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## Appeal Decision

Site visit made on 15 December 2015

**by Jameson Bridgwater PGDipTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 22 December 2015**

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### **Appeal Ref: APP/L3245/W/15/3133838**

#### **Land at Lostford, Lostford Lane, Lostford, Market Drayton, Shropshire**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr A Growcott (Cheshire Game Supplies) against the decision of Shropshire Council.
- The application Ref 14/04787/VAR, dated 22 October 2014, was refused by notice dated 23 March 2015.
- The application sought planning permission for the construction of a hardcore track and hardstanding, erection of a portal framed metal clad agricultural building, 5 wooden duck and geese sheds and chicken wire runs without complying with a condition attached to planning permission granted at appeal APP/L3245/A/12/2182581, dated 2 January 2013.
- The condition in dispute is No 1 which states that: 'The development hereby permitted shall be carried out in accordance with the following approved plans: 11/734/01; 11/734/02; 11/734/03; 11/734/04 Rev A; 11/734/05'.
- The reasons given for the conditions are: For the avoidance of doubt and in the interests of proper planning.

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### **Decision**

1. The appeal is allowed and planning permission is granted for the construction of a hardcore track and hardstanding, erection of a portal framed metal clad agricultural building, 5 wooden duck and geese sheds and chicken wire runs at Land at Lostford, Lostford Lane, Lostford, Market Drayton, Shropshire in accordance with the application 14/04787/VAR, dated 22 October 2014, without compliance with condition number 1 previously imposed on planning permission granted at appeal Ref APP/L3245/A/12/2182581, dated 2 January 2013 but otherwise subject to the following conditions:
  - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: CGS 01 Rev B, CGS 02 Rev D, CGS 03 Rev D, CGS 04 Rev D and site location plan 1:15000.
  - 2) There shall be no more than 6000 ducks or 300 geese within the site, as defined by red edging on drawing no. 11/734/04 Rev A, at any time.
  - 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 set aside areas and fencing shall be maintained as shown in the approved details drawing SA12603/02 revision B received on the 17th May 2013.
- 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) (England) Order 2015 (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.

### **Preliminary matters**

2. Since the original decision was made the Shropshire Council Site Allocations and Management of Development Plan (SAMDev) was adopted by the Council on the 17 December 2015.

### **Main issue**

3. The main issue is the effect of the proposal on the character and appearance of the open countryside, with particular regard to scale.

### **Reasons**

4. The appeal site is part of an agricultural holding within the open countryside. The appellants are seeking to increase the size of the agricultural storage building and the size and configuration of the duck and geese sheds.
5. At the time of the site visit the agricultural storage building had been partly erected (steel portal frame, roof and concrete panels). However, the building had not yet been finished with the proposed Yorkshire boarding cladding panels still to be applied. The duck and geese sheds were also in situ on the field.
6. I have carefully considered the Council's statement in relation to scale of the proposed agricultural building and duck and geese pens and their effect on the open countryside. However, whilst I accept that there has been an increase in the size of the proposed storage building, given its siting and agricultural design, the enlargement would not materially increase the visual impact of the building. Further, the change in the external cladding to Yorkshire boarding and the banding of materials would assist in visually blending the building into the agricultural landscape. It is accepted that there is an overall increase in the size of the duck and geese pens, however, the reduction in height would largely offset this increase and therefore the amendments to the configuration of the pens would have a minimal effect on the character and appearance of the open countryside. Therefore the scale of the proposed storage shed and duck and geese pens are consistent with the scale of the enterprise and would not result in material harm to the natural environment or the character, context and appearance of the area.
7. Having reached the conclusions above, the proposed development would not conflict with Policies CS5, CS6 and CS13 of the Shropshire Local Development

Framework Adopted Core Strategy 2011 and SAMDev Policy MD7b. These seek amongst other things to ensure that the design of new development takes into account the local context/character of the area and that size/scale is consistent with its required agricultural purpose. Additionally, that development improves the sustainability of rural communities and supports rural enterprise.

### **Other Matters**

8. Concern has been expressed locally that the enterprise has not been operated in accordance with previously imposed planning conditions. This is not disputed by the appellant and is confirmed within their submissions. However, there is no substantive evidence to suggest that those conditions are unenforceable and it is for the Local Planning Authority to ensure that proper monitoring and enforcement takes place.
9. I have carefully considered the representations in relation to the provision of the wildlife set aside areas, hibernacula, and soakaways. However, the Council have confirmed in their statement that the set aside areas and hibernacula have been provided; this was confirmed by my observations. Moreover, these would be secured by the conditions I am imposing. In relation to the soakaways, there was clear evidence on site that these had been partially installed. Therefore, I have applied a condition to ensure that the soakaways are completed in accordance with details to be agreed in writing by the Local Planning Authority.

### **Conditions and Conclusion**

10. The conditions suggested by the Council have been considered in light of the advice contained within the National Planning Practice Guidance and the National Planning Policy Framework. I have not attached a commencement condition since it is clear that the development has already started. To ensure certainty, it is necessary to define the plans with which the scheme should accord. A condition restricting the number of birds is necessary since the proposal has been evaluated on that basis and a larger operation could have implications for such matters as the protection of newts and traffic generation. Conditions 3, 4, 5 and 6 are necessary to ensure that appropriate protection is afforded to the nearby Great Crested Newts.
11. For the reasons set out above and having regard to all other matters raised I conclude that the appeal should succeed. I have therefore granted a new planning permission with new conditions.

*Jameson Bridgwater*

INSPECTOR