

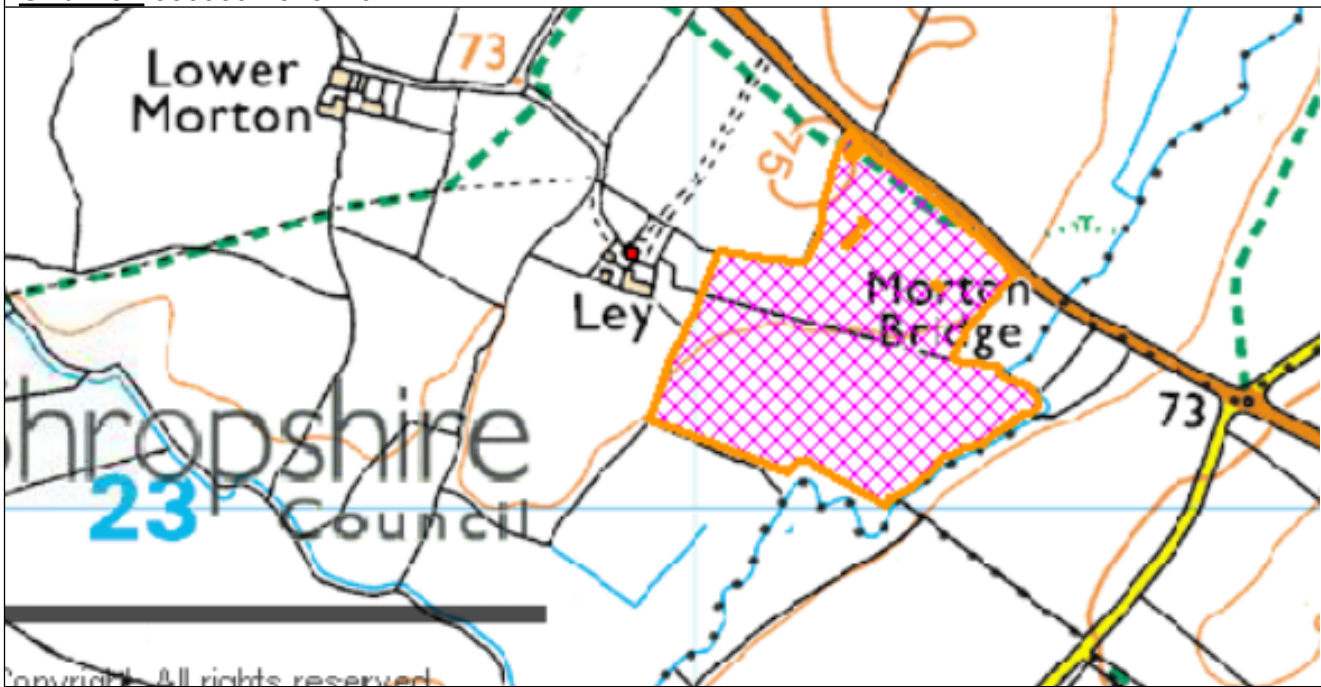
Development Management Report

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Summary of Application

<u>Application Number:</u> 15/04477/EIA	<u>Parish:</u>	Oswestry Rural
<u>Proposal:</u> Erection of two poultry buildings and three feed bins; construction of vehicular access and hardstanding; landscaping scheme		
<u>Site Address:</u> Morton Ley Farm Morton Oswestry Shropshire SY10 8BG		
<u>Applicant:</u> JP & HR Edwards		
<u>Case Officer:</u> Philip Mullineux	<u>email:</u> planningdmnw@shropshire.gov.uk	

Grid Ref: 330939 - 323240



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

REPORT

1.0 THE PROPOSAL

- 1.1 Application is made in 'full' and proposes the erection of two poultry buildings and three feed bins; construction of vehicular access and hardstanding; landscaping scheme on a site adjacent to an existing intensive poultry unit at Morton Ley Farm Morton, Oswestry.
- 1.2 The application is accompanied by an Environment Statement, Design and Access Statement, Scoping report, ecology survey, site location plan, block plan, odour, noise and air quality reports, traffic statement, plans indicating impacts, manure route plan and landscape plan. (A revised Environmental Statement was later submitted to the Council in order to refer to the correct environmental legislation which has been updated from the legislation as referred to by the agent).
- 1.3 The application falls into the remit of the Town and Country Planning (Environmental Impact Assessment), England and Wales) Regulations 2011 (as amended) Schedule one development, and as such an Environmental Statement is mandatory to accompany any planning application for development on site. The threshold for schedule one development is 85,000 broiler birds, this application proposes housing for up to 90,000 birds on site. As such the application was advertised by the Council as development accompanied by an Environmental Statement.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is located to the north west of the village of Osbaston, Shropshire. The site is located alongside two existing intensive 'broiler units' in the control of the applicants. The land is classed as grade 3 agricultural land, and some of the adjoining which forms part of the applicants holding is grade 2. The site forms part of a small arable farming unit covering an area of 25.17 hectares, (62.20 acres), and is surrounded by agricultural land and there are no dwellings outside of the applicants control within close proximity to the site.
- 2.2 The poultry houses will each measure 24.689 metres x 102.886 metres. The total floor area for each shed will be 2,540 m². Eaves and ridge height will be 2.40 metres and 5.0 metres respectively. The bird area (living area accommodation) for each shed will be 98.036 metres x 24.689, therefore a total of 4,840.82 sq m across the two sheds. Each of the new houses will have the potential to accommodate 45,000 "standard" broilers.
- 2.3 Information submitted in support of the application indicates that the broilers will be brought onto site as day old chicks. The 42 day growth period will enable 7.6 crop

cycles per annum with a six day turn around per crop, in order to clean out and prepare for the next crop of birds to be reared on site. Stocking on site will be in accordance with the welfare of broiler chickens as covered by the Welfare of Farmed Animals, (England) (Amendment) Regulations 2010. This sets limits on stocking densities to include a maximum of 38kg/square metre.

- 2.4 The existing poultry units on site which also house up to 90,000 broilers were approved subject to application reference 11/02934/EIA Erection of 2 no. chicken rearing buildings, associated feed bins, hardstanding, store, office/facilities, access and all associated works – Approved 13th March 2012.

3.0 **REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

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

4.0 **Community Representations**

- 4.1 **Oswestry Rural Parish Council** have responded to the application indicating they have resolved to support the application.

4.2 **Consultee Comments**

- 4.3 **The Environment Agency** raises no objections. The response indicates:
Environmental Impact Assessment (EIA): The proposed development falls under Schedule 1 of the EIA Regulations and therefore EIA is required. Schedule 1 sets the following thresholds, above which EIA is a mandatory requirement:
Installations for intensive rearing of poultry or pigs with more than (a) 85,000 places for broilers or 60,000 for hens.

Environmental Permitting Regulations: The proposed development comprises a maximum of 100,000 birds, which is above the threshold (40,000) for regulation of poultry farming under the Environmental Permitting (England and Wales) Regulations (EPR) 2010. The EP controls day to day general management, including operations, maintenance and pollution incidents. In addition, through the determination of the EP, issues such as relevant emissions and monitoring to water, air and land, as well as fugitive emissions, including odour, noise and operation will be addressed.

Morton Ley Farm currently operates under an Environmental Permit relating to existing intensive poultry operations. A variation to the permit will be required in consideration of the proposed increase in bird numbers.

Based on our current position, we would not make detailed comments on these emissions as part of the current planning application process. It will be the responsibility of the applicant to undertake the relevant risk assessments and propose suitable mitigation to inform whether these emissions can be adequately managed. For example, management plans may contain details of appropriate ventilation, abatement equipment etc. Should the site operator fail to meet the conditions of a permit we will take action in-line with our published Enforcement

and Sanctions guidance.

For the avoidance of doubt we would not control any issues arising from activities outside of the permit installation boundary. Your Public Protection team may advise you further on these matters.

Flood Risk: The site is located in Flood Zone 1 (low probability) based on our indicative Flood Zone Map, albeit on the edge of the River Morda floodplain. 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. We would also refer you to our West Area Flood Risk Standing Advice – 'FRA Guidance Note 1: development greater than 1ha in Flood Zone 1' for further information.

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. Information submitted within the Design, Access & Planning Statement proposes that poultry manure will be removed from the buildings, loaded directly into sheeted trailers and transported off site. The manure/litter is classed as a by-product of the poultry farm and is a valuable crop fertiliser on arable fields.

Pollution Prevention: Developers should incorporate pollution prevention measures to protect ground and surface water. We have produced a range of guidance notes giving advice on statutory responsibilities and good environmental practice which include Pollution Prevention Guidance Notes (PPG's) targeted at specific activities. Pollution prevention guidance can be viewed at:
<https://www.gov.uk/government/collections/pollution-prevention-guidance-ppg>

The construction phase in particular has the potential to cause pollution. Site operators should ensure that measures are in place so that there is no possibility of contaminated water entering and polluting surface or ground waters. No building material or rubbish must find its way into the watercourse. No rainwater contaminated with silt/soil from disturbed ground during construction should drain to the surface water sewer or watercourse without sufficient settlement. Any fuels and/or chemicals used on site should be stored on hardstanding in bunded tanks.

4.4 **Natural England** raises no objections.

4.5 **SC Land Drainage Manager** raises no objections. The response indicates: The following drainage details, plan and calculations could be conditioned if planning permission were to be granted:

1. The surface water proposals shown on the Site Plan Drg. No. 996:P2 are technically acceptable. However, no calculations of the proposed surface water drainage have been provided. Full drainage calculations of the proposed trench filled soakaways and swale including percolation tests in accordance with BRE

Digest 365 should be submitted for approval.

Reason: To ensure that the proposed surface water drainage systems for the site are fully compliant with regulations and are of robust design.

2. If non permeable surfacing is used on the new access, hardstanding area and parking area or the new access slopes towards the highway, the applicant should submit for approval a surface water drainage system to intercept water prior to flowing on to the public highway.

Reason: To ensure that no surface water runoff from the new access runs onto the highway.

3. The applicant should submit details on how the contaminated water in the yard from spillages or cleaning of the two sheds will be managed/ isolated from the main surface water system.

Reason: To ensure that polluted water does not enter the water table or watercourse

4. Informative: As part of the SuDS, the applicant should consider employing measures such as the following:

Rainwater harvesting system

Permeable surfacing on any new access, hardstanding area and parking/paved area

Greywater recycling system

Green roofs

Reason: To ensure that, for the disposal of surface water drainage, the development is undertaken in a sustainable manner.

4.6 **SC Public Protection** raises no objections. The response indicates: Having considered the location and distance to nearest residential receptors (400m from what I can make out on maps of the area) I do not consider it likely that the development will have a significant impact on the amenity of the area. As the installation will be covered by an environmental permit issued and regulation by the Environment Agency I do not have any condition to propose.

4.7 **SC Planning Ecologist** raises no objections. The response indicates: The planning application is for an extension to an existing poultry unit at Morton Ley Farm. The total number of chickens on site will not exceed 180,000 (as confirmed by Roger Parry & Partners LLP via a phone call dated 20.11.2015).

Designated Sites

The proposed application has obtained an Environmental Permit from the Environment Agency (EA). Shropshire Council, under Regulation 61 in the Habitats Regulations, can rely on the 'evidence and reasoning' of another competent authority. Shropshire Council can therefore use the Environmental Permit and the supporting evidence which was used to secure the permit to complete the assessment of air pollution impacts for European Designated Sites within 10km, National Designated Sites within 5km, and Local Wildlife Site/Ancient Woodlands in 2km. Modelling for European Designated sites within 10km of the proposed poultry unit has been provided by the applicant and the proposal has screened out below the critical load threshold as agreed by EA and NE.

No further modelling is required to support this planning application.

Habitat Regulation Assessment

This application must be considered under the Habitat Regulation Assessment process in order to satisfy the Local Authority duty to adhere to the Conservation of Species & Habitats Regulations 2010 (known as the Habitats Regulations).

Natural England must be formally consulted on this planning application and the Local Planning Authority must have regard to their representations when making a planning decision. Planning permission can only legally be granted where it can be concluded that the application will not have any likely significant effects on the integrity of any European or Nationally Designated sites.

Phase 1 Habitat Survey

All hedgerows, trees and riverside vegetation will remain undisturbed. In order to enhance the site for biodiversity and protect the watercourse during and post development recommends conditions and informatives.

- 4.8 **SC Archaeology Manager** raises no objections. The response indicates: It is understood that this development would comprise the construction of two additional sheds and associated infrastructure to extend the existing units permitted under 11/02934/EIA. A condition (Condition 3) for an archaeological watching brief was requested and attached to the previous planning permission on the basis of the known archaeological sites on the eastern side of the Morda valley, which suggested that the site had some archaeological potential. This revealed evidence for a previously unknown Roman road running down the slope at an oblique angle towards a presumed crossing point over the river. This has now been added to the Shropshire Historic Environment Record under record PRN 31285. The archaeological features and deposits associated with the road had been truncated by the previous long term arable cultivation of the land and were better preserved towards the base of the slope. Significantly, however, this appeared to continue beyond the boundary of the existing site and onto the proposed development site. As advised in our Scoping Opinion advice (ref. 13/02441/SCO), the proposed development site is therefore considered to have high archaeological potential;

RECOMMENDATION:

The proposed development would have a substantial direct impact on any archaeological remains of the Roman road which are present on the proposed development site. In view of this and the above summary of the archaeological potential of the proposed development site, and in relation to Paragraph 141 of the NPPF, it is recommended that a phased programme of archaeological work be made a condition of any planning permission. This should comprise an initial geophysical survey and trial trenching exercise, followed by further mitigation as appropriate. An appropriate condition of any such consent would be: -

No development approved by this permission shall commence until the applicant, or their agents or successors in title, has secured the implementation of a phased programme of archaeological work in accordance with a written scheme of investigation (WSI). This written scheme shall be approved in writing by the Planning Authority prior to the commencement of works.

Reason: The site is known to hold archaeological interest.

- 4.9 **SC Highways Manager** raises no objections.

4.10 **Public Comments**

4.11 No letters of comments/objections have been received from members of the public in relationship to this application.

5.0 **THE MAIN ISSUES**

- Environmental Impact Assessment
- Principle of development
- Siting, scale and design of structure
- Visual impact and landscaping
- Ecology
- Drainage
- Public highway access.
- Historic environment and archaeology issues.

6.0 **OFFICER APPRAISAL**

6.1.1 **Environmental Impact Assessment**

6.1.2 The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011 specify that Environmental Impact Assessment (EIA) is mandatory for proposed development involving the intensive rearing of poultry where the number of birds is 85,000 or more. As such the current proposal is EIA development. The planning application is accompanied by an Environmental Statement, as required by the 2011 Regulations.

6.1.3 The Environmental Statement in support of the application makes reference to a sequential site selection, (alternative locations), as set out in Section 3.2 of the Environmental Statement and Officers consider detail as set out on site selection is considered satisfactory with consideration to the farming business concerned and the location and impacts etc.

6.2 **Planning policy and principle of development**

6.2.1 The National Planning Policy Framework (NPPF) advises that the purpose of the planning system is to contribute to achieving sustainable development (para. 6) and establishes a presumption in favour of sustainable development (para. 14). One of its core planning principles is to proactively drive and support sustainable economic development (para. 17). Sustainable development has three dimensions – social, environment, and economic. In terms of the latter the NPPF states that significant weight should be placed on the need to support economic growth through the planning system (para. 19). The NPPF also promotes a strong and prosperous rural economy, supports the sustainable growth and expansion of all types of business and enterprises in rural areas, and promotes the development of agricultural businesses (para. 28). The NPPF states that the planning system should contribute to and enhance the natural and local environment (para. 109) and ensure that the effects (including cumulative effects) of pollution on health, the natural environment or general amenity should be taken

into account (para. 120).

6.2.2 Core Strategy Policy CS5 states that development proposals on appropriate sites which maintain and enhance countryside vitality and character will be permitted where they improve the sustainability of rural communities by bringing local economic and community benefits, particularly where they relate to specified proposals including: agricultural related development. It states that proposals for large scale new development will be required to demonstrate that there are no unacceptable adverse environmental impacts. Whilst the Core Strategy aims to provide general support for the land based sector, it states that larger scale agricultural related development including poultry units, can have significant impacts and will not be appropriate in all rural locations (para. 4.74). Policy CS13 seeks the delivery of sustainable economic growth and prosperous communities. In rural areas it says that particular emphasis will be placed on recognising the continued importance of farming for food production and supporting rural enterprise and diversification of the economy, in particular areas of economic activity associated with industry such as agriculture.

6.2.3 The above policies indicate that there is strong national and local policy support for development of agricultural businesses which can provide employment to support the rural economy and improve the viability of the applicant's existing farming business. In principle therefore it is considered that the provision of a poultry unit development in this location as an extension to the existing enterprise can be supported. Policies recognise that poultry units can have significant impacts, and seek to protect local amenity and environmental assets. These matters are assessed below.

6.3 **Siting, scale and design of structures and visual landscape impact.**

6.3.1 Core Strategy Policy CS6 seeks to ensure that development is appropriate in scale and design taking into account local context and character, having regard to landscape character assessments and ecological strategies where appropriate. Policy CS17 also seeks to protect and enhance the diversity, high quality and local character of Shropshire's natural environment and to ensure no adverse impacts upon visual amenity, heritage and ecological assets. It is noted that the site is not located within an area designated for landscape value.

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

6.3.3 The surrounding landscape is characterised by fields with hedgerow boundaries and small copses of native woodland. Adjacent to the site are two existing intensive poultry units and these are located between the site and the adjacent public highway, from where they are very visible. It is considered that the two further intensive poultry units and feed silos as proposed will further impact on the landscape visually and its character. Poultry sheds may have a significant impact on the surrounding landscape and it is considered that the impact can be mitigated with further landscaping. As such it is considered necessary to attach a condition in order to ensure adequate landscaping is carried out in order to mitigate the

development in to the surrounding landscape to an acceptable manner.

- 6.3.4 The Environmental Statement in support of the application includes a chapter that refers to a Landscape and Visual Impact Assessment (LVIA). This concludes that ‘overall, the landscape and visual assessment has established that the proposed poultry extension will have a limited effect on the baseline conditions in terms of both landscape character and visual amenity. The measures factored into the site selection and design process it indicates will reduce, minimise and even improve any potential adverse effects. Therefore, on balance it is considered that the proposed extension would be acceptable in this context with regard to the potential effects on landscape character and visual amenity.’
- 6.3.5 The Officer site visit revealed that the site is relatively open, with significant views into the site from the adjacent public highway, and as such with consideration to the scale and nature of intensive poultry development, it is considered that development on site will have a significant impact on the surrounding landscape visually.
- 6.3.6 However it is also acknowledged that this application is for an extension to an existing poultry unit which is located between the site and the public highway and as such with landscape mitigation in the form of extensive native tree and hedge planting development on site, development could be mitigated to an acceptable level, both visually and cumulatively with consideration to the existing on site. Existing screening on site is not considered adequate in relationship to the scale of the development on site in relationship to the character of the existing landscape, and as such it is considered that this further strengthens the requirements for landscape mitigation, as on balance with consideration to the economic benefits to the business concerned and the production of local food it is considered that landscape mitigation can be overcome by the attachment of conditions to any approval notice issued.
- 6.3.7 With consideration to the above-mentioned, and further landscape mitigation as discussed, on balance, the development is considered acceptable in relationship to siting, scale and landscape and visual impact and as such on balance in accordance with the overall aims and objectives of the NPPF, Policies CS5, CS6 and CS17 of the Shropshire Core Strategy and relevant policies of the SAMDev.

6.4 **Residential amenity and public protection**

- 6.4.1 The proposed development is located approx..400 metres from the nearest residential dwelling outside the control of the applicants. The National Planning Policy Framework in paragraph 122 states that ‘local planning authorities should focus on whether the development itself is an acceptable use of the land, and the impact of the use, rather than the control of processes or emissions themselves where these are subject to approval under pollution control regimes. Local planning authorities should assume that these regimes will operate effectively.’
- 6.4.2 The applicants will need to obtain from the Environment Agency a variation to their Environmental Permit in order to operate the proposed development in relationship to the existing intensive poultry enterprise adjacent to the site. This will control issues in relationship to residential amenity. The Environment Agency’s response

to the application raises no objections indicating that the applicants will need to apply to vary their existing environmental permit in order to operate from the site and this will cover issues such as on site noise, emissions and waste generated on site and their management, the permit will also covers issues of concern in relationship to surrounding residential amenity. An odour management plan will also form part of the Environmental Permit. The response also refers to planning advice as set out in the NPPF.

- 6.4.3 Management operations are as outlined in the EA response as indicated in paragraph 4.3 of this report. Also as noted earlier in this report Natural England and the Council's Public Protection Manager do not raise any objections. It is also noted that no objections have been received from the Local Parish Council or members of the public in relationship to this application. It is considered that information submitted in support of the application, as part of the Environmental Statement, is acceptable in relationship to residential amenity and public protection, and the environmental permit issued and regulated by the Environment Agency will control these elements. The development in relationship to residential amenity issues in relationship to relevant policies is considered satisfactory.
- 6.4.4 The permit issued and monitored by the Environment Agency only covers on site activities and therefore manure movements off the farming unit concerned will not be covered by the permit, (other than on-site activities), and as such it is recommended that a condition is attached to any approval notice issued in order to ensure that any manure removed off site is done so in sealed and covered containers/trailers. With consideration to distances to dwellings outside the control of the applicants and close proximity of the site to a suitable public highway restrictions on feed delivery times in this instance is not considered necessary.
- 6.4.5 **Manure disposal and storage.** Detail in support of the application indicates that the manure will be exported off the farm in sealed and covered trailers. The response from the Environment Agency as outlined in paragraph 4.3 above discusses this aspect of the proposal indicating that under the environmental permitting regime 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 spread, so long as this is done so within the applicants land ownership. It is used to reduce the risk of the manure leaching or washing into groundwater or surface water. The permitted farm would be required to analyse the manure twice a year and the field soil (once every five years) to ensure that the amount of manure which will be applied does not exceed the specific crop requirements i.e. as an operational consideration. Any plan submitted would be required to accord with the Code of Good Agricultural Policy (COGAP). Therefore it is considered that the Environmental Permit that the proposed business will require in order to operate, will address issues in relationship to manure storage and disposal on site. Clearly when manure leaves the permitted holding it then becomes outside of the permit regime for the specific holding and as such it is recommended that a condition is attached to any approval notice if members are mindful to approve the application, in order to ensure all manure moved off the intensive poultry site is done so in sealed and covered trailers as proposed. It must also be noted that the Council's Public Protection section has statutory powers to deal with any proven amenity issues as a result of the development.

6.4.6 On balance the proposal is considered acceptable in relationship to surrounding residential amenity issues, the applicants will require a variation to their existing environmental permit for the operations as proposed from the EA. As such the proposal on balance is considered to be in accordance with relevant policies of the Shropshire Core Strategy, the Council's SAMDev and the National Planning Policy Framework on issues in relationship to residential amenity and public protection.

6.5 **Ecological issues.**

6.5.1 The application is accompanied by an ecological assessment and the conclusions to the reports are considered satisfactory. A Habitat Regulations Assessment has been carried out and this is attached to the report as appendix 2 for reference purposes.

6.5.2 Natural England and SC Ecology raise no objections and the latter recommend the attachment of conditions to any approval notice issued with regards to wildlife protection, external lighting in relationship to bats, nesting provision, watercourse fencing protection and on site landscaping. Also recommended are the attachment of informatives in order to remind the applicants/developer with regards to the provisions of the Wildlife and Countryside Act 1981, and badger protection

6.5.3 On ecological issues the proposal is considered acceptable and in accordance with Policy CS17: Environmental Networks of the Shropshire Core Strategy and other relevant local plan policies as well as the National Planning Policy Framework and the emerging SAMDev.

6.6 **Drainage**

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

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

6.6.3 The Council's Land Drainage Manager has responded to the application raising no objections indicating that the drainage proposals in the Drainage and Flood Risk Assessment submitted in support of the application are considered acceptable. (Water resources report as part of the Environmental statement), The response recommending the attachment of conditions and an informative to any approval notice issued with regards to surface water drainage detail, non permeable surfacing detail, contaminated water separation detail and as an informative advice in relationship to overall sustainable urban drainage systems.

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

6.7 Public Highway access

- 6.7.1 The site is accessed directly off the B4396. Access to the strategic road network is accessed along the B4396 to Llyncllys Crossroads where vehicles can join the A483 and thereafter the A5 Trunk Road at Mile End Roundabout. The site is located very close to an animal feeds mill, (Lloyds Animal Feeds, located approximately 5 mile away). The application indicating suitable access arrangements to the site from the adjacent B4396 highway. Cumulative impacts with the existing poultry unit adjacent to the site and other land uses within the surrounding area are also considered acceptable. The applicants in accordance with information in support of the application have given consideration to routing of deliveries which will ensure that impacts of traffic on residences are minimised. No significant impacts are expected regarding pedestrians, cyclists or public transport.
- 6.7.2 As a result of the proposal there will clearly be a small increase in traffic. Based on the analysis provided in this assessment, there does not appear to be any significant transport related reasons to warrant refusal to the application and it is noted that the Council's Highways Manager raises no objections to the proposed development.
- 6.7.3 It is concluded that the vehicle movements generated by the development can be accommodated on the existing highway network and that there will be limited impact of no significance in relationship to the existing public highways. As such the conclusions of the Highways Statement submitted in support of the application are shared by Officers who on balance consider the proposed development to be in accordance with Policies CS5 and CS6 of the Shropshire Core Strategy, the SAMDev and the NPPF in relationship to highway and transportation matters.

6.8 Historic environment considerations.

- 6.8.1 Shropshire Core Strategy Policy CS17 requires that developments protect and enhance the diversity, high quality and local character of Shropshire's historic environment. Paragraph 134 of the NPPF requires that, where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. In addition, special regard has to be given to the desirability of preserving Listed Buildings or their setting or any features of special architectural or historic interest which it possesses and preserving or enhancing the character or appearance of the Conservation Area as required by section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 6.8.2 It is considered that information submitted in support of the application, in relationship to impacts on heritage assets, is weak. However observations by the Case officer, which has included a site visit to the site and surrounding area and a desk top exercise, and taking into consideration the existing development on site the development is considered acceptable with regard to the nearest historic receptors.
- 6.8.3 It is noted that the County Archaeology Manager raises no objections to the proposal, however on the basis of the known archaeological sites on the eastern side of the Morda valley, and potential archaeological features and deposits

associated with the road the proposed development site is therefore considered to have archaeological potential. With consideration to this and in relation to Paragraph 141 of the NPPF, it is recommended that a phased programme of archaeological work be made a condition of any planning permission subsequently granted as recommended by the Archaeology Manager in his response to the application.

6.8.4 With consideration to the above-mentioned in relationship to the historic environment, the proposed development is considered acceptable and in accordance with Core Strategy Policy CS17, the SAMDev and the NPPF in relationship to historic and archaeology matters of interest.

7.0 **CONCLUSION**

7.1 The proposal is for two intensive broiler units, three feed silo's and yard area and access improvements as an extension to an existing broiler production unit adjacent to the site which will increase broiler production from 90,000 to 180,000 birds in four separate bird rearing units in total, as part of an appropriate farming venture for the existing family farming business.

7.2 It is acknowledged that the development as proposed is significant in scale and will have an impact on the landscape, however it is considered on balance with consideration to the location, size and scale and cumulative impacts, that this will not be of an adverse effect and with consideration to the economic benefits to the business concerned and production of local food with further landscape mitigation in the form of native plantings and consideration to the external colour of all the development on site to be acceptable in principle. Public highway access matters are considered acceptable, as the site is ideally located in relationship to satisfactory and adequate access to the surrounding public highway network. Residential amenity and privacy issues in general are considered acceptable.

7.3 The development raises no adverse concerns from any of the statutory consultees to the application, or from the local Parish Council, and members of the public. The applicants will need to obtain from the Environment Agency a variation to the existing environmental permit in order for the site to operate.

7.4 The findings and conclusions as indicated in the Environmental Statement submitted in support of the application are considered on balance acceptable.

7.5 As such the proposed development is considered acceptable and in accordance with relevant policies as set out in the Shropshire Core Strategy, the SAMDev, the National Planning Policy Framework and other relevant planning guidance. The recommendation is therefore one of approval subject to conditions as attached to this report.

8.0 **Risk Assessment and Opportunities Appraisal**

8.1 Risk Management

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

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in Planning Committee members' minds under section 70(2) of the Town and Country Planning Act 1990.

9.0 Financial Implications

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

10.0 Relevant Planning Policies

10.1 Shropshire Core Strategy

- Policy CS5 (Countryside and Green Belt)
- Policy CS6 (Sustainable Design and Development Principles)
- Policy CS13 (Economic Development, Enterprise and Employment)
- Policy CS17 (Environmental Networks)
- Policy CS18 (Sustainable Water Management)
- Policy CS19 (Waste Management Infrastructure)

10.2 Central Government Planning Policy and Guidance:

National Planning Policy Framework (NPPF): The NPPF: supports a prosperous rural economy, and states that plans should promote the development of agricultural businesses (Chapter 3); promotes good design as a key aspect of sustainable development (Chapter 7); supports the move to a low carbon future as part of the meeting of the challenges of climate change and flooding (Chapter 10); states that the planning system should contribute to and enhance the natural and local environment by preventing development from contributing to unacceptable levels of soil, air, water or noise pollution (Chapter 11). The NPPF states that local planning authorities should not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy and recognize that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions, and should approve applications for renewable or low carbon energy if its impacts are (or can be made) acceptable (para. 98).

10.3 Site Allocations and Development Management (SAMDev) document:

Relevant policies include:

- MD2 (Sustainable Design)
- MD7b (General Management of Development in the Countryside)
- MD12 (Natural Environment)
- MD14 (Waste Management Facilities)

RELEVANT PLANNING HISTORY:

11/02934/EIA Erection of 2 no. chicken rearing buildings, associated feed bins, hardstanding, store, office/facilities, access and all associated works GRANT 13th March 2012
 13/02441/SCO Proposed erection of a 90,000 bird broiler unit. SCO 18th October 2013
 14/00265/AGR Bio mass boiler unit and store PPREQN 20th February 2014
 14/00944/FUL Erection of building to house bio mass boiler unit and wood fuel storage for use with chicken breeding units GRANT 24th April 2014

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 Joyce Barrow

Appendices
APPENDIX 1 – HRA.
APPENDIX 2 – Conditions

APPENDIX 1**Habitat Regulation Assessment (HRA) Screening Matrix**

Application name and reference number:

15/04477/EIA

Morton Ley Farm

Morton

Oswestry

Shropshire

SY10 8BG

Erection of two poultry buildings and three feed bins; construction of vehicular access and hardstanding; landscaping scheme.

Date of completion for the HRA screening matrix:

20th November 2015

HRA screening matrix completed by:

Nicola Stone

Planning Ecologist

01743-252556

Table 1: Details of project or plan

Name of plan or project	15/04477/EIA Morton Ley Farm Morton Oswestry Shropshire SY10 8BG Erection of two poultry buildings and three feed bins; construction of vehicular access and hardstanding; landscaping scheme.
Name and description of Natura 2000 site and Nationally designated site which has potential to be affected by this development.	<p>Montgomery Canal SAC</p> <p>The Montgomery Canal SAC is a partially restored but largely unused waterway. It runs for approximately 36 kilometres from near Berbechan (three kilometres north-east of Newtown) to the English border at Llanymynech. It supports the largest, most extensive population of floating water-plantain <i>Luronium natans</i> in lowland Britain.</p> <p>Annex II species that are a primary reason for selection of this site:</p> <ul style="list-style-type: none"> Floating Water Plantain <i>Luronium natans</i> <p>Midland Meres and Mosses (Ramsar phase 1)</p> <p>1.1.1.1 Marton Pool</p> <p>Marton Pool Midland Meres and Mosses Ramsar Phase 1 (17.21ha) is a natural lake of moderate fertility, somewhat detached from the main series of Shropshire meres. There are extensive areas of reedswamp and carr. It is included within the Ramsar Phase for its Open Water, Swamp and Carr habitats.</p>
Description of the plan or project	Erection of two poultry buildings and three feed bins; construction of vehicular access and hardstanding; landscaping scheme.
Is the project or plan directly connected with or necessary to	No

the management of the site (provide details)?	
Are there any other projects or plans that together with the project or plan being assessed could affect the site (provide details)?	No

We have identified the following effect pathways:

- Damage to the Ramsar site & SAC caused by aerial emissions
- Possible effects on the hydrology of the Ramsar site & SAC

1. *Possible impact of aerial emissions*

- ➔ Email from Kevin Heede (Environment Agency 19th November 2015) has provided the report titled 'Air Quality Impact Assessment on Ammonia Emissions from Morton Ley Poultry Farm, Shropshire'. The modelling report prepared by REC Ltd June 2010) and submitted in support of the Environment Agency Permitting application indicates that impact on European Designated Sites within 10km of the proposal is deemed insignificant and under the threshold agreed by the Environment Agency and the Natural England.
- ➔ The applicant has their approved Environment Agency Permit which covers the site for a total of 180,000 bird places. The EA, as a more competent authority, has screened out the ammonia impacts from the proposed development on Ramsar sites and SAC within 10km of the proposed unit.

Hydrology

- ➔ SC Ecology has assessed Natural England's Ramsar Catchment Areas. The proposed site location falls outside of the catchment area. No further assessment has been undertaken.

Conclusion

Providing works are carried out in accordance with the approved plans, and as agreed within the Environment Agency's permit, SC Ecology has concluded that the proposed development will not impact on the integrity of Ramsar sites and SAC in 10km.

The Significance test

1.1.1.2 There is no likely significant effect on European Designated Sites from planning application 15/04477/EIA.

The Integrity test

There is no likely effect on the integrity of the European Designated Sites from planning application 15/04477/EIA.

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 as 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.

APPENDIX 2

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. No development approved by this permission shall commence until the applicant, or their agents or successors in title, has secured the implementation of a phased programme of archaeological work in accordance with a written scheme of investigation (WSI). This written scheme shall be approved in writing by the Planning Authority prior to the commencement of works.

Reason: The site is known to hold archaeological interest.

4. A scheme of landscaping must be submitted to and approved in writing by the local planning authority. 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) Planting plans, including wildlife habitat and features (e.g. bat and bird boxes)
- d) Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment)
- e) 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).
- f) Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works
- g) Implementation timetables

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

5. Prior to the commencement of work on site a 20m buffer shall be fenced off parallel to the banks along the length of the watercourse, 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 ensure the protection of Water Voles, a protected species under the Wildlife & Countryside Act 1981 (as amended) and Otters, a European Protected Species.

6. The surface water proposals shown on the Site Plan Drg. No. 996:P2 are technically acceptable. However, no calculations of the proposed surface water drainage have been provided. Full drainage calculations of the proposed trench filled soakaways and swale including percolation tests in accordance with BRE Digest 365 must be submitted for approval prior to any development on site.

Reason: To ensure that the proposed surface water drainage systems for the site are fully compliant with regulations and are of robust design.

7. If non permeable surfacing is used on the new access, hardstanding area and parking area or the new access slopes towards the highway, the applicant must prior to any development on site submit for approval a surface water drainage system to intercept water prior to flowing on to the public highway.

Reason: To ensure that no surface water runoff from the new access runs onto the highway.

8. The applicant must prior to any development on site submit details on how the contaminated water in the yard from spillages or cleaning of the two sheds will be managed/ isolated from the main surface water system.

Reason: To ensure that polluted water does not enter the water table or watercourse

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

9. Manure will be removed off the application site in sealed and covered trailers.

Reason: In consideration of the amenity of the surrounding area.

10. Prior to the erection of any external lighting on the site a lighting plan shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust booklet Bats and Lighting in the UK

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

11. 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. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained.

Reason: To ensure the provision of roosting opportunities for bats which are European Protected Species

12. A total of 4 woodcrete artificial nests suitable for small birds such as robin, blackbird, tit species, sparrow and swallow shall be erected on the site prior to first occupation of the buildings hereby permitted.

Reason: To ensure the provision of nesting opportunities for wild birds

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

13. All building development on site, (including all the feed silo's), are to be all externally coloured in accordance with an external colour scheme to be agreed in writing with the Local Planning Authority prior to any development on site.

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