

Development Management Report

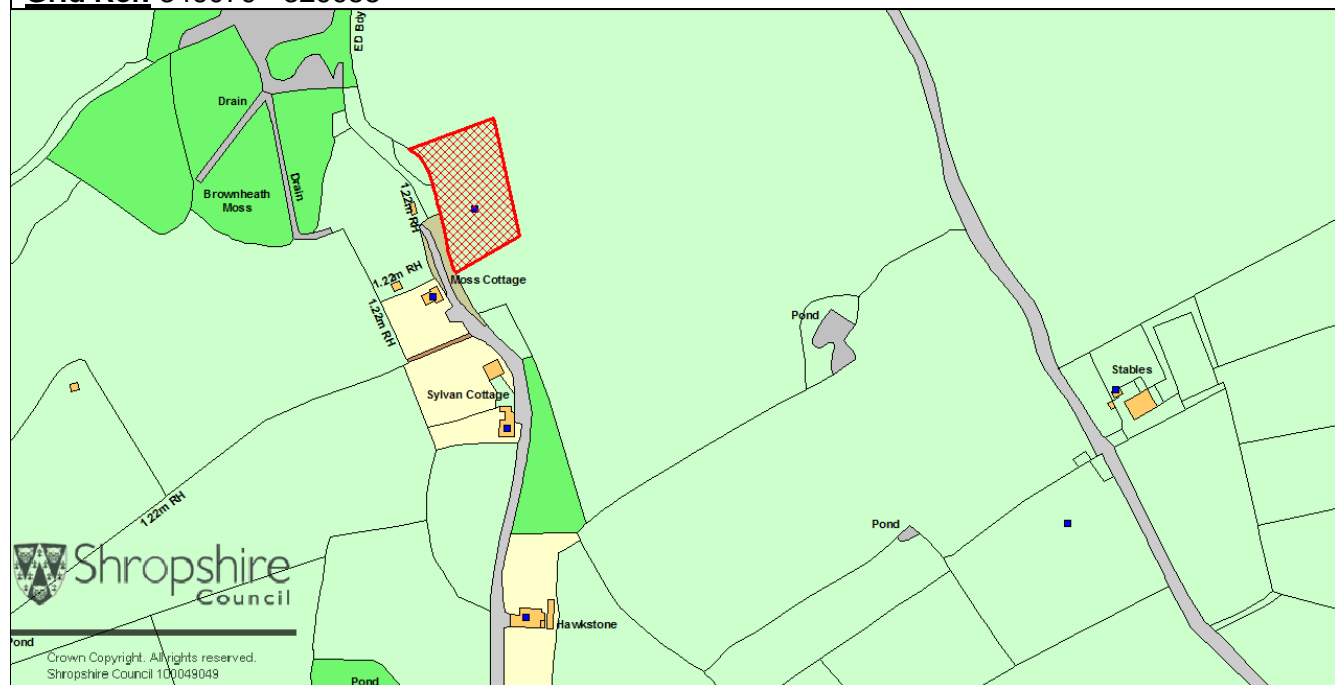
Responsible Officer: Tim Rogers

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Summary of Application

<u>Application Number:</u> 19/03679/FUL	<u>Parish:</u>	Loppington
<u>Proposal:</u> Erection of an agricultural storage and livestock building with hardstanding		
<u>Site Address:</u> Land Near Moss Cottage Brown Heath Ellesmere Shropshire		
<u>Applicant:</u> Mr & Mrs Evans		
<u>Case Officer:</u> Ollie Thomas	<u>email:</u> planning.northern@shropshire.gov.uk	

Grid Ref: 346079 - 329958



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

REPORT

1.0 THE PROPOSAL

- 1.1** This application is seeking full planning permission for the erection of an agricultural storage and livestock building, with associated front hardstanding on existing arable land, to the north of Brown Heath.
- 1.2** The proposed agricultural building has been scaled down since original submission on request of the Case Officer and in recognition of the available amount of agricultural land and the applicants intended farming operations – small scale sheep rearing and grazing.

2.0 SITE LOCATION/DESCRIPTION

- 2.1** The application site is a regular parcel of agricultural land that forms part of a larger parcel, located to the north of Brownheath, served by an unclassified section of no-through highway, which serves only a handful of residential properties. The application site is served by an existing field gate, set off the existing hedgerow boundary and on land currently laid to crop. Due to the undulating landscape, the application site is relatively well screened within its setting, being visible from the approaching highway, with limited visuals from the east.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1** The Parish Council have submitted comments contrary to the view of the Case Officer, which cannot be overcome by way of negotiation or planning conditions. Following which and in consultation with the Chair and Vice Chair of the planning committee and the local Ward Member, the application is to be decided by committee determination.

4.0 Community Representations

4.1 - Consultee Comments

4.1.1 SC Drainage (SuDS) – No objections subject to conditions.

4.1.2 SC Ecology – No response received to the recently submitted Ecology Report.

Following the submission of the Preliminary Ecology Report (Arbor Vitae, December 2019), the Council's Ecology team were re-consulted on the proposal. However, at the time of writing no further response has been received.

1st November 2019 – Additional information required.

This application definitely will require an HRA to be carried out. The HRA will have to be completed before a decision is made, and depending on the outcome of the HRA, NE will have to be consulted.

The potential effect pathways are via nutrient rich drainage seeping into the designated site (it's within the sites catchment) and via ammonia emissions from the livestock in the building. These will need to be investigated to see if they are likely to be significant.

4.1.3 Loppington Parish Council – Object – 31st October 2019

The Parish Council acknowledge residents' concerns that the size of the building is still not commensurate with the holding and the proposed agricultural use.

The Parish Council acknowledge the residents' concerns with regard to lack of drainage and run off creating flooding issues in the residential areas and having an adverse impact on the SSSI.

It is acknowledged that the road is very narrow and only one car width and has caused problems with damage to roadside verges and residential utilities.

The Parish Council object to this application as the highway infrastructure is not adequate to take any large vehicles with the potential to cause further damage to the verges and residential amenities and the proposal will exacerbate the flooding having an adverse impact on nearby properties and on the SSSI.

20th September 2019 – Object

The proposed building is set between a public right of way and the designated SSSI/Ramsar site of Brown Heath Moss in open countryside. The Parish Council object to this application for the following reasons:

- The building appears to be of excessive size for the site and close to and viewed from the adjacent public areas being unsympathetic to visual amenity in this location.
- The site is accessed via an unclassified single track road passing other properties. The application plan shows a significant area of hardstanding and significant widening of the access gate which suggests movement of large agricultural equipment accessing the site; there is no highway detail or proposals regarding the movement & management of large farm vehicles along this road.
- The application refers to a proposed waste storage area but there are no details regarding the type or amount of waste or how this will be managed.
- The responses in the application to questions 10 and 12 in respect of trees and biodiversity clearly indicate that there is a likelihood the development will adversely impact on these two aspects however, no ecological assessment of the impact on the adjacent SSSI or tree survey or any details of either are included in the application.
- The size of the building appears to be excessively large for the proposed agricultural use.

- The application refers to provision of new public rights of way but no details are included in the application.

4.1.4 Cllr Brian Williams (Local Ward Member for The Meres)

22nd October 2019 – Committee request

I have now had a further opportunity to consider the issues involved and believe that there are matters which could be considered as material planning reasons for Committee consideration of the application. I have therefore emailed the planning officer to note that I have rescinded my original agreement that this should be a decision delegated to Planning Officers. I feel that there would be a significant benefit to the members to the Committee to have the opportunity to view the site and see the location of the proposed building.

4th October – 2019 – Delegated determination

Having now given considered to the revised application, I am satisfied that it is of reasonable size and I am happy to support approval of the proposal. I can see no material planning reason for refusal. I am happy for Officers to determine the application without reference to Committee.

12th September 2019 – Committee request

I object to the application on grounds that the access is unsuitable for the agricultural business proposed, that there will be a potential pollution threat to the adjacent SSSI and that the building is totally out-of-scale with neighbouring residential properties. If Officers are minded to recommend approval of the application, I request that it be referred to Committee for a decision.

The applicants have made no indication of justification for a business of the substantial size which could be carried out in a construction of the proposed size.

4.2 - Public Comments

4.2.1 A total of 16 objection letters were received from 12 members of the public was received, with their material considerations being summarised as follows:

- The serving highway is single width and not suitable for access by large agricultural/livestock vehicles, raising concern over the highway safety of all users.
- The development will adversely impact on the local wildlife and protected species – there are a number of protected ecological sites nearby and no Ecology survey was submitted at validation stage.
- The highway serving the site is known to flood during heavy periods of rain, how will the building be drained in terms of surface and foul water.
- The application site is prone to flooding.
- The immediate highway section has no passing places.
- Concern over misuse of the site as long-term storage and stockpiling, in connection with the applicants logging enterprise.

- The size of the originally submitted building is disproportionate to the size of the land.
- The highway serving the site is collapsing, in part due to the weight and frequency of large vehicles.
- There is a public turning point at the field entrance which cannot accommodate large vehicles and machinery.
- Intended use of land and buildings would represent nuisances to residential amenity, through noise and odour.
- The proposed development would result in the lopping of trees and removal of hedgerow.
- Concerns over any future external lighting which would represent light pollution and disturb wildlife.
- The amended plans and reduced scale/size does not address concerns of disproportionateness to the holding size.
- The intended use of the land (sheep rearing) will require 24/7 care and security.
- The application site lies within the protected Green Belt.
- Development will result in inappropriate intrusion into the open countryside and be of detriment to the visual amenities and character of the area and surrounding landscape.

5.0 THE MAIN ISSUES

Principle of development
Siting, scale and design of structure
Visual impact and landscaping
Highways and access matters
Ecology and biodiversity matters.

6.0 OFFICER APPRAISAL

6.1 Principle of development

- 6.1.1** The application is for agricultural development, on agricultural land and in the countryside, whereby the building is of small scale and adequately justified for the purposes of agricultural operations/activities associated with the application site and wider parcel of land.
- 6.1.2** The applicant has recently purchased 6.5 acres of existing arable land, that forms part of a larger parcel of land but outside of the applicant's control – a new native species hedgerow and stock proof fence is to be erected dissecting the two ownerships. The applicant owns no further agricultural land or buildings, it is therefore understood that the land is to be used for smallholding purposes, which are nonetheless agricultural purposes, but on a much smaller scale – the size of the holding will naturally restrict the size of any livestock herd and any further intensification of the site.
- 6.1.3** The reduced proposal shows a typical portal-framed agricultural building, with secure storage for associated machinery, fodder store and the occasional housing of livestock during inclement weather or during the lambing periods. It is considered that the proposed building is of a scale and size proportionate to the size of the holding and justified for the intended operations and activities to occur on the land.

6.1.4 It is acknowledged that the application site lies isolated in that it does not form part of an existing agricultural development and is separated from the settlement core; however, Brown Heath is a very much dispersed linear settlement, where there is no strong settlement core. Whereby, the proposed development would neither look out of character to the local landscape and in the most part, will not be visible, other than from a handful of receptors only, to which this visual harm is considered low.

6.1.5 Furthermore, there is strong presumption in supporting rural enterprise and based on the above basis, the principle of development is both established and supported.

6.2 Siting, scale and design of structure

6.2.1 The proposed building is typical in form and style for modern-day farming practices, of portal frame construction and externally clad in profile sheeting and whilst no colour has been stated, it will be conditioned that this must be of a dark green in order to soften its impact within its setting and against the wooded backdrop. The building is made up of four 5.5m bays, totalling 22m in length, with a 12m width and a height of 5m to eaves, with a shallow dual pitched roof design.

6.2.2 The building is to be sited within close proximity to an existing field gate, to the north, with this field gate being widened so as to accommodate agricultural machinery – to a width of 7.2m. Due to its close proximity to the access point, only a relatively small amount of hardstanding is required, with all of this remaining to the front of the building, avoiding the existing hedgerow and tree line. There is no external stockpiling being proposed, with the building providing all the storage needs of the applicant.

6.2.3 Internally, the building will remain largely open and served by two full-height, double width doors – to the east and north. On the submitted plans, the applicant has shown the intended use of each bay of the building: one bay is to be used for fodder and equipment storage, with a bay used for the storage of a tractor and trailer, with the remaining two bays used for the livestock storage; however, as the livestock are being housed infrequently, it is expected that these areas will also be used for storage of machinery and equipment.

6.3 Visual impact and landscaping

6.3.1 With the application site holding an isolated location within the open countryside, the proposal will result in a degree of visual harm. However, as the surrounding landscape is inherently rural with sporadic agricultural buildings, this harm is considered minimal. Furthermore, the application site is down a no-through highway section and due to the topography of the immediate landscape the building will only be visible by a single residential dwelling and a public footpath (ROW 0207/17/1), which runs east-west approximately 45m south of the application site.

6.3.2 Due to the proposed building being out of direct sight and some 35m away from this single residential dwelling, it is not considered that the proposal will result in any adverse residential amenity impacts. It is acknowledged that the presence of livestock and machinery might entail additional noise and odour, but the land remains to be in agricultural use, which could be grazed by livestock at any point,

whereby the proposed building and its use is not considered to be intensive and is associated with small-holding farming activities only.

6.4 Highways and access matters

6.4.1 As mentioned, the site is accessed by an existing access which is served by an unclassified public highway, which also serves a handful of residential properties. The highway is single width and a typical section of rural highway, with high hedging and grass verges. There are no restrictions on the traffic or vehicles of this highway.

6.4.2 A number of objection comments have been received in regard to the inadequacy of the highway and the intensification of vehicle movements that the proposal will result in. However, it must be understood that regardless of the outcome of this application, the application site will remain to be accessed for agricultural purposes, owing to the existing access point. Furthermore, with the applicant intending to graze a small herd of sheep, with the proposal providing storage for machinery and equipment on-site, it is not anticipated that the proposal will result in an unacceptable intensification of this highway section. Moreover, it is likely that the majority of vehicle movements will be by the applicant in their private car.

6.4.3 On this basis and that proposals should only be refused on highway grounds if there would be an unacceptable impact on highway safety, the Case Officer can find no substantive grounds on which to object from a transport and highways perspective.

6.5 Ecology and biodiversity matters

6.5.1 The application site lies within the open countryside and upon existing ploughed arable land; however, it is also within close proximity (within 5km) of a number of protected ecological sites –

- **Brownheath Moss** – a Ramsar site and Site of Special Scientific Interest (SSSI).
- **Sweat Mere and Crose Mere** – a Ramsar site and SSSI.
- **Cole Mere** – a Ramsar site, a Local Nature Reserve (LNR) and SSSI
- **Ruewood Pastures** – a SSSI.
- **Wem Moss** – a National Nature Reserve (NNR), a Ramsar site and SSSI.
- **Fenns, Whixall, Bettisfield and Cadney Mosses** – a Ramsar site, SSSI, Special Area of Conservation (SAC) and NNR.
- **Clarepool Moss** – a Ramsar site and SSSI.

As a result of this proximity and owing to the development type and proposed livestock storage, the application is accompanied by a Preliminary Ecological Appraisal (Arbor Vitae, 11th December 2019).

6.5.2 The Appraisal provides an assessment of the available habitats both on and adjacent to the site in regard to protected species. Of those protected species surveyed, there are known records of bats within 1km of the site; nesting/breeding birds within the nearby hedgerows; and two ponds are thought to contain great crested newts, however their suitability is poor. In conclusion and in recognition of the existing arable land, the proposed development is not considered to have a negative impact on any habitats of ecological significance or of any protected

species and where the proposal does have potential to impact upon protected species, this impact can be mitigated through various means.

- 6.5.3** The conclusions of this Appraisal are agreed with, despite any comments from the Councils Ecology team, as within their initial comments, they did not object to the proposal, instead provided that without this Appraisal, it was unable to determine the developments impact. Those mitigation measures recommended will be conditioned on any approval notice.

7.0 CONCLUSION

The proposal to erect an agricultural building, on existing agricultural land, proportionate to the size of the holding and justifiable in terms of agricultural operations and activities is considered acceptable. The building is of a scale and appearance that is typical for agricultural buildings and whilst relatively isolated will not result in any adverse visual impact, owing to the site surroundings and landscape. The site is served by an existing access, off an unclassified section of highway, whereby the proposal will not result in unacceptable intensification of use of this highway. And whilst the site is within close proximity to ecologically diverse assets, the proposed development will not harm these habitats and with the addition of mitigation measures will provide an overall negligible harm in terms of biodiversity. On this basis, the proposal is considered to comply with the Local Development Plan and it is therefore recommended that permission be GRANTED subject to conditions.

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. Background

Relevant Planning Policies

Central Government Guidance:

National Planning Policy Framework

Core Strategy and SAMDev Policies:

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

CS17 - Environmental Networks

MD1 - Scale and Distribution of Development

MD2 - Sustainable Design

MD7B - General Management of Development in the Countryside

MD12 - Natural Environment

Settlement: S8 - Ellesmere

RELEVANT PLANNING HISTORY:

19/03679/FUL Erection of an agricultural storage and livestock building with hardstanding PCO

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)
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Cabinet Member (Portfolio Holder) Councillor Gwilym Butler

Local Member

Cllr Brian Williams

Appendices APPENDIX 1 - Conditions

APPENDIX 1**Conditions****STANDARD CONDITION(S)**

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

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

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

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

3. The hereby approved building shall be externally clad in profile sheeting to both the walls and roof. The colour of this sheeting shall be dark green throughout and there shall be no variation in colour without the prior written consent of the Local Planning Authority.

Reason: To reduce the proposals visual impact within the landscape.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

4. No development shall take place until a scheme of the surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is occupied/brought into first use (whichever is sooner).

Reason: To ensure satisfactory drainage of the site and to avoid flooding.

5. No development (including any demolition, earthworks or vegetation clearance) shall commence until a scheme of landscaping, which shall include details of both hard and soft landscape works and earthworks, has been submitted to, and approved in writing by, the Local Planning Authority. The scheme as approved shall be carried out in the first planting season following the completion of each development phase. Any trees, shrubs or plants that die within a period of five years from the completion of each development phase, or are removed and/or become seriously damaged or diseased in that period, shall be replaced (and if necessary continue to be replaced) in the first available planting season with others of similar size and species, unless the Local Planning Authority gives prior written permission for any variation.

Reason: To ensure satisfactory landscape treatment of the site which will enhance the character and appearance of the site and surrounding landscape.

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

6. Notwithstanding the provisions of Town and County Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that order with or without modification) no floodlighting or any other external lighting shall be installed at the site without the express Planning Permission first being obtained from the Local Planning Authority.

Reason: To safeguard the amenities of the locality.

7. No storage of goods, materials, plant or machinery of any description shall take place outside the building hereby approved.

Reason: To ensure that the proposed development will not prejudice either the enjoyment by neighbouring occupiers of their properties or the general appearance of the locality.

8. No trees, shrubs or hedges within the site which are shown as being retained on the approved plans shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed without the prior written consent of the Local Planning Authority. Any trees, shrubs or hedges removed without such consent, or which die or become severely damaged or seriously diseased within five years from the completion of the development hereby permitted shall be replaced with trees, shrubs or hedge plants of similar size and species unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure the continued wellbeing of the trees in the interests of the amenity and environmental quality of the locality.

9. The agricultural building hereby approved shall solely be used as defined as agriculture under section 336, Part XV of The Town and Country Planning Act 1990 and shall be used solely in connection with the land holding as identified on the approved Location Plan, drawing number: 1974 D 01 Rev A.

Reason: In order to restrict the use of the premises in the interest of the amenities of the area.

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 38.

2. The above conditions have been imposed in accordance with both the policies contained within the Development Plan and national Town & Country Planning legislation.

3. Where there are pre commencement conditions that require the submission of information for approval prior to development commencing at least 21 days notice is required to enable proper consideration to be given.

4. THIS PERMISSION DOES NOT CONVEY A BUILDING REGULATIONS APPROVAL under the Building Regulations 2010. The works may also require Building Regulations approval. If you have not already done so, you should contact the Council's Building Control Section on 01743 252430 or 01743 252440.

5. - The use of soakaways should be investigated in the first instance for surface water disposal. Percolation tests and the sizing of the soakaways should be designed in accordance with BRE Digest 365. Full details, calculations, dimensions and location plan of the percolation tests and the proposed soakaways should be submitted for approval.

Surface water should pass through a silt trap or catchpit prior to entering the soakaway to reduce sediment build up within the soakaway.

Should soakaways are not feasible, drainage calculations should limit the discharge rate from the site equivalent to 5.0 l/s runoff rate should be submitted for approval. The attenuation drainage system should be designed so that storm events of up to 1 in 100 year + 25% for climate change will not cause flooding of any property either within the proposed development or any other in the vicinity.

- If non permeable surfacing is used on the new access, driveway and parking area or the new access slopes toward the highway, the applicant should submit for approval a drainage system to ensure that no surface water runoff from the new access run onto the highway.

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