

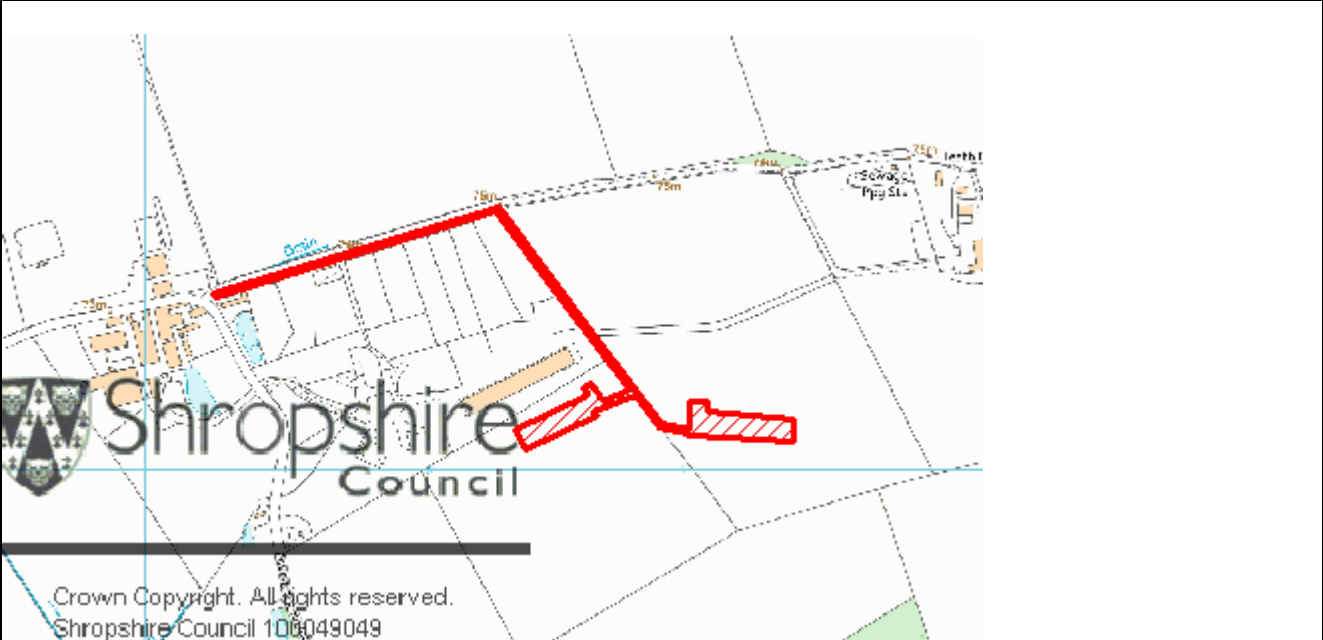
Development Management Report

Responsible Officer: Tracy Darke, Assistant Director of Economy & Place

Summary of Application

Application Number: 21/05985/EIA	Parish:	Hadnall
Proposal: Construction of two free range poultry houses with feed bins and ancillary equipment		
Site Address: Painsbrook Farm Painsbrook Lane Hadnall SY4 4BA		
Applicant: Mr A Brisbane		
Case Officer: Philip Mullineux	email	: philip.mullineux@shropshire.gov.uk

Grid Ref: 353068 - 321189



Recommendation:- Refusal:

The application lacks sufficient detail on which basis to make a positive recommendation as it is considered the application lacks sufficient detail on biodiversity, (ecological and landscape), amenity, odour, highway and transportation and drainage issues. As such the recommendation is one of refusal as the application falls well short of EIA Regulations 2017 and does not comply with Policies CS5, CS6, CS13, CS17 and CS18 of the Shropshire Core Strategy, Policies MD2, MD7b, MD12 and MD13 of the SAMDev and the National Planning Policy Framework.

REPORT**1.0 THE PROPOSAL**

- 1.1 Application is made in 'Full' and proposes erection of two free range poultry houses with feed bins and ancillary equipment on land at Painsbrook Farm, Painsbrook Lane, Hadnall, SY4 4BA
- 1.2 Application is accompanied by a site location plan, block plan, elevations and floor plans, plan of heritage assets, ammonia report, ecological assessment, nitrogen calculations and a report termed an 'Environmental Statement'.
- 1.3 Pre-application advice was given in relation to a proposal for an expansion to the existing egg laying unit that forms part of the farming business dated 21st May 2020 and this indicated as the conclusion:

'Whilst on the basis of the information as provided to-date, I consider that the principle of development as indicated could be considered acceptable in principle, the proposal represents substantial development in the open countryside to which careful consideration is required to all the subject issues as identified in this letter. Careful consideration is required to issues as raised and in particular in relation to landscape and ecological mitigation, as well as impacts on residential amenity and public highway access

I also draw your attention to the requirement for an Environmental Statement in accordance with Environmental Impact Assessment Regulations as discussed earlier in this letter.

If you require a meeting on site prior to the submission of a formal application please contact me here at Planning Services'.

- 1.4 As confirmed in the Council's pre-application advice the proposal in accordance with information submitted in support of the request for pre-application advice dated 19th March 2020 was for two intensive egg laying poultry houses for the housing of up to 48,000 birds (24,000 in each one), on land at Painsbrook Farm, Hadnall, Shropshire. Presently on the farming unit concerned is an intensive egg laying unit which houses up to 32,000 birds and this was approved by the Local Planning Authority on 18th March 2019. In consideration of 'cumulative impacts' the development as proposed in theory falls into the remit of schedule one development of Environmental Impact Assessment Regulations 2017 as the total birds on site will amount to 80,000. (Schedule one 17(a) threshold being 60,000 places for hens). As such the proposed development (cumulative considerations), falls into the remit of Schedule 2:13(a) and therefore any formal application will need to be accompanied

by an Environmental Statement.

- 1.5 The Environmental Statement submitted in support of the application indicates that the development as proposed is for two new buildings measuring 120m long x 20m. Height to the ridge level will be 6 metres. The maximum capacity of the proposed sheds will be 64,000 birds on completion. The laying cycle will be 14 months, plus a turnaround period for de-stocking and cleaning etc. of 14 – 21 days.
- 1.6 Planning approval was granted on 18th March 2019 for 'Erection of free range poultry laying unit (32,000 birds) with 3No. feed bins and ancillary equipment; alterations to existing access' on land close to the application site and this egg laying unit is part of the same agricultural business. (Approval reference 18/04465/FUL).
- 1.7 A previous application on site (reference 21/03061/FUL), for the erection of two free range poultry houses with feed bins and ancillary equipment *was withdrawn on* 22nd September 2021 on Officer advice as the application was considered deficient in information provided and also referred to the incorrect Environmental Impact Assessment Regulations.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site is relatively flat and in agricultural use and covers an area of approx.0.95 hectares in accordance with detail as set out on the application form. The site is situated approx 400 metres south east of Painsbrook Farmstead, being around 1.5km north of the village of Hadnall. There are mature hedgerow boundaries within the vicinity of the application site.
- 2.2 Detail as part of the Environmental Statement in support of the application indicates that the construction materials proposed will consist of a steel framed fully insulated building clad externally with profiled steel sheeting coloured by agreement with the Local Authority. The applicant proposes slate blue cladding for the roof, walls and feed bins. An integral part of the design of the development is an effective and appropriate landscaping scheme. The proposed features will screen the development over time, provide additional landscape features which are sympathetic to the local landscape character and provide additional habitat. It is considered the existing mature native species hedgerows around the field boundaries around the proposed buildings will assist assimilation of the development into the landscape. The applicants will let those hedgerows grow taller. Clean run- off water will be collected via drains to a large french drainage field. It will then percolate into the free draining soil. The drains work very well and can accommodate the proposed buildings. Feed will be stored in steel bins, which will be sited as shown on the Site Layout Plan. Sufficient bins are needed to ensure adequate supply in the event that bad weather prevents deliveries.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The application is considered schedule one development in accordance with EIA Regulations. As such the application requires Committee consideration.

4.0 Community Representations

- 4.1 **Hadnall Parish Council** has responded indicating:
The comments submitted by the Parish Council in support of prior application 21/03061/FUL still stand: Hadnall Parish Council Planning Committee decided unanimously to support this application for the following reasons:

- Viewing of the existing poultry shed showed a clean, well-maintained facility.
- There has been no reported negative impact of the existing shed and no residents have submitted any objections to this application to either Shropshire Council Planning Portal or the Parish Council.
- The planning committee feels that this proposal would help an ethical local enterprise to grow and produce significant environmental gains in terms of the required tree planting.

4.2 **Consultee Comment**

4.3 **SC Drainage** have responded indicating:

The technical details submitted for this Planning Application have been appraised by WSP UK Ltd, on behalf of Shropshire Council as Local Drainage Authority. All correspondence/feedback must be directed through to Shropshire Council's Development Management Team.

1. Condition:

No development shall take place until a scheme of surface and foul 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 use (whichever is the sooner).

Reason: The condition is a pre-commencement condition to ensure satisfactory drainage of the site and to avoid flooding.

2. Comment:

2.1. In the Environment Statement, it stated that a FRA has been commissioned to support this application and will be supplied as an Appendix when it is received.

2.2. The treatment of the dirty water used in the washing out of the sheds in the Environment Statement is acceptable and should be detailed on the Proposed Drainage Layout Plan.

2.3. Surface water and foul drainage schemes for the development should be designed and constructed in accordance with the Council's SUDS Handbook which is available in the Related Documents Section on the Council's Website at: <https://shropshire.gov.uk/drainage-and-flooding/development-responsibility-and-maintenance/sustainable-drainage-systems-handbook/>

2.4. Appendix A1 - Surface Water Drainage Proforma for Major Developments must be completed and together with associated drainage details, must be submitted for approval.

4.4 **SC Archaeology Manager** has responded indicating no comments on this application.

4.5 **SC Trees Manager** has responded indicating:

A tree report has not been submitted with this application as no existing protected

or significant trees are directly affected by the proposal.

The submitted Ecology report deals with the protection of existing hedges on site and new tree planting in line with the Woodland Trust guidelines for using native species. Therefore, on this application, I will defer to comments from SC Ecologists on protection of habitat and net gain and to Landscape Consultants on negative impacts to surrounding areas and I make no objection on arboricultural grounds.

4.6 Defence Infrastructure Organisation, (MOD), raises no objections, their response indicating:

In summary, subject to the addition of the following requirements implemented as conditions to any consent issued, the MOD have no objection to the development proposed:

- To ensure that the development does not form an attractant environment for those large and/or flocking bird species hazardous to aircraft using RAF Shawbury, the landscape planting is further reduced in this location to no more than 25% of the planting being fruit, berry, or hip bearing.
- Assurances are received that temporary field heaps will be located further from RAF Shawbury and manure stored on the farm is covered or removed promptly.
- To ensure that the lighting installed and used at the application site does not pose, by virtue of its position, orientation, or frequency a hazard to aviation, no external lighting shall be installed or used on the site unless or until such time as full details of the proposed lighting scheme have been submitted to and approved in writing by the Local Planning Authority in consultation with the Ministry of Defence

4.7 SC Environmental Protection have responded indicating:

Environmental Protection has reviewed the information provided in the Environmental Impact assessment and has the following comments:

Noise

The noise chapter of the EIA does not include an appropriate assessment by a suitably qualified person. Prior to determining this application I recommend that a suitable noise assessment should be carried out by competent person in order to assess the impact of the operations. If noise levels are predicted to have a significant adverse effect then a mitigation scheme should be submitted detailing what mitigation is going to be provided and the noise levels that are predicted to be achieved.

The noise report should include a BS4142 assessment of the current and predicted noise levels from the site in relation to the background noise. The assessment should be relevant to the proposed hours of operation i.e if it is planned to operate certain plant/operations in the night time hours then the background noise levels at this time should be considered. If plant are likely to operate simultaneously then they must be assessed accordingly, i.e if all the roof fans are likely to run at the same time the cumulative impact must be assessed. Noise levels associated with vehicle movements to and from the site should also be considered.

It is not considered necessary to assess the impact of construction noise, however the standard construction hours should be applied as a condition on any consent granted.

Manure management

The EIA indicates that manure will be exported to local arable farms and that the applicant will require the recipient to ensure they comply with relevant storage and spreading codes of Good Practise. Previous appeals found that moving the spreading of manure to a third party for spreading would be considered to be an indirect impact of a poultry application requiring consideration by the planning regime. Hence I would recommend that an appropriate manure management plan is required or an agreement that the applicant will only provide manure to those that agree with the applicant to spread manure in line with the DEFRA Code of Good Agricultural Practise – Protecting our Soil, Water and Air. It would be advised that this aspect should be conditioned to ensure that the planning regime offers reasonable security of this aspect having a low impact.

Environmental Permit

The proposal is for two sheds housing 64,000 birds in addition to the existing 32,000 bird unit approved in 2019. As such the development will require an environmental permit issued and regulated by the Environment Agency prior to operation. It is advised that the Environment Agency is consulted on this application and the applicant is recommended to place an application for the environmental permit in tandem with this planning application in order to ensure that both control regimes are aligned and that any conditions placed on each do not conflict with the other causing further application to be made which are likely to cost the applicant time and money.

4.8 **SC Conservation** have responded indicating:

In considering the proposal due regard to the following local and national policies, guidance and legislation has been taken; CS5 Countryside and Green Belt. CS6 Sustainable Design and Development and CS17 Environmental Networks of the Shropshire Core Strategy, policies MD2 and MD13 of the Site Allocations and Management of Development (SAMDev), the National Planning Policy Framework (NPPF) published July 2021, Planning Practice Guidance and Sections 66 and 72 of the Planning (Listed Building and Conservation Areas) Act 1990.

The application proposes the construction of two free range poultry houses with feed bins and ancillary equipment at Painsbrook Farm, Hadnall. A previous application for a 32,000 bird unit was approved under application 18/04465/FUL. Cumulatively the development on this site will be of a scale that could have wider landscape and visual impacts and impacts upon the settings of historic assets. Therefore a Heritage Impact Assessment forms part of the Environmental Statement supporting the application and concludes that 'There will not be a significant effect on any listed buildings or other heritage assets'. We would generally concur with this conclusion and do not wish to raise conservation objections in this instance. External materials and landscaping should be conditioned.

4.9 **SC Ecology** have responded indicating:

Objection. Information submitted regarding ammonia emissions and their effects on

designated sites/sensitive habitats is insufficient to be able to demonstrate that the proposed development will not have adverse effects on significant environmental assets, as required by NPPF, MD12 and CS17. Ammonia report

Further to SC Ecology's comments dated 16 September 2021 for an identical application which was subsequently withdrawn, it appears that the same ammonia report has been submitted. My comments for 21/03061/FUL are therefore relevant for this application, and in addition, the following detailed comments are now supplied: The application is for 64,000 free range layers, therefore, in accordance with the latest ammonia guidance available from statutory agencies (Natural Resources Wales / Ammonia assessments for developments that require a permit or planning permission), which Shropshire Council are adopting, modelling of ammonia emissions for installations of this size must include sensitive ecological sites up to 5km from the proposal. Sensitive ecological sites are the following:

□ European designated sites (Natura 2000 sites) - Special Areas of Conservation (SAC), Special Protection Areas (SPA); and Other internationally designated sites - Ramsar Sites (as a matter of government policy); and Nationally designated sites - Sites of Special Scientific Interest (SSSI); and

□ Ancient woodland and parklands - As identified on the Ancient Woodland Inventory <https://data.gov.uk/dataset/9461f463-c363-4309-ae77-fdcd7e9df7d3/ancient-woodland-england> and Wood Pasture and Parkland Inventory

<https://data.gov.uk/dataset/bac6feb6-8222-4665-8abe-8774829ea623/wood-pasture-and-parkland-england>

Use of Best Available Technology should be the first avenue to be considered in reducing ammonia emissions, however, this appears to not have been considered to date and should be. The proposed sheds are large and scrubbers can be fitted to free range units as well as retrofitted to existing units. The emission factor for ranging areas (section 3.4.2 1 of the ammonia report) is not considered suitable for use and should be updated in line with those published by Natural Resource Wales which is 0.045 kg NH₃/animal place/year. Emission factors for all types of poultry installation are available at

https://naturalresources.wales/guidance-and_advice/business-sectors/farming/ammonia-assessments/emission-factors-for-poultry-for_modelling-and-reporting/?lang=en and should be used across the board.

There are concerns regarding the ability to truly account for cattle v poultry due to the number of variables associated with cattle and in addition, the trading of nitrogen via change in agricultural land fertiliser application is not evidence led or backed up and it is not clear what values can be attributed to these areas. If a trading approach is the one which is proposed to be pursued, SC Ecology require robust and specific information on nitrogen application that has been undertaken on the fields in question together with accurate information on emissions from cattle over the past five years and not just an estimate of what grazing, housing or slurry could contribute. Painsbrook Farm is within a Surface Water NVZ. The designation of the land within this zone imposes rules and regulations including the need to keep records of fertiliser records for at least 5 years including the type and quantity of organic manure that is applied. The number of cattle held on the holding does not appear to match the records accessed by Shropshire Council which illustrate that the current number of livestock for the holding is 457 and not 600 as claimed in the supporting information and used in the air quality modelling report. At the moment there is inconsistency in the information presented in the EIA statement and the air modelling report. For instance, within the supporting environmental statement Halls

state 'Appendix 4 shows that with 96,000 layers, exporting all poultry manure and keeping 600 cattle there is an overall reduction in nitrogen on the holding of 3,000 Kg N per year'. However the applicant is willing to cease cattle rearing as per the ammonia assessment. What is actually being proposed needs to be clearly stated and consistently presented across all the submitted documents.

There are inconsistencies in the information submitted with regard to manure management and fertiliser application. The environmental statement makes the following point 'The spreading of chicken manure on the farmland will be undertaken in accordance with Best Practice Guidance' – this would imply that spreading of poultry manure is to still occur on the holding. The air quality report also makes reference to the fact that 'There are approximately 130 ha of grassland at Painsbrook Farm, this land is currently fertilized exclusively using organic manures and/or slurries'. In contrast the nitrogen balance documentation produced by Halls indicates that 10 tons of nitrogen have been applied to the land holding; where this has been applied and at what rate is unknown but again there are unknown factors. The emissions from the slurry / manure will vary depending on type of organic manure being applied and methodology of application. The updated DEFRA Nitrate Vulnerable Zone Regulations 2013-2016 for England can be found at <https://www.gov.uk/guidance/using-nitrogen-fertilisers-in-nitrate-vulnerable-zones>. The guidance highlights how much organic manure you can apply per hectare. The latest on line compliance figures published are below the stated 300kg per hectare by Halls. Manure should not be freely spread on the land without understanding the future cropping and also stored nitrogen reserves in the soil.

The guidance application rates of fertiliser to arable and grassland (organic or inorganic) is available from by AHDB (Agriculture and Horticulture Development Board) <https://ahdb.org.uk/nutrient-management-guide-rb209>.

The environmental supporting statement highlights that the farm has a manure store with a concrete floor which can be used if necessary to hold manure before it is exported. It is not clear if this is to be used to store manure from the proposal in the event that the manure is not able to be taken off site or is able to be received at designated holdings. The ammonia emissions from the manure store will need to be calculated and included in the air quality report. Notwithstanding our above advice regarding use of BAT, if an offsetting approach is the approach being pursued for this application, and it can be proven to be effective and scientifically robust then conditions would likely have to be imposed, which must follow these following principles²

:

1. necessary;
2. relevant to planning;
3. relevant to the development to be permitted;
4. enforceable;
5. precise; and
6. reasonable in all other respects.

It would be necessary for the applicant to provide the information to the LPA in order that they can assess whether the aforementioned 'tests' can be met.

If it can be demonstrated that the development is nutrient neutral, a cumulative assessment would not be required, otherwise, an in-combination assessment should be produced, and results presented. All sites within the 5km buffer should be considered in the in-combination assessment and not just those which are at or above the 1% threshold alone.

In summary, the submitted report does not provide the level of detail required to enable the LPA to clearly identify the impact of the proposal upon sensitive sites. Three tables presenting the PC of the development alone, the PC with BAT and the PC with only the proposed offsetting measures should be provided and backed up by farm-specific evidenced data. The PC should also be presented as % of Cle/CLo for each impacted site.

4.10 **SC Highways** have responded indicating: No response received.

4.11 **SC Landscape Consultant** has responded indicating in conclusion:

Other than the omission of the approach to cumulative landscape and visual effects, the methodology for the LVIA is appropriate for the nature of the proposed development and scale of likely effects, and has been prepared in compliance with GLVIA3 and relevant supporting Technical Guidance. However, we consider that the assessment of some effects has not been carried out in accordance with that methodology and should not be relied on to make a sound planning judgement.

The LVIA has not been carried out in accordance with the requirements of the Environmental Impact Assessment Regulations 2017 with respect to cumulative effects. All predicted effects are adverse or no change, with one predicted beneficial effect on the landscape fabric of the site once mitigation is in place and effective, although no evidence is provided for this judgement.

The proposal site has the potential to accommodate a development of this nature given the vegetation in the vicinity which act to limit visibility to the majority of visual receptors away from the immediate vicinity of the site, and the baseline presence of the existing poultry unit. Mitigation measures have the potential to reduce the level of adverse effects and provide beneficial landscape and biodiversity effects. The proposals have the potential to comply with Local Plan relating to landscape and visual matters, however additional information is required for levels of compliance to be confirmed.

4.12 **Public Comments**

4.13 No comments received at time of writing this report.

5.0 THE MAIN ISSUES

- Principle of development and EIA procedure.
- Siting, scale landscape and historic impact.
- Drainage
- Public highway and transportation
- Ecology
- Residential amenity

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 The National Planning Policy Framework (NPPF) advises that the purpose of the planning system is to contribute to achieving sustainable development and establishes a presumption in favour of sustainable development (para. 7). One of

its core planning principles is to proactively drive and support sustainable economic development. Sustainable development has three dimensions – social, environment, and economic. 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. 84). The NPPF states that the planning system should contribute to and enhance the natural and local environment (para. 174) and ensure that the effects (including cumulative effects) of pollution on health, the natural environment or general amenity should be taken into account (para. 185). 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.

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 an egg laying unit can be given planning consideration in support. Policies recognise that poultry units can have significant impacts, and seek to protect local amenity and environmental assets.

6.1.2 **Environmental Impact Assessment**

6.1.3 The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 specify that Environmental Impact Assessment (EIA) is mandatory for proposed development involving the intensive rearing of poultry where the number of egg laying birds is 60,000 or more. As such the current proposal is classed as schedule 1: 17(a) EIA development. (60,000 places for hens). An adequate Environmental statement in support of such an application is therefore essential. Whilst the proposal also falls into the remit of Schedule 2 EIA Development criteria (Schedule 2 1(c) – Agriculture and aquaculture and intensive livestock installations, as area of floor space exceeds 500 square metres). The fact that the number of birds on site is to be 64,000 means that Schedule 1 development procedure prevails. This is also irrespective of the existing birds in the existing building adjacent to the site and pre-application advice in relation to the proposal for development on site which was in relation to 24,000 birds in each shed. (48,000).

6.1.4 It is noted detail as set out in the applicants Environmental Statement submitted in support of the application refers to the statement having been prepared in accordance with the Town and Country Planning (Environmental Impact

Assessment) (England and Wales) Regulations 2011 (hereafter referred to as the Regulations). These Regulations are out of date as the current regulations are the Town and Country Planning (Environmental Impact Assessment), Regulations 2017 and these have been in force since May 2017

6.2 **Siting, scale, design and landscape and visual impact**

6.2.1 Paragraph 195 of the NPPF indicates that local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal, (including by development affecting the setting of a heritage asset), taking account of the available evidence and any necessary expertise. The proposal therefore has to be considered against Shropshire Council policies CS6 and CS17 and with national policies and guidance including PPS5 Historic Environment Planning Practice Guide and section 16 of the National Planning Policy Framework (NPPF). Special regard has to be given to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses as required by section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

6.2.2 It is noted in relation to the historic environment the Council's Conservation Manager raises no objections as it is considered the proposal will not have any significant detrimental impact on the surrounding historic environment. These conclusions are shared and with adequate consideration to landscape and visual impact matters, impacts on the historic built environment it is considered will be acceptable.

6.2.3 The applicants as part of the Environmental Statement in support of the application have submitted a landscape and visual impact assessment and this concludes that there would be a significant adverse effect on the character of the site landscape during the operational phase of the proposed development due to the presence of poultry units 2 and 3. However, there would not be any significant adverse effects on the landscape fabric of the site, on the character of the surrounding landscapes or on the visual amenity of receptors in the study area during the construction and operational phases of the proposed development due to the degree of screening provided by the abundance of existing vegetation on and around the site and the separation distances between the proposed development and the residential properties, public rights of way, visitor venues and roads in the study area. Furthermore, as the woodland, hedgerow and tree planting proposed in the landscape and biodiversity enhancement and management plan establishes, this would bring about long-term beneficial effects on the character of the site and surrounding landscapes which would help to offset the predicted significant effects on the character of the site landscape during the operational phase.

6.2.4 The Council's Landscape Consultant has responded to the application indicating that whilst overall it is considered that the site has the potential to accommodate development as proposed, and that overall the methodology used in the Landscape and Visual Impact Assessment, (LVIA), is appropriate in relation to the nature of the proposed development, although the assessment of some effects has not been carried out in accordance with the methodology and should not be relied on to make a sound planning judgement. Concerns are also raised with regards to cumulative impacts and the requirements of the Environmental Impact Assessment

Regulations. As such it is considered that further information is required before a favourable recommendation can be made in relation to landscape and visual impact matters.

6.2.5 Further information is required in relation to the provision of information on the approach to and the assessment of cumulative landscape and visual effects and confirmation that the assessments of landscape effects are carried out in accordance with the LVIA methodology

6.2.6 With consideration to the issues raised in the paragraphs above it is considered further information as discussed is required before this application is considered to be in accordance with Policies CS6 and CS17 of the Shropshire Core Strategy, Policies MD2, MD12 and MD13 of the SAMDev and the National Planning Policy Framework on this matter.

6.3 **Drainage**

6.3.1 The NPPF and policy CS18 of the Shropshire Core Strategy require consideration to be given to the potential flood risk of development. It is noted that the application site is in flood zone 1 in accordance with the EA flood risk data maps. (lowest risk),

6.3.2 Whilst it is noted the application form in support of the application indicates the site area as being 0.95 of an hectare, no provision has been given for 'roaming areas' as part of the application and site area. Whilst strictly speaking the land is currently in and will remain in agricultural use, development in relation to 64,000 birds is considered far more intensive development than the current agricultural use and bird droppings need to be seriously considered as part of ammonia impact assessments etc. Also with the fact that development as proposed represents Schedule one development a flood risk assessment in support of the application is considered necessary. (The Council's pre-application advice indicated a flood risk assessment as being necessary).

6.3.3 In consideration of flooding and drainage issues it is considered the application lacks sufficient information on which basis to adequately consider the application.

6.4 **Public highways and transportation**

6.4.1 The applicants Environmental Statement in support of the application refers to vehicle movements in relation to the development, no specific transport assessment accompanies the application. Pre-application advice in relation to the proposal to the applicants referred to the requirement for a transport assessment in support of any formal application.

6.4.2 No formal response has been received from SC Highways Manager. In response to a previous application, SC Highways responded indicating although, the general principle of the proposed development is acceptable, from a highways and transport perspective. It is considered that the applicant has not considered the adjacent highways and traffic situation or the interaction of traffic/pedestrian/active travel movements along the unclassified highway between the site access and the A49 junction sufficiently. To adequately demonstrate that the development is unlikely to have an adverse impact on the local highway situation. It is noted that a previous planning application for a single poultry unit,

required the construction of a suitable passing place in the vicinity of the A49 junction. This application has not included any reference to the successful completion of the previous planning obligation. This development proposal is likely to increase traffic movements significantly, approximately tripling general service movements. Subsequently, these additional movements will influence the unclassified road. Therefore, it is incumbent on the developer/applicant to provide suitable mitigation for these additional movements and potential conflicts with existing users along the unclassified road. It is considered that a minimum of two additional passing places should be sufficient. As well as evidencing the competition of the original passing place required by planning consent 18/04465/FU

6.4.3 On public highway and transportation issues the application is considered to lack sufficient information and therefore does not comply with the requirements of policy CS6 of the Shropshire Core Strategy and Policy MD2 of the SAMDev and the considerations of the National Planning Policy Framework on this matter,

6.5 Ecology

6.5.1 The NPPF and policy CS17 of the Shropshire Core Strategy require consideration to be given to the impact of the proposed development on the natural environment. This particularly relates to the impact on statutorily protected species and habitats. Therefore the application has been considered by the Council's Ecologist and Natural England.

6.5.2 The NPPF in paragraph 174 indicates: The planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures

6.5.3 Paragraph 179 indicates: To minimise impacts on biodiversity and geo-diversity, planning policies should promote the preservation, restoration and re-creation of priority habitats, ecological networks and the protection and recovery of priority species populations, linked to national and local targets, and identify suitable indicators for monitoring biodiversity in the plan.

6.5.4 The SAMDev Plan policy MD12 states: In accordance with Policies CS6, CS17 and through applying the guidance in the Natural Environment SPD, the avoidance of harm to Shropshire's natural assets and their conservation, enhancement and restoration will be achieved by:

Ensuring that proposals which are likely to have a significant adverse effect, directly, indirectly or cumulatively, on any of the following:

- i. the special qualities of the Shropshire Hills AONB;
- ii. locally designated biodiversity and geological sites;
- iii. priority species;
- iv. priority habitats
- v. important woodlands, trees and hedges;
- vi. ecological networks
- vii. geological assets;
- viii. visual amenity;

ix. landscape character and local distinctiveness.

will only be permitted if it can be clearly demonstrated that:

a) there is no satisfactory alternative means of avoiding such impacts through redesign

or by re-locating on an alternative site and;

b) the social or economic benefits of the proposal outweigh the harm to the asset.

In all cases, a hierarchy of mitigation then compensation measures will be sought

6.5.5 SC Ecology have responded to the application indicating detail on all ecological issues is insufficient and that information submitted regarding ammonia emissions and their effects on designated sites/sensitive habitats is insufficient to be able to demonstrate that the proposed development will not have adverse effects on significant environmental assets, as required by NPPF, MD12 and CS17. Ammonia report. Further to SC Ecology's comments dated 16 September 2021 for an identical application which was subsequently withdrawn, it appears that the same ammonia report has been submitted.

6.5.6 In consideration of the comments received from SC Ecology, this application detail on ecology and biodiversity matters it is considered is insufficient. It is also noted that the SC Tree Manager also raised concerns in relation to detail in relation to trees and ecological issues. As such this application is considered not to comply with Policies CS6 and CS17 of the Shropshire Core Strategy, Policies MD2, MD7b and MD12 of the SAMDev and the NPPF in relation to biodiversity issues.

6.6 Residential amenity and manure management

6.6.1 The proposed development indicates the total number of birds on site as 64,000. This is above the threshold (40,000) for regulation of poultry farming under the Environmental Permitting, (EP), (England and Wales) Regulations (EPR) 2010 and as such the site will be subject to a permit issued and monitored by the Environment Agency. The usual statutory nuisance legislation in relationship to these matters as applied by the Council's Regulatory Services is of course still relevant.

The Council's Regulatory Services in response to the application has indicated that an odour management plan should be submitted which details all methods engaged and best practice to reduce odour and complaint response protocols. The installation appears to exceed 40,000 birds and as such the Environment Agency should be engaged for environmental permit

Pre-application advice given by the Council in relation to this proposal referred to the need for consideration to manure management as well as consideration to noise issues and the requirement for a noise impact assessment. Whilst the Environmental Statement in support of the application does refer to noise issues, detail is considered insufficient on this matter.

In relation to residential and amenity issues the application is considered insufficient in detail and thus not in accordance with Policy CS6 of the Shropshire Core Strategy, Policy MD2 of the SAMDev and the National Planning Policy Framework on this matter

Other matters

Defence Infrastructure Organisation, (MOD), have responded to the application indicating no objections and this is noted.

7.0 CONCLUSION

The proposal is for the erection of two free range poultry houses with feed bins and ancillary equipment for the housing of up to 64,000 egg laying birds on site. It is on the basis of this number of birds that this application has been considered.

The development is considered significant in scale and will have a significant impact on the local landscape and clearly meets the thresholds of EIA schedule 1 development.

It is considered that the application lacks sufficient detail on which basis to make a positive recommendation as it is considered the application lacks sufficient detail on many planning matters as outlined in this report.

As such the recommendation is one of refusal as the application falls well short of EIA Regulations 2017 and does not comply with Policies CS5, CS6, CS13, CS17 and CS18 of the Shropshire Core Strategy, Policies MD2, MD7b, MD12 and MD13 of the SAMDev and the National Planning Policy Framework.

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:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

CS1 - Strategic Approach

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

CS17 - Environmental Networks

CS18 - Sustainable Water Management

MD1 - Scale and Distribution of Development

MD2 - Sustainable Design

MD7B - General Management of Development in the Countryside

MD12 - Natural Environment

MD13 - Historic Environment

RELEVANT PLANNING HISTORY:

NS/03/01020/FUL Change of use of agricultural building to business for retail of saddlery, equestrian and animal equipment with associated parking provision WDN 6th November 2003

NS/03/01149/FUL Change of use of building to retail of saddlery, equestrian and animal equipment to include car parking area CONAPP 30th January 2004

NS/07/00474/FUL Proposed erection of agricultural building CONAPP 11th June 2007

NS/08/01541/FUL Proposed erection of a agricultural building for the housing of cattle CONAPP 13th October 2008

NS/84/00360/FUL Erection of an extension 30' x 45' to existing building for the storage of fertilizer. GRANT

NS/84/00361/FUL Erection of a beef rearing building (30' x 60') . GRANT

NS/87/00536/FUL Erection of cattle building (60' x 90'). GRANT

15/01323/FUL Change of use of agricultural land to a non permanent track for remote controlled cars (for specific events and club use); to include temporary car parking GRANT 3rd June 2015

15/01590/PMBPA Application for Prior Approval under Part3, Class MB of the Town & Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2014 for the Change of Use from Agricultural Use to Residential REN 24th June 2015

16/01380/PMBPA Application for prior approval under Part 3, Class Q of the Town & Country Planning (General Permitted Development) (England) Order 2015 for the change of use from agricultural to residential use PAR 2nd June 2016

16/03456/FUL Erection of stable block and construction of manege to include change of use of land to equestrian use GRANT 25th November 2016

16/03606/FUL Erection of an extension to existing Cattle Shed GRANT 26th September 2016

16/05685/PMBPA Application for prior approval under Part 3, Class Q of the Town & Country Planning (General Permitted Development) (England) Order 2015 for the change of use from agricultural to residential use PPPMBZ 13th March 2017

17/02125/FUL Erection of agricultural building GRANT 29th June 2017

17/03365/DIS Discharge of Conditions 3 (Ecology), 4 (Highways), 5 (Surface water drainage) relating to Planning Permission 16/03456/FUL for the erection of Stable Block and Construction of Manege to include change of use of land to equestrian use. DISAPP 8th November 2018

17/03366/DIS Discharge of Conditions 3 (Landscaping), 4 (External roofing materials) and 5 (Surface water drainage) relating to Planning Permission 17/02125/FUL for the erection of Agricultural Building DISPAR 3rd October 2017

PREAPP/17/00591 Construction of a 32,000 bird free range layer shed, feed bins, ancillary equipment and alterations to access PREAIP 18th December 2017

18/02972/FUL Change of use of agricultural land to a track for remote controlled cars (for specific events and club use) to include car parking GRANT 17th August 2018

18/04465/FUL Erection of free range poultry laying unit (32,000 birds) with 3No. feed bins and ancillary equipment; alterations to existing access GRANT 18th March 2019

19/01978/DIS Discharge of Condition 3 (Landscaping) and 4 (Passing places) relating to Planning Permission 18/04465/FUL DISAPP 24th June 2019

PREAPP/20/00130 Proposed 2no. 24,000 free range bird poultry units PREAIP 21st May 2020

20/05194/FUL Application under Section 73A of the Town and Country Planning Act 1990 for the installation of two 75kW biomass boilers GRANT 9th February 2021

21/03061/FUL Erection of two free range poultry houses with feed bins and ancillary equipment

WDN 22nd September 2021

21/05985/EIA Construction of two free range poultry houses with feed bins and ancillary equipment PDE

NS/02/00709/MIN Use of two existing portal frame buildings for cardboard waste recycling enterprise NOBJ 3rd September 2002

NS/93/00242/PN PRIOR NOTIFICATION FOR THE ERECTION OF A BARN FOR THE STORAGE OF HAY AND STRAW (23.07 M X 15.38M X 6.76M HIGH) PDDEV 26th March 1993

NS/95/00254/FUL ERECTION OF A SILAGE BUILDING APPROXIMATELY 36.57M X 24.38M X 8.38M HIGH CONAPP 27th February 1995

NS/97/00259/FUL ERECTION OF A STABLE BLOCK (15.240 M X 4.725 M X 3.500 M HIGH) CONAPP 15th July 1997

NS/97/00260/FUL ERECTION OF A CONSERVATORY ON REAR ELEVATION OF EXISTING DWELLING CONAPP 21st April 1997

NS/97/00261/FUL ERECTION OF AN EXTENSION TO EXISTING CATTLE BUILDING CONAPP 15th July 1997

Appeal

15/02302/REF Application for Prior Approval under Part3, Class MB of the Town & Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2014 for the Change of Use from Agricultural Use to Residential DISMIS 23rd November 2015

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) Councillor Ed Potter

Local Member Cllr Simon Jones
