

Development Management Report

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Summary of Application

Application Number: 17/02123/FUL	Parish:	Moreton Say
Proposal: Application under Section 73a of the Town and Country Planning Act for the erection of a new agricultural building including the installation of a solid biomass combined heat and power (CHP) system		
Site Address: Vantage Farm Bletchley Road Bletchley Market Drayton Shropshire		
Applicant: Harrison Farms		
Case Officer: Kelvin Hall	email: planningdmc@shropshire.gov.uk	

Grid Ref: 362351 - 333733



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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 for the erection of a combined heat and power (CHP) facility at Vantage Farm, Bletchley. The proposed building is L-shaped with a maximum length of 37.2 metres and maximum width of 30.7 metres. It would have a pitched roof with an eaves height of 4.3 metres to the south-east elevation and 7.4 metres to the north-west elevation. The ridge height would be 8.5 metres. There would be two flues/vents. One would be 11 metres high; the other 9.6 metres high. The building would be clad in green coloured metal sheeting. The building would contain two poultry manure storage bays and a separate plant room to house the main boiler.

1.2 The development was commenced in March 2017 and construction work is substantially complete although the plant is not operational. As such the application is largely retrospective in nature.

2.0 SITE LOCATION/DESCRIPTION

2.1 The site is located at Vantage Farm, to the north-east of the settlement of Bletchley and approximately 2.5km to the west of Market Drayton. The building is on the site of recently demolished farm buildings. The poultry unit is situated approximately 60 metres to the north-east. There is a stonemasons yard to the south and an existing livestock building to the north-west. Land to the east is in agricultural use. The nearest residential dwelling is Trevor House, the applicant's residence, approximately 30 metres to the north-west. There are further dwellings in the vicinity to the south-west, including properties at Royal Oak Farm approximately 55 metres away, Westwood House approximately 63 metres away, and The Old Smithy approximately 68 metres away. Royal Oak Farmhouse is a Grade II listed building.

2.2 Access to the site would be via the existing private road to the poultry buildings to the east.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The views of the Parish Council are contrary to the Officer recommendation and the Principal Planning Officer in consultation with the Committee Chairman and Vice-Chairman has advised that it is appropriate for the application to be determined by Planning Committee.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

4.1.1 Moreton Say Parish Council Objects.

Although Moreton Say Parish supports the general principle of renewable energy and the initiative that this applicant is promoting, it is objecting to this planning application on the grounds that the location will have a detrimental impact on residential amenities.

The Parish Council is concerned that this application is contrary to CS6: 'Contributes to the health and wellbeing of communities, including safeguarding residential and local

amenity and the achievement of local standards for the provision and quality of open space, sport and recreational facilities.....is designed to a high quality, consistent with national good practice standards, including appropriate landscaping and car parking provision and taking account of site characteristics such as land stability and ground contamination;' The Council does not believe that this will protect residential amenity of the neighbouring properties, those related to the farm included i.e. the nearby 'sensitive receptors, will not contribute to their health and wellbeing.

The Parish Council has made this decision on the information that is currently available but it notes that in the Environmental Agency's letter dated 19th October 2017 it stated 'once the permitting team have reviewed the detail, and associated assessments, we will provide further comment' . The Parish Council would welcome the Environmental Agency's further comments, which do not appear to have been received yet, and would undoubtedly be pertinent to this application.

4.1.2 **Environment Agency** No objections.

The applicant has now been granted a variation to their Environmental Permit for the operation.

Environmental Permitting Regulations (2010): As previously stated, under the Environmental Permitting Regulations, we regulate Part A (1) activities and installations as defined by Schedule 1. The relevant part of Schedule 1 is:

Section 1.1 Combustion Activities: burning any fuel in an appliance with a rated thermal input of 50MW or more and burning any fuel manufactured from, or comprising, waste in an appliance with a rated thermal input of 3MW or more but less than 50 MW. An Environmental Permit is required for such activities.

For proposals where the thermal input is less than 3MW for the burning of waste wood then this aspect would normally (providing certain requirements are met) fall below the threshold for burning waste, under the Environmental Permitting (England and Wales) Regulations (EPR) 2010.

In this instance, due to the Permit requirements for the existing poultry units the biomass boiler would be regulated under the Permit as a source of emission. Vantage Farm currently operates under an EP for its associated poultry operations. Our Permitting team have reviewed the application and a Permit Variation was issued on the 22 February 2018 (Ref: EPR/AP3331CA).

In previous comments, the EA noted that they had received complaints in the past regarding odour at the site in relation to the associated poultry operations, and that some of those had been substantiated. The EA advised that the Environmental Permit, including the Variation, regulates and control matters such as the following:

- General Management of the site.
- Permitted activities e.g. operations. - Emissions to land, water and air (including Dust, Noise and Vibration relevant to the 'operational area'). - Monitoring, Records and Reporting.

The EA previously requested further information regarding air quality, and in particular an assessment of emissions and dispersion to inform details on the scale and nature of

the stack in view of the proximity of sensitive receptors. Following the receipt of further information from the applicant the EA were re-consulted and provided the updated response above.

4.1.3 **Natural England** No comments to make on this application.

4.1.4 **SC Ecology** Recommends conditions.

The proposal is for the erection of a new agricultural building and the installation of a solid biomass system. Poultry litter from the existing 6 poultry units will be utilised as fuel and this will produce electricity and heat to be used by the poultry units. The system will produce renewable energy, will reduce poultry litter export movements from the site, and will reduce the spreading of manure on the surrounding farmland.

The AS Modelling & Data Ltd report (September 2017) has identified one Local Wildlife Site (LWS) within 2 km of Vantage Farm, namely Moreton Wood LWS, and one Ramsar designated site within 10 km, namely Brown Moss, which is designated as a part of Midland Meres & Mosses Phase 1.

SC Ecology is using Natural Resource Wales Screening distances to assess impacts on designated sites. Therefore SC Ecology has not identified any European Designated Sites, or National Designated Sites within 5km and no further assessment will be required on these wildlife sites. Natural England has confirmed no objection.

The AS Modelling & Data Ltd report concludes that at two of the receptors located at Moreton Wood LWS there is a small exceedance of 1% of the assumed Critical Level of 30.0 µg/m³ and therefore the proposal may or may not be considered acceptable.

SC Ecology considers that the proposal will not have a significant impact on Shropshire's Natural Assets. SC Ecology would recommend that a pre-commencement condition is added to the decision notice, and informatives are added (see Appendix 1).

4.1.5 **SC Public Protection** No objections.

Having carried out a site visit of the proposed installation and reviewed all assessments relating to odour, air quality and noise I have the following comment.

The odour assessment provides details of the mitigation on site to prevent odour impacting on nearby receptors. The main odour source is the movement of poultry manure into the shed and air escape from the sheds. Movement of poultry litter to the shed will occur roughly every 7 weeks. The poultry manure will be covered as it is moved from the poultry units to the feedstock shed of the biomass unit. It will then be pushed/walked out of the vehicle rather than tipped which is expected to reduce odour release. The rapid closing air tight doors will then be closed and not reopened until the next delivery of feedstock is required. The air in the feedstock shed will be under negative pressure and will enter the combustion process which is expected to remove any odorous components. The exhaust air out of the combustion process is not anticipated to have any odour due to scrubbing mechanisms adopted and the temperature that has been reached in the system. As a result I have no objection in relation to odour. Controls shall be afforded and regulated under the Environmental

Permit issued and regulated by the Environment Agency (EA). In addition it is noted that a potential betterment will be achieved in respect of odour as no manure will be moved off site past residential properties or stored in fields where it could impact on people nearby. It should be noted that the biomass unit has the capacity to use all of the manure produced by the poultry operations on site.

The noise assessment has been reviewed in detail. The findings are accepted following a site visit where the extent of background noise in the area was noted and the noise from fans was considered. The buildings are well insulated in respect of noise and it is not anticipated that any nearby residential properties will be affected significantly by the proposed development.

An air quality assessment has been produced. This has been reviewed in detail and is considered to be generally acceptable. Previous concerns were primarily in relation to potential impacts from PM10s. As PM10s are produced at poultry units and the poultry units in question also have existing biomass boilers installed the addition of another source of PM10s required thorough consideration. Having reviewed the information and visited the site to find out more about how PM10s will be captured I am satisfied that the in combination impact of PM10 release from the site as a whole is not going to exceed legislative levels requiring an Air Quality Management Area to be declared. The PM10 contribution of the unit is very small due to the mitigation contained within the system. In addition there will be a reduction of PM10s from the existing biomass units (predicted 33% reduction). Other pollutants of concern have also been modelled. Having found the model to be satisfactory including meteorological data used, input parameters used and the type of model (a computerised model taking into consideration topography and buildings close to the proposed unit) I do not consider the proposed development will create any significant impact on the health and wellbeing of those in the general vicinity.

In conclusion I withdraw any previous objection made in relation to odour, noise and air quality.

[The Public Protection team previously raised objections to the proposal on the grounds that it would be likely to result in adverse impacts due to noise, odour and air pollutants. Following the submission of additional technical reports, the team were re-consulted and provided the updated response above following a site visit].

- 4.1.6 **SC Drainage** A sustainable drainage scheme for the disposal of surface water from the development should be designed and constructed in accordance with the Councils Surface Water Management: Interim Guidance for Developers document. It is available on the councils website at:

www.shropshire.gov.uk/drainage-and-flooding/local-flood-risk-management-strategy/

The provisions of the Planning Practice Guidance, in particular Section 21 Reducing the causes and impacts of flooding, should be followed. Preference should be given to drainage measures which allow rainwater to soakaway naturally. Connection of new surface water drainage systems to existing drains / sewers should only be undertaken as a last resort, if it can be demonstrated that infiltration techniques are not achievable.

- 4.1.7 **SC Highways** No objection.

The proposed buildings are associated with the development of the six poultry units approved on Appeal in relation to planning application 12/01367/EIA. The poultry units take access from the road to Moreton Say to the south-east of the current site and conditions of the Appeal decision secured the site access along with Highway improvements at the A41 junction and on the north-western approach from the dual-carriageway.

The building proposed is an agricultural building for the installation of a solid biomass combined heat and power (CHP) system and storage of manure generated from the poultry units for use as fuel. The heat and electricity produced by the biomass system is to be utilised by the poultry units. A considerably reduced weight/volume ash fertiliser remains after the burning process for subsequent removal and use.

The submitted Design & Access Statement clearly states that the vehicle movements for the transportation of the manure between the poultry units and biomass buildings along with the final transportation of the resulting ash off-site will not involve the use of Bletchley Road. All vehicle movements are to be accommodated within the private landholding and via the Moreton Say road to the south-east, to and from the A41.

It is noted from a site visit that the development site and buildings can be accessed from Bletchley Road via an existing vehicular access. The application does not indicate whether or not this access is to be closed, however, on the basis of the stated operation of the development and proximity of the fuel material for the biomass unit, the use of Bletchley Road does not appear to be likely, except in relation to the use of the retained buildings.

4.1.8 **Shropshire Fire Service** Advice provided (see informatives).

4.2 **Public comments**

4.2.1 The application has been advertised by site notice. In addition, 5 properties in the local area have been individually notified. Eight objections have been received. The full objections can be viewed on the online planning register. A summary of the objections is below:

- adverse smells, air quality, noise and light pollution from existing poultry operation, despite assurances of good management practices, causing adverse residential amenity
- many complaints and protests
- proposed building will be closer to Bletchley so will result in more emissions and poorer air quality
- air quality report is based on computer modelling; modelling for poultry application has proven to be wildly inaccurate in underestimating impacts
- air quality report should look into cumulative effects of new boiler and existing biomass boilers and chicken units
- area should be declared an Air Quality Management Area to closely monitor the site to ascertain actual emissions and impact
- biomass combustion emits significant quantities of health damaging pollutants
- concern over emissions of nitrogen oxides, sulphur dioxide, particulate matter and carbon monoxide
- computer modelling should take into account monitoring, climate change which can affect air quality in the future

- impact from smoke
- impact on ecological sites
- concern over plant maintenance and procedures in event of systems failure
- impact on personal health due to existing chicken units, considered by GP to be caused by environmental factors
- impact on quality of life
- there is no safe level for particulates impact on health
- query the purported benefit of replacing a few cattle in open sheds with movement, unloading and incineration of thousands of tonnes of faecal matter and litter

5.0 THE MAIN ISSUES

- Principle of development
- Siting, scale and design
- Historic environment considerations
- Highways considerations
- Ecological considerations
- Residential, local amenity and pollution considerations

6.0 OFFICER APPRAISAL

6.1 Principle of development

- 6.1.1 Planning permission for a poultry rearing development at Vantage Farm was granted on appeal in 2014. The development includes six poultry sheds, 16 feed bins, a biomass store, a boiler room and ancillary buildings and infrastructure. The units produce approximately 3200 tonnes of poultry litter per annum. At present, at the end of each bird rearing cycle (of which there are 7.6 per annum) this poultry litter is collected from the units and taken off site for storage and spreading to surrounding farmland. The current proposal would enable all of this poultry litter to be utilised as a fuel within the CHP plant. This process would generate electricity and heat.
- 6.1.2 The heat would be used to maintain the poultry houses at the correct temperature for the birds. At present the houses are heated by biomass boilers with LPG used when required. The proposal would therefore utilise a locally-arising source of renewable energy and result in some reduction in non-renewable gas, thereby reducing carbon emissions.
- 6.1.3 The National Planning Policy Framework supports the transition to a low carbon future as one of its core planning policies, and states that local planning authorities should recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gases. The Shropshire Core Strategy provides similar support by stating that the generation of energy from renewable sources should be promoted (Strategic Objective 9), and that renewable energy generation is improved where possible (Policy CS6). As such the proposal is supported in principle by national and local planning policies.
- 6.1.4 Core Strategy policy CS5 provides support for agricultural related development in the countryside which maintain and enhance countryside vitality and character and bring local economic and community benefits. The proposal would enable agricultural wastes that arise at the poultry farm to be managed in a beneficial way, and improve the efficiency and sustainability of the business. It is considered that the proposal

represents an appropriate development of the existing poultry rearing enterprise, and can be supported in principle under policy CS5.

6.2 Siting, scale and design

6.2.1 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. SAMDev Plan policy MD7b states that applications for agricultural development should be of a size/scale which is consistent with its required agricultural purpose, and where possible are sited so that it is functionally and physically closely related to existing farm buildings.

6.2.2 The site was once occupied by farm buildings and therefore the proposed building can be seen as a replacement to these. The building would be conveniently located in relation to the source of the poultry manure, thereby requiring minimal transport distance. It is considered that the building is of an appropriate design and that the scale is acceptable in relation to the size of plant and litter storage needs.

6.2.3 The justification for the choice of site in relation to the needs of the farm are accepted. The impacts of the proposal in relation to its proximity to dwellings is discussed below.

6.3 Historic environment considerations

6.3.1 Core Strategy policy CS17 requires that developments protect and enhance the diversity, high quality and local character of Shropshire's historic environment. SAMDev Plan policy MD13 requires that heritage assets are conserved, sympathetically enhanced and restored by ensuring that the social or economic benefits of a development can be demonstrated to clearly outweigh any adverse effects on the significance of a heritage asset, or its setting. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that 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.

6.3.2 There is a Grade II listed building situated approximately 76 metres to the south-west of the site. Intervening buildings and substantial hedgerow would obscure views of the proposed building from the listed building and it is not considered that the proposal would adversely affect its setting. The proposal is therefore acceptable in relation to the policies and requirements set out in section 6.3.1 above.

6.4 Highways considerations

6.4.1 The litter burning process would produce an ash which would be used as a fertiliser for the farmland. This would be approximately 10% of the weight of the poultry litter input, and as such there would be a 90% reduction in vehicle movements off the site for the export of poultry litter. Poultry manure would be delivered to the plant directly from the poultry units and would not need to use the public highway. Therefore overall the proposal would result in a reduction in vehicle movements using the public highway and does not raise any particular highway safety issues.

6.5 Ecological considerations

- 6.5.1 Core Strategy policy CS17 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. SAMDev Plan policies MD2 and MD12 require that developments enhance, incorporate or recreate natural assets. Para. 118 of the NPPF states that local planning authorities should aim to conserve and enhance biodiversity.
- 6.5.2 The application is accompanied by a dispersion modelling report based upon an assessment of the likely emissions from the proposed plant. This includes an assessment of the emissions from the plant on designated ecological sites in the wider area. Based upon the findings of this assessment the Council's ecology team advise that the proposal would not have a significant impact on natural assets and has raised no objections to the proposal. There would be some impact however, due to air emissions, and mitigation can be secured through landscape planting. It is therefore considered that it would be appropriate to require some landscaping at the site. Subject to this it is considered that the proposal would not raise significant ecological issues and is acceptable in relation to policies CS17, MD2 and MD12.

6.6 Residential, local amenity and pollution considerations

- 6.6.1 Core Strategy policy CS6 requires that developments safeguard residential and local amenity. SAMDev Plan policy MD7b states that planning applications for agricultural development will be permitted where it can be demonstrated that there would be no unacceptable impacts on existing residential amenity. One of the core planning principles of the NPPF is that planning should always seek a good standard of amenity for all existing and future occupants of land and buildings.
- 6.6.2 The proposed CHP plant is located in proximity of a number of dwellings and has the potential to impact on living conditions through noise, odour and air emissions. A number of objections have been received from residents in the local area citing these matters as concerns, and the relevant considerations are discussed below. In addition in relation to the Parish Council's comments it should be noted that the updated comments of the Environment Agency have now been received which includes confirmation that they have no objections to the proposal.
- 6.6.3 Air quality impacts: Following advice from consultees, a detailed air quality assessment undertaken by consultants has been submitted. This considers the baseline situation, and assesses the impact of the CHP on local air quality in terms of various pollutants, specifically nitrogen oxides, particulate matter (PM₁₀), carbon monoxide and sulphur dioxide. It also considers the potential for 'in combination' effects of emissions from both the CHP plant and the existing biomass boilers. Twenty six of the closest residential receptors were used for modelling purposes.
- 6.6.4 The report states that the CHP process is monitored in real-time to ensure compliance with regulations of the Animal and Plant Health Agency. It concludes that all impacts from the CHP are negligible, meaning that the impacts will be acceptable either alone, or in combination with, other sources.
- 6.6.5 The Council's Public Protection Officer has reviewed this report in detail and confirms that it is generally acceptable. In relation to PM₁₀ the Officer considers that the contribution would be very small due to the mitigation contained within the system, and

notes that there would be a reduction of PM₁₀s from the reduction in the use of the existing biomass units. In conclusion the Officer considers that the proposal would not create any significant impact on the health and wellbeing of residents in the vicinity.

- 6.6.6 Noise: In response to advice from officers, an updated noise report has been submitted which also considers noise from the poultry units as part of an assessment of cumulative impacts. The report calculates noise levels at the nearest noise sensitive receptors. It concludes that the noise generated by the proposed development would fall below existing background sound levels in the area and would be at a level which would be considered to be of low impact in accordance with the relevant British Standard and Government planning guidance. It also states that when the proposed CHP plant and the poultry farm are operational at the same time, the combined cumulative noise level would be at or below the farm measured background sound level would be noticeable but not intrusive, and concludes that there are no noise-related issues to prevent planning permission being granted.
- 6.6.7 The Council's Public Protection Officer has reviewed the submitted noise report in detail. Having noted the background noise in the area and the insulation of the building the officer does not anticipate that any nearby residential properties would be significantly affected. The NPPF states that planning decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life. Based upon the noise report and technical advice received it is not considered that noise from the proposal in cumulation with the existing poultry units would be unacceptable.
- 6.6.8 Odour: As noted in para. 6.1.1 above, at present poultry litter is removed from the sheds at the end of each crop cycle and transported to nearby fields by tractor and trailer where it is stored on the fields until ready to be spread, maybe for a number of weeks. The submitted odour report acknowledges that this storage has caused odour issues in the past. Under the current proposal the covered trailer would be driven the short distance from the poultry sheds to the CHP building, reversed into the store and the manure would be pushed out of the trailer. Once manure from that cycle has been deposited in the storage area the building doors would be kept closed until the end of the next crop cycle. The air in the storage shed would be under negative pressure and the combustion process would be expected to remove odourous components. The litter burning process would produce an ash which would be used as a fertiliser. The ash fertiliser is odour free and therefore there would be a reduction in odours as there would be no transport of manure past residential properties or any need for storage and spreading of manure. Officers acknowledge the concerns raised by local residents regarding existing odour from the poultry units. However Officers consider that the current proposal would provide a betterment compared to the existing situation. The Council's Public Protection Officer has raised no objections to the proposal on odour impact grounds.
- 6.6.9 Further controls over proposed operation: The existing poultry rearing unit is operated within the terms of an Environmental Permit issued by the Environment Agency. This Permit has recently been varied to allow the operation of the poultry litter burner as currently proposed, including the litter storage area within the proposed building. The issue of this Permit variation is evidence that the EA are satisfied that the proposal, to be operated in conjunction with the associated poultry rearing development, is acceptable in this location. For the EA's purposes, the CHP plant forms part of the

overall poultry operation which they regulate under the Environmental Permit. This control includes matters relating to emissions from the site.

- 6.6.10 In addition to the Permit the CHP plant is required to be approved by and operated in accordance with guidelines from the Animal and Plant Health Agency (APHA). The applicant's agent has advised that, in order to gain APHA approval, the plant must abide by specific requirements, including:
- Storage of poultry manure within an enclosed area;
 - Minimum temperature for burning of the manure;
 - Emission limit values for sulphur dioxide, nitrogen oxides and particulate matter;
 - Automatic shutdown facilities in the event of a breakdown or abnormal operating conditions.
- 6.6.11 The APHA has recently issued an approval which consents to the temporary operation of the proposed plant until 31/8/18. It is understood that the APHA would visit the site on two further occasions during this temporary period and, subject to the plant meeting their requirements, a full approval would be issued. The consent requires annual measuring of emissions.
- 6.6.12 No significant concerns over the likely emissions from the plant have been raised by either the EA or the APHA, the relevant pollution control authorities for this proposal. In considering planning applications, the NPPF 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. It states that planning authorities should assume that these regimes will operate effectively (para. 122). Based upon the conclusions of the technical reports submitted, and the advice of specialist consultees, it is considered that the proposal is an acceptable use of land and can be operated without adversely affecting local amenities. It is therefore in line with policies CS6 and MD7b.

7.0 CONCLUSION

- 7.1 The proposed biomass boiler building would enable poultry manure that is produced at the adjacent poultry rearing development to be used beneficially on site to produce heat, electricity and a fertiliser. The proposal would increase the production of renewable energy and reduce carbon emissions, and comprises a sustainable form of development. The proposal would not have a significant impact on natural assets or adversely affect heritage assets in the area. It would provide a betterment in terms of odour impacts in relation to the existing situation. The proposal would result in some additional noise and air pollutants. However following detailed consideration of these elements of the proposal by consultees it is not considered that this would result in an unacceptable impact in the area. The Environment Agency has issued a variation to the existing Environmental Permit for the poultry units to include the proposed poultry litter burner and as such the operation will be regulated as part of the wider operation. In addition the plant has received a temporary consent from the Animal and Plant Health Authority and will need to be operated in accordance with this regime. It is considered that satisfactory controls would be imposed on the operation to avoid unacceptable land-use impacts in the local area. As such the proposal is considered to be acceptable in relation to Development Plan and national planning policy and that, subject to the

conditions set out in Appendix 1, planning permission can be granted.

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 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

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:
CS6 - Sustainable Design and Development Principles
CS17 - Environmental Networks
MD2 - Sustainable Design
MD7B - General Management of Development in the Countryside
MD12 - Natural Environment
MD13 - Historic Environment

RELEVANT PLANNING HISTORY:

12/01367/EIA Erection of 6No poultry units, 14No feed bins, a biomass store, boiler room and ancillary buildings including 6No control rooms and office; construction of weigh bridge; formation of new access, road improvements, landscape scheme; installation of 4 x 53No mono crystalline solar panels on roof of shed No 3 REFUSE 11th February 2013
16/04874/AGR Steel framed general farm storage building PNR 17th November 2016

Appeal

13/02065/REF Erection of 6No poultry units, 14No feed bins, a biomass store, boiler room and ancillary buildings including 6No control rooms and office; construction of weigh bridge; formation of new access, road improvements, landscape scheme; installation of 4 x 53No mono crystalline solar panels on roof of shed No 3 ALLOW 29th July 2014

11. Additional Information

View details online:

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 R. Macey

Local Member

Cllr Paul Wynn

Appendices

APPENDIX 1 - Conditions

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STANDARD CONDITION(S)

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.

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

2. Within two months of the date of this permission a landscaping plan shall be submitted to the Local Planning Authority. The plan shall include:

- a) Planting plans, creation of wildlife habitats and features and ecological enhancements;
- b) Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment);
- c) Schedules of plants, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate;
- d) Native species used are to be of local provenance (Shropshire or surrounding counties);
- e) Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works;
- f) Implementation timetables.

The plan shall be carried out as approved and in accordance with the approved timescales.

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

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

3. The development hereby permitted shall not be used to store or burn poultry litter other than that produced at Vantage Farm.

Reason: To control the scale of the operation in order to protect local amenity and maintain highway safety.

4. Vehicles transporting ash by-product from the site shall not enter the public highway other than via the main poultry access to the south-east.

Reason: To maintain highway safety and avoid adverse residential amenity.

5. Vehicles transporting ash by-product from the site shall not enter the public highway unless the load is covered.

Reason: To prevent dust emissions or spillage of material during transit in order to protect local amenity and maintain highway safety.

Informatives

1. In arriving at this decision Shropshire 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.

2. Your attention is specifically drawn to the conditions above that require the Local Planning Authority's approval of materials, details, information, drawings etc. In accordance with Article 21 of the Town & Country Planning (Development Management Procedure) Order 2010 a fee is required to be paid to the Local Planning Authority for requests to discharge conditions. Requests are to be made on forms available from www.planningportal.gov.uk or from the Local Planning Authority. The fee required is £116 per request, and £34 for existing residential properties.

Failure to discharge pre-start conditions will result in a contravention of the terms of this permission; any commencement may be unlawful and the Local Planning Authority may consequently take enforcement action.

3. As part of the planning process, consideration should be given to the information contained within Shropshire Fire and Rescue Service's "Fire Safety Guidance for Commercial and Domestic Planning Applications" which can be found using the following link:
<http://www.shropshirefire.gov.uk/planning-applications>

Specific consideration should be given to the following:

Enclosed Agricultural Buildings over 280m²

Access for Emergency Fire Service Vehicles

It will be necessary to provide adequate access for emergency fire vehicles. There should be sufficient access for fire service vehicles to within 45 metres of every point on the projected plan area or a percentage of the perimeter, whichever is less onerous. The percentage will be determined by the total floor area of the building. This issue will be dealt with at the Building Regulations stage of the development. However, the Fire Authority advise that early consideration is given to this matter.

THE BUILDING REGULATIONS, 2000 (2006 EDITION) FIRE SAFETY APPROVED DOCUMENT B5.' provides details of typical fire service appliance specifications.

Water Supplies for Fire fighting - Building Size

It is important to note that the current Building Regulations require an adequate water supply for firefighting. If the building has a compartment of 280m² or more in area and there is no existing fire hydrant within 100 metres, a reasonable water supply must be available. Failure to comply with this requirement may prevent the applicant from obtaining a final certificate.

4. Landscaping informative

Where it is intended to create semi-natural habitats (e.g. hedgerow/tree/shrub/wildflower planting), all species used in the planting proposal should be locally native species of local

provenance (Shropshire or surrounding counties). This will conserve and enhance biodiversity by protecting the local floristic gene pool and preventing the spread of non-native species.

Nesting bird informative

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

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

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

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

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