to accommodate the same number of birds. Each of the prisms measures 3.05 metres by 3.66 metres with a height of 1.88 metres and externally is coloured green and three wooden sheds measuring 2.44 metres by 2.44 metres with a height ridge of 1.52 metres. The previous approval comprised five wooden sheds measuring 7.315 metres by 5.486 long by 2.796 metres high.
- 6.2.8 It is acknowledged that the proposal increases the size of the agricultural shed and the number of duck and geese structures and as such would make them more visible in the landscape than those previously approved. However, officers do not consider that this additional visual impact would result in significant material harm to the landscape. The materials and their colour are similar to many other agricultural buildings within the County and will ensure that the proposal has minimal visual impact and there is justification which demonstrates the building size is appropriate for the agricultural business.
- 6.2.9 In addition the applicant has provided a plan outlining a proposed scheme of landscaping. Whilst it is appreciated that this will not completely screen the agricultural shed from view, it will further soften the visual impact of it in the landscape.
- 6.3 **Impact on Residential Amenity**
- 6.3.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity.
- 6.3.2 The nearest dwelling to the application site is located to the north east of the agricultural building. This is a detached dwelling which has outbuildings typical of a rural location. At approximately 90 metres from the agricultural shed and given the orientation of the development, this would be too far from the development to have an impact on the residential amenities enjoyed.

6.4 Ecology

- 6.4.1 The NPPF and policy CS17 of the Shropshire Core Strategy require consideration to be given to the impact of the proposed development on the natural environment. This particularly relates to the impact on statutorily protected species and habitats. Therefore a consultation has been sent to the Council's Ecologist.
- 6.4.2 The application has been supported with plans to show the position of the duck and geese pens. These demonstrate that the pens can be located within the parameters set out in the original planning application to protect the local great crested newt populations. Although the opinion of the Ecologist is awaited at the time of writing this report it is the opinion of the Case Officer that had this been a potential issue the Planning Inspector would not have allowed the pens and sheds to be within 50 metres of their location.
- 6.4.3 In view of the above it is considered that the proposed development will not have a detrimental impact on statutorily protected species and habitats. Therefore the proposal meets the requirements of the NPPF and policy CS17 of the Shropshire Core Strategy.

6.5 Drainage

- 6.5.1 The NPPF and policy CS18 of the Shropshire Core Strategy require consideration to be given to the potential flood risk of development.
- 6.5.2 The development has been assessed by the Council's Drainage Engineer. No objection has been raised to the scheme however they require confirmation that the installed soakaway drainage system has sufficient capacity.
- 6.5.3 As there is land available to the applicant to ensure that an appropriate system is installed a condition will be included on any planning permission that may be granted requiring full details to be submitted to the Local Planning Authority for approval. The approved scheme shall be installed within three months of the date of planning permission being granted.
- 6.5.4 In view of the above it is considered that an appropriate drainage system can be installed to meet the requirements of the NPPF and policy CS18 of the Shropshire Core Strategy.

6.6 Other Matters

- 6.6.1 It is alleged by local residents that the applicant has failed to comply with conditions attached to the original planning permission. This should be used as a reason to refuse any further applications. Apart from the change to the structures that have been constructed, all other conditions appear to have where necessary been discharged and complied with. Whilst it may be of concern to local residents, this is not a material planning consideration that can influence a recommendation.
- 6.6.2 Concerns have been expressed that the larger building will encourage more vehicle movements to the detriment of highway safety. The access drive to the site only serves Bradley Farm and Greenacres. The applicant has no planning restriction on how many vehicles and their type that can use this drive or the land.

The erection of the building to store agricultural vehicles would not necessarily increase the amount of traffic using the premises or the driveway over and above that currently experienced.

- 6.6.3 Both the Parish Council and local objectors have raised concern that the applicant is raising game birds and not ducks and geese. However at the time of the officer site visit the pens were erected but not stocked and the Council have not been provided with any evidence to show non-compliance with the condition. Should this become an issue the Council will be able to take enforcement action but it is not a matter for this application which is proposed to be approved with the same conditions as the appeal decision.

7.0 CONCLUSION

- 7.1 It is appreciated that the buildings are different to those previously proposed and in the case of the agricultural shed significantly bigger. However on balance the increase would not necessarily make them more visually intrusive in the rural landscape. The proposed materials and the size of the agricultural shed are similar to other agricultural buildings within Shropshire and the colours generally minimise their visual impact. The extra landscaping proposed will further soften the impact of the building. The proposed duck and geese sheds, although there are more of them, will only contain the same number of birds as limited by the condition imposed on the original planning permission. Their smaller scale will not have any more impact on the character of the area than the previously approved fewer, but larger buildings.

It is the opinion of officers that the amended scheme has no further detrimental impact on the character and appearance of the rural landscape than the previous approval. As such the proposal is considered to be in accordance with the NPPF and policies CS5, CS6, CS13, CS17 and CS18 of the Shropshire Core Strategy.

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

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

8.1 Risk Management

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

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

and b) in any event not later than six weeks after the grounds to make the claim first arose first arose.

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

8.2 **Human Rights**

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

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

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

8.3 **Equalities**

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in planning committee members' minds under section 70(2) of the Town and Country Planning Act 1970.

9.0 **FINANCIAL IMPLICATIONS**

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

10. **BACKGROUND**

Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework

Core Strategy and Saved Policies:
CS5 - Countryside and Greenbelt
CS6 - Sustainable Design and Development Principles
CS13 - Economic Development, Enterprise and Employment
CS17 - Environmental Networks
CS18 - Sustainable Water Management

Relevant planning history:

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

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

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

Appeal

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

Appeal

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

11. ADDITIONAL INFORMATION

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

Cabinet Member (Portfolio Holder)

Cllr M. Price

Local Member

Cllr Karen Calder

Appendices

APPENDIX 1 - Conditions

APPENDIX 1**Conditions**

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

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

2. The duck and geese sheds shall not at any time be sited within 50 metres of the top of the bank of any pond.
3. The duck and geese sheds shall not at any time be sited within 50 metres of the top of the bank of any pond.
4. The hibernacula, setaside areas and fencing shall be maintained as shown in the approved details drawing SA12603/02 revision B received on the 17th May 2013.
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5. The development shall be carried out and used in full accordance with the recommendations of the Method Statement (Shropshire Wildlife Surveys, March 2012) and the Great Crested Newt, Habitat Improvement and Management Plan (Shropshire Wildlife Surveys, March 2012).
6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that order with or without modification) no external lighting shall be installed within any part of the site.
7. The agricultural storage building shall not be brought into use until soakaways have been provided in accordance with details to be submitted to and approved in writing by the local planning authority.

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