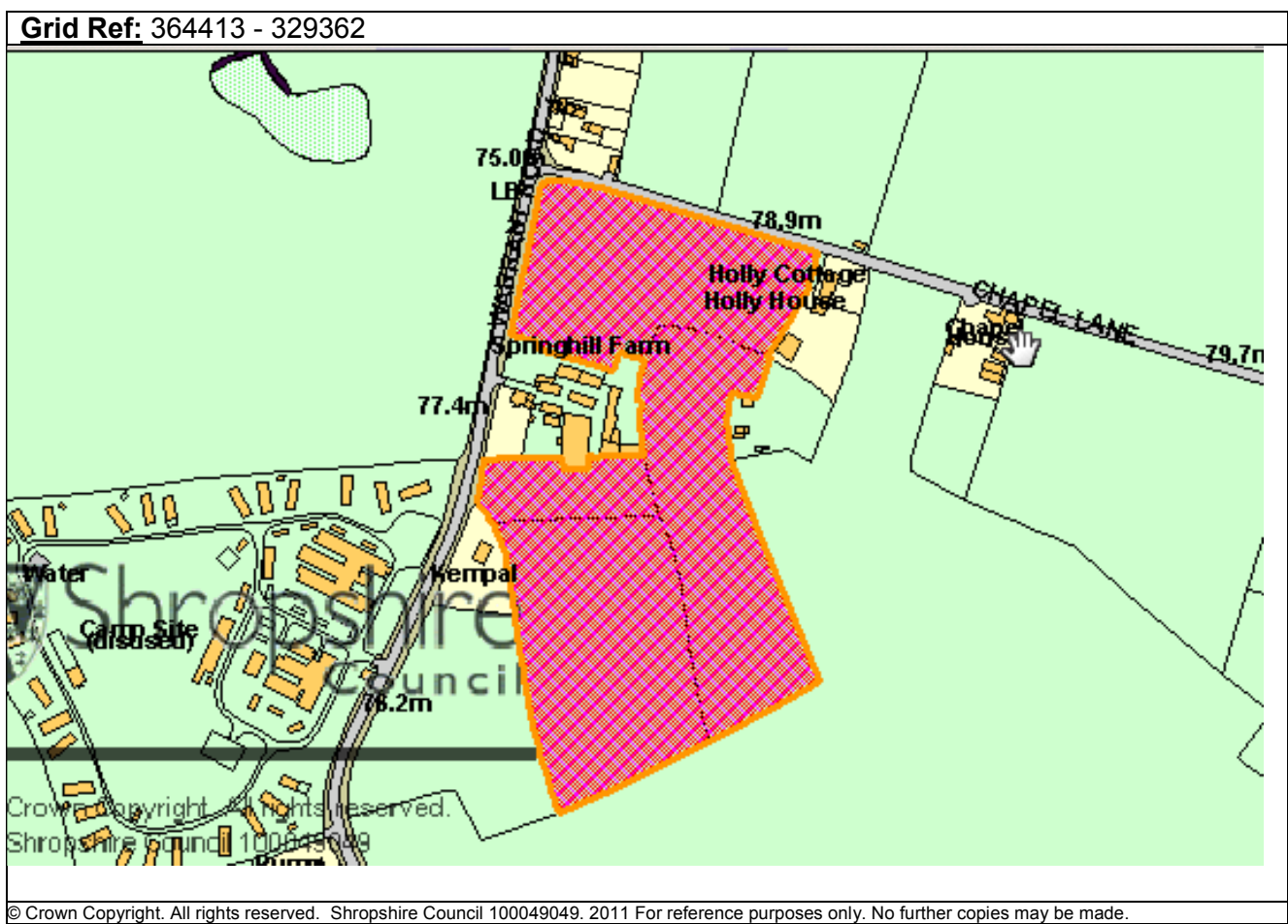


**Development Management Report**

Responsible Officer: Tim Rogers  
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**Summary of Application**

<b>Application Number:</b> 13/03401/COU	<b>Parish:</b>	Stoke Upon Tern
<b>Proposal:</b> Change of use of agricultural land to include the breeding of game birds		
<b>Site Address:</b> Spring Hill Farm Warrant Road Stoke Heath Market Drayton TF9 2JR		
<b>Applicant:</b> Mr R Manning		
<b>Case Officer:</b> Jane Raymond	<b>email:</b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@shropshire.gov.uk</a>	



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

## REPORT

### 1.0 THE PROPOSAL

1.1 This application relates to the change of use of agricultural land for the breeding of game birds and includes the erection of 1.8 metre high fencing with bird netting over the top to create 6 pens varying in size but providing approximately 3,600 square metres of ground area for each pen. This will provide a low stocking density of approximately 3.6 square metres of ground area for each bird. There will also be sufficient circulation space between the pens to enable the farmer to drive a tractor between. Planning permission is required for a change of use of the land as the breeding of game birds is not classed as agricultural use. The proposal is only for the breeding of birds and not the rearing of birds and the 6,000 breeding birds will consist of 14% cocks and 86% female birds and the birds will live outdoors in the pens and will remain on the site for up to 17 weeks of the year (mid February to end of June). The female birds lay eggs during April, May and June and the eggs will be collected daily during this period and will be taken to a hatchery away from the farm. The birds will be removed from the site after this laying period at the end of June and sold for sporting purposes.

1.2 The submitted Design and Access statement indicated that the pens would remain in one location for 2-3 years, that their location would be rotated, that they would only be required for up to 16 weeks of the year (late February to mid June) and that the land would be grazed for the remainder of the year. Clarification has been sought regarding this and an indicative layout plan for the location of the pens has been submitted which also indicates exclusion zones or buffer areas where no pens will be erected and no birds will be kept extended to the boundary with all residential properties surrounding the site. This indicative plan shows how the pens could be configured on the holding and the agent has confirmed the following:

- All of the pens will be utilised at the same time to house up to 6,000 game birds
- They will remain in the same position for up to 3 years
- Due to the size and layout of the land available to the applicant their position cannot be rotated and completely re-sited but they can be re-configured after 2-3 years
- For 17 weeks of the year they will house breeding game birds and for the remaining 35 weeks of the year they will house sheep that will graze the land
- The fencing erected to form the pens will not obstruct the footpath which runs through the site.
- Pens will not be formed within 20 metres of residential curtilage.

The application has not been amended to that first submitted and presented to the Parish other than the submission of a plan indicating 20 metre buffer zones extended to the curtilage with all residential properties.

### 2.0 SITE LOCATION/DESCRIPTION

2.1 The application site is 12.74 acres (5.15 ha) of agricultural land at Spring Hill Farm

located between Stoke on Tern and Stoke Heath accessed off Warrant Road. The farm comprises the farmhouse and a range of farm buildings which are excluded from the red outline of this application. There is a residential property known as 'Kempal' to the West of the site, two residential properties known as 'Holly Cottage' and 'Holly House' to the East and dwellings at the junction to the North.

### 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The scheme does not comply with the delegation to officers as set out in Part 8 of the Shropshire Council Constitution as the Parish Council have submitted a view contrary to officers and the application has been requested to be referred by the Local Member, and the Area Planning Manager agrees that the application should be determined by committee.

### 4.0 Community Representations

#### 4.1 - Consultee Comments

4.1.1 SC Public Protection: Initially had some reservations about the potential for odour and asked whether the applicant would be willing to submit information to provide a 20m buffer zone between the pens and residential boundaries rather than a 10m buffer which wasn't considered suitable. Not confident that an odour issue will not occur due to the fact that there will be 6000 birds in close proximity to residents. Asked whether it would be feasible for the applicant to start off with 4 pens (4000 birds) in the first year and add a further pen the following year and a further one the year after should no complaints be received. In this way as long as complaints are not received or if they are but found to be unjustified they can have the full compliment of pens and birds in just two years but it gives confidence that numbers can be kept lower if residents are being adversely affected. Effectively a phased approach to the development will ensure no issues are likely. A suitable condition could be worded to cover this if the principal is accepted. Having read the information provided in the Agents email (20th September 2013) and having viewed the corresponding plan is satisfied that the changes suggested are suitable and therefore proposes conditions in order that this information is clarified and enforceable at a later date if required.

#### 4.2 - Public Comments

4.2.1 Stoke Parish Council at the conclusion of the debate having heard from both local residents and the applicants agent decided to object to the application on the following grounds:

- over development close to residential property.
- no adequate buffer for all residential property.
- poor access for larger articulated vehicles.
- a public footpath across the site that has not been taken into account.

if Shropshire Council is minded to grant permission a site visit is recommended and the need for a Bio Security management plan using the following as a template:

- keep feed under cover to minimise wild bird attraction.

- keep water fresh and free of droppings.
- keep waterfowl and chickens separate.
- control vermin.
- quarantine new stock 2-3 weeks.
- quarantine birds after taking to an exhibition for 7 days.
- change clothes and wash boots before and after visiting other breeds.
- change clothes and wash boots before and after attending a sale.
- keep fresh disinfectant at the entrance to poultry areas for dipping footwear.
- disinfect crates before and after use, especially if lent to others, however, it is preferable not to be sharing equipment.
- disinfect vehicles which have been on poultry premises but avoid taking onto other premises.
- wash hands before and after handling poultry.
- comply with any import/export regulations/guidelines.

4.2.2 18 letters have been received from 10 households with the following concerns:

- Thought that the breeding, rearing and managing of livestock, including game birds and poultry, is generally permitted on land designated as agricultural and does not understand why the proposed activity cannot be undertaken within the existing status of Spring Hill Farm as an agricultural farm in open countryside and is concerned that this may be looking to re-designate the land as 'commercial' or open up a future application for a dwelling.
- This area was plagued with flies from a nearby chicken farm and the problem eventually abated but is concerned that this could be repeated if adequate controls aren't put in place to protect the local residents from being plagued by fly's and noise.
- Concerned that such a concentration of birds will create noise, disturbance and potentially odours
- Concerned about the control of vermin and suggests a perimeter of 1m high chicken wire fencing along all boundaries?
- Would like any permission, if given, to be conditioned to provide monthly vermin control visits and for the annual trimming back of hedgerows and undergrowth to prevent breeding grounds for vermin.
- Questions the suitability of the site for birds in such proximity to dwellings.
- If a 20 metre buffer area is provided within the site questions whether the size of the site is sufficient to accommodate the pens and leave space to rotate them.
- Not moving the pens regularly and only removing dead birds once a month will result in vermin and fly infestation.
- Wants assurance that any dead animals, game birds or other, are removed

from the land and pens on a daily basis and that they are properly stored in freezers, within existing buildings prior to removal from site. Also wants assurance that carcasses will not be buried or burned on site.

- Most chicken farms have an incinerator for the disposal of bodies, which ensures that the land is not tainted by what are usually shallow burials, or that bodies are not left on the muck heaps to rot. Requests that any incinerator is placed sufficiently far away from residential boundaries to minimise the odour during the incineration process.
- Due to two large poultry farms in the immediate area of the application concerned that a third large farm would contribute substantially to the amount of flies already present in the area causing an extreme increased health risk for local people.
- Clarification is required of where the feed will be stored as this may significantly affect the number of rats, polecats and other vermin that are attracted to the development
- Concerned that there is no management plan.
- Concerned that the proposed eight feet high pens will be visible and that their size will prevent them from being moved and they will be an eyesore.
- Loss of a view of open fields currently used for grazing animals.
- The proposed commercial activity will result in additional traffic due to deliveries and collection.
- The proposed 20m buffer zone adjoining residential boundaries should extend to properties on the junction of Chapel Lane and Warrant Road, e.g. 'Buckley Cottage' and they only partly address the boundaries of 'Holly Cottage', 'Holly House' and 'Kempal'. If the County is minded to grant permission, it should be subject to the 20m buffer being extended accordingly.
- Requests that any permission is conditioned so as to ensure that the use of the land provided under such a permission for the rearing of game birds is restricted to this use and not for any other use without another full planning application and that upon cessation of this use the land reverts back to agricultural.
- The position of the pens does not take into account the existing footpath and that comments from the Ramblers and the SC Rights of Way should be sought.
- The birds are being bred for sport and after their breeding season, the birds will be taken to various locations and shot. Concerned that this could come to the attention of "Animal Rights Activists" as with badgers, foxes, farmed mink, and cause demonstrations affecting the peace of the district.

- The proposal and the amended plan submitted in September is not as originally described and the public have not been given precise details of and have not had the opportunity to consider.

## 5.0 THE MAIN ISSUES

Principle of development

Visual Impact

Impact on residential amenity/public health: Odour/Noise/Flies/Vermin

Access/Traffic

Rights of Way

## 6.0 OFFICER APPRAISAL

### 6.1 Principle of development

6.1.1 The NPPF advises that planning policies should support economic growth in rural areas and promote the development and diversification of agricultural and other land-based rural businesses and support the sustainable growth and expansion of all types of business and enterprise in rural areas. The most relevant Shropshire LDF Policy is CS5. Policy CS5 supports development proposals for small scale new economic development diversifying the rural economy, including farm diversification schemes on appropriate sites which maintain and enhance countryside vitality and character and where they improve the sustainability of rural communities by bringing local economic and community benefits. Officers consider that this proposal relates to a small scale farm diversification proposal which will combine a related rural land based enterprise with an existing agricultural business and will provide employment for the applicant and his family that will compliment his existing business and also support associated rural businesses. It is therefore considered that the proposal is acceptable in principle and accords with the NPPF and policy CS5.

### 6.2 Visual Impact

6.2.1 The erection of 1.8 metre high fencing to form pens will obviously have some visual impact and will result in the loss of a view of open fields. However there is no right to a view. In addition if the field was used for the breeding of pigs or planting of crops for example, pig pens or plastic poly tunnels could also be erected without the need for planning permission and this could have as great an impact as the erection of the pens. Accordingly, on balance officers advise that there is no justification for refusal of this application based on visual impact.

### 6.3 Impact on residential amenity/public health: Odour/Noise/Flies/Vermin

6.3.1 The majority of local residents concerns and that of the Parish Council relate to a possible fly infestation and odour as a result of the proposal as they have had previous experience of this in relation to a nearby poultry farm due to a problem that has now been resolved. However the proposed business operation is very different to and not as intensive as poultry farming and the agent has provided

information in relation to the operation of the business in order to allay the public's fears about this proposal.

- Density: The operation is low density with 3.6 square metres (32 square feet) of ground area for each bird if 6000 birds are kept at the site.
- Dead birds: Any dead birds will be collected from the pens daily and placed in a specialist 'Euro' bin located at the main farmstead at Springhill Farm and collected by a specialist 'dead-stock' removal company on a weekly basis. No dead birds will therefore be buried or burnt at the site.
- Vermin: Bulk feed will be stored in a feed bin located at the farm and the applicant will employ a specialist pest control company to ensure that there is no increased level of vermin on the holding. This is a priority for the enterprise to be productive and efficient as vermin have a tendency to eat eggs and feed.
- Flies: An elevation of flies is found with poultry litter as they are intensively farmed and housed inside. The breeding of pheasants however is outdoors with much lower density and therefore there is no concentration of litter. In addition pheasants are carnivorous and will control the number of flies by eating the grubs in the litter.
- Disease: The site will only be used for pheasants for 17 weeks of the year and will be grazed by sheep for the remainder of the year. This will provide a sufficient fallow period required to reduce disease in bird stock.
- Noise: Only 14% of the birds will be cocks and the agent has confirmed that cocks will only call when startled and noise levels are not anticipated to be elevated above standard agricultural use.

It is considered that if the operation is managed in accordance with the above then the proposal should not result in additional noise or odours over and above what would be experienced by any other farming activity that could be carried out at the site without the need for planning permission. Public Protection have requested a phased development but provided the development is carried out in accordance with an approved management plan any odour and noise arising from the proposal is not a planning matter and can be satisfactorily dealt with by Public Protection under other primary legislation. It is also considered that if appropriately managed the proposal would not result in an increase in vermin and flies above what would normally be expected in association with any farming enterprise. A condition can be imposed limiting the number of birds to 6000 and that the site can only be used for the breeding of pheasants for a maximum of 17 weeks of the year. A condition can also be imposed requiring a full management plan to be submitted and approved (to include details of the operation outlined above) and that it should be strictly adhered to and would be enforceable. The Bio Security management plan suggested by the Parish does not directly relate to the business operation proposed and as such would not be enforceable.

#### 6.4 Access/Traffic

6.4.1 Access to the site will be via the existing access that serves Spring Hill Farm and the access onto Warrant Road has good visibility in both directions. From Mid February to March birds will be brought to the site in vans and not HGV's and there would be a total of between 8 and 14 deliveries over this 4 – 5 week period. Similarly birds will be taken away from the site during the month of June at varying intervals. Feed will be delivered to the site by 2 HGV lorries per month for the 17 weeks that the birds will be present (March to June), one van a day will visit to collect the eggs during the 12 week laying period (April to June) and one vehicle a week will visit to remove any dead birds. Vehicle movements will therefore not be significantly different to the level and type of farm traffic associated with normal agricultural activity and it is not considered that the proposal would have any highway safety implications.

## 6.5 Rights of Way

6.5.1 The SC Rights of Way Officer and the Ramblers Association have been consulted but no response has been received. The indicative layout indicates that the fencing erected to form the pens will not obstruct the foot path that runs from East to West to the North part of the site and an informative will advise the applicant that it is an offense to obstruct a public right of way.

## 7.0 CONCLUSION

It is considered that the use of the site for the breeding of game birds is acceptable in principle as a farm diversification scheme and will compliment the existing farming activity. Subject to conditions restricting the number of birds to 6000, the use for 17 weeks of the year, that there shall be no birds in the buffer areas and the submission of a management plan it is considered that the proposal would have no impact on neighbouring properties in relation to flies, vermin, odour and noise over and above that would be associated with any other farming activity that could be carried out at this site without the need for planning permission. The existing footpath will not be obstructed and traffic and vehicle movements in association with the proposed development will not be significantly different to existing activity at the site. The proposal is therefore considered to accord with the NPPF and Shropshire LDF policies CS5 and CS6.

## 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 three months 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 1970.

## 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

Central Government Guidance: NPPF

Core Strategy and Saved Policies: CS5 and CS6

### RELEVANT PLANNING HISTORY:

None

11. Additional Information

[View details online:](#)

List of Background Papers: File 13/03401/COU
Cabinet Member (Portfolio Holder): Cllr M. Price
Local Member: Cllr Karen Calder
Appendices APPENDIX 1 - Conditions

## APPENDIX 1

### **Conditions**

#### **STANDARD CONDITION(S)**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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

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

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

#### **CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES**

3. Prior to the commencement of development a management plan to include the delivery and storage of feed, control of vermin and collection of dead birds shall be submitted to and agreed in writing with the Local Planning Authority. The approved scheme shall be fully implemented prior to the first use of the land for the breeding of game birds and shall be permanently adhered to.

Reason: To protect the amenity of nearby residents.

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

4. No game birds shall be kept in the 20m buffer areas hatched green on the approved plan reference RM 002 REV D received 28 November 2013.

Reason: To protect the amenity of nearby residents.

5. No game birds shall be kept at the site for more than 17 weeks in any one calendar year.

Reason: To protect the amenity of nearby residents.

6. The total number of game birds kept at the site outlined in red but excluding the buffer area hatched green shall be no more than 6000.

Reason: To protect the amenity of nearby residents.

### **Informatives**

1. The public right of way that crosses the North part of the site must not be obstructed and shall remain open and available to public use at all times.