



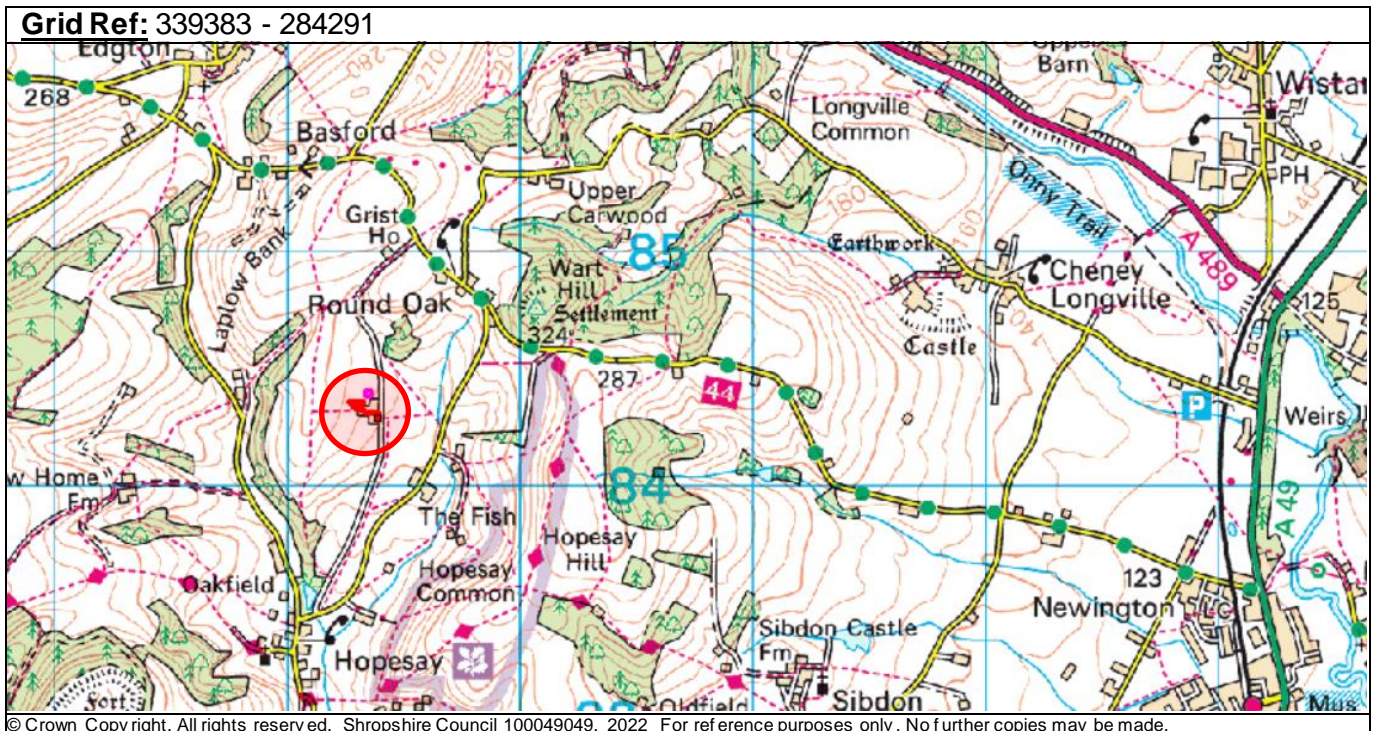
Committee and date
Southern Planning Committee
28th June 2022

Development Management Report

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

Summary of Application

Application Number: 21/01630/FUL	Parish:	Hopesay
Proposal: Use of existing building to house milking parlour and associated equipment, plus formation of collecting yard and dirty water lagoon (part retrospective)		
Site Address: Tadymoor Farm, Hopesay, Craven Arms, Shropshire, SY7 8HF		
Applicant: Mr William Grant		
Case Officer: Trystan Williams	email: trystan.williams@shropshire.gov.uk	



Recommendation: Grant permission subject to the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

- 1.1 In July 2020 the Council resolved not to object to or request further details of a proposal to erect under 'permitted development' rights a new, freestanding agricultural building then stated to be required for storing fodder, straw and machinery (ref. 20/02434/AGR). Subsequently the applicant completed the building to different dimensions and has used it as a milking parlour, thereby negating the permitted development rights (which apply neither retrospectively nor to livestock housing within 400 metres of 'protected' dwellings unconnected with the farm). Also currently unauthorised are an associated feed bin, concrete collecting yard and, in an adjacent field, an earth-bunded lagoon for holding dirty water washed out from the milking parlour before it is spread as fertilizer on surrounding fields. This application therefore seeks to regularise these works by obtaining full planning permission retrospectively, following an investigation by Council enforcement officers.
- 1.2 The milking parlour has a 348m² footprint (including a canopy along the north side and a lean-to to the south) and a 6.8-metre high ridgeline, whereas the previously agreed storage building would have measured 588m² and 4.5 metres to the ridge. It is open to the north, whilst the other sides have concrete panel plinth walls with dark 'Juniper' green box profile steel cladding above and over the roof.
- 1.3 The feed bin stands approximately 7.9 metres tall in the angle between the building's main south wall and lean-to.
- 1.4 The collecting yard covers a 510m² area to the building's east. It is surfaced with concrete setts angled towards a trench drain, and enclosed with low shuttered concrete walls.
- 1.5 The dirty water lagoon is a 5.25-metre deep, 700m² rounded rectangle-shaped and clay-lined basin cut into the natural slope of the field on its west side and retained to the east by a compacted bund planted with grass and trees.
- 1.6 The application also includes the following supporting information:
- Design and Access Statement (DAS; dated March 2021)
 - Nutrient Management Review (dated 26th July 2021)
 - Nutrient Management Plan for 2021 (and which supersedes a previous plan of the holding showing areas for spreading dirty water from the lagoon)
 - SCAIL (Simple Calculation of Atmospheric Impact Limits) modelling output data (received July 2021), plus supplementary spreadsheet (received December 2021)
 - Ammonia Emissions Impact Assessment (dated February 2022)
 - Specifications for a geosynthetic cover proposed to be installed over the lagoon
 - Lichen assessment of nearby ancient woodlands (dated 28th March 2022)
 - Further details from ecological consultant re. ammonia assessment (dated 4th May 2022)
- 1.7 According to the DAS the farm now operates a "low input/low output" New Zealand-

style system whereby cows are milked for 10 months/year and normally kept outdoors rather than being winter-housed. Previously the focus was on rearing replacement heifers for a milking herd based elsewhere.

2.0 SITE LOCATION/DESCRIPTION

2.1 Tadymoor Farm is located in open countryside 1km northeast of Hopesay village, and in the Shropshire Hills Area of Outstanding Natural Beauty (AONB). The applicants now rent c470 acres (190 hectares) of surrounding land. The milking parlour and collecting yard are situated against the hedge- and tree-lined north boundary of a field immediately west of and rising above the earlier farmstead, whose buildings are mainly large, modern, portal-framed and metal-clad. The lagoon is located in an adjacent field to the northeast. Public footpaths run alongside an access track to the southeast, along the southern edge of the field containing the milking parlour, and north-south along a ridge approximately 140 metres to the west.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 For the following reasons, and in accordance with the Council's adopted 'Scheme of Delegation', the application is referred to the Planning Committee for determination:

- The Council's Local Member requested referral, based on material planning reasons, within 21 days of being notified of the application.
- The officer recommendation of approval is contrary to an objection from the Parish Council, and Shropshire Council's Planning and Development Services Manager, in consultation with the Planning Committee Chairman/Local Member, agrees that material planning considerations have been raised and warrant consideration by the full committee.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee comments

4.1.1 Shropshire Hills AONB Partnership:

20/4/21 – comment:

No site-specific comments. However, this indicates neither objection nor lack of objection to the application, and in reaching its decision the local planning authority must still satisfy its legal duty to take into account the purposes of the AONB designation, planning policies concerned with protecting the landscape, plus the statutory AONB Management Plan. The Partnership also reserves the right to make a further, detailed response.

4.1.2 11/5/21 – comment:

The Partnership wishes to express the following concerns.

4.1.3 The retrospective nature of the application is unfortunate in that it involves significant changes compared to the 2020 permitted development scheme, although it does at least mean the effects of the development can be observed in reality. Whilst the additional impacts arise more from the change in the use of the land and associated traffic rather than from the revisions to the building itself, the concrete yard is a substantial additional feature. Meanwhile considerable local objection indicates that the impacts must be considered very carefully.

- 4.1.4 Keeping cattle outdoors year-round is claimed to be environmentally friendly, but this depends greatly on the stocking density, and often the condition of the land in winter ends up necessitating indoor housing to ensure appropriate animal welfare. The land here is hilly and not typical dairy country, so the new system may work the land unsustainably hard and risks environmental damage through compaction and loss of soil structure and quality, both from the livestock and regular passage of vehicles. Combined with periods of very low vegetation cover, this will increase water run-off from a catchment headwater area where the land would ideally retain rainwater for longer to reduce flooding downstream. Increased water run-off could also increase soil erosion, nutrient run-off and diffuse pollution.
- 4.1.5 The liquid stored in the lagoon does contain slurry, albeit diluted. In fact, this dilution makes the slurry even more mobile when spread, so it cannot be correct to say there is no pollution risk. Nearby watercourses are highly sensitive as they hold freshwater crayfish and are tributaries of the River Clun, part of which is designated a Special Area of Conservation (SAC).
- 4.1.6 If planning permission were to be granted conditions may be needed to mitigate the impacts.
- 4.1.7 Shropshire Council Flood and Water Management – comment:
Any permission given should include an ‘informative’ encouraging sustainable surface water drainage systems (SuDS).
- 4.1.8 Shropshire Council Regulatory Services – no objection:
No comments
- 4.1.9 Shropshire Council Highways Development Control – no objection:
The application effectively seeks to regularise the use of a milking parlour where a storage building was previously approved.
- 4.1.10 The approach roads are rural in nature and typically of single vehicle width. The milking parlour will generate some additional vehicle movements which could potentially have some effect on other traffic. However, the movements anticipated in the submitted DAS are relatively minor and would not be amiss in this rural location, bearing in mind established agricultural traffic. It is therefore considered that the development is unlikely to result in severe harm to the highway network such that an objection on highway safety grounds could be sustained.
- 4.1.11 Any permission given should include informatives advising on the need to keep public highways clear of mud and surface water run-off from the development, and on the requisite licence for any works on or abutting highway land.
- 4.1.12 Hopesay Parish Council – objection:
- This application arises from an enforcement case following a deliberate attempt to circumvent the planning system through the previous application for a storage building. Granting planning permission retrospectively, without any penalties or conditions requiring a financial contribution towards upkeep of local infrastructure, will undermine the integrity of the planning process and trust in Shropshire Council, besides setting a precedent elsewhere.

- The submitted information on traffic movements for feed deliveries etc. is at odds with local residents' observations on the ground. Without improved maintenance, the narrow and poorly maintained local roads cannot sustain the additional traffic actually associated with this industrial milking parlour, as is already apparent from damage to tarmac, verges and embankments.
- Increased traffic also endangers pedestrians and disturbs local residents, whilst the damage to road verges and their flora detracts from the area's visual amenity.
- The development is highly visible from common land on Hopesay Hill and other high vantage points.
- Intensive overgrazing will result in soil erosion, loss of habitats on the farm, increased run-off and pollution of watercourses.
- Shropshire Council's stance on potential financial implications of refusing planning permission or imposing conditions (as set out in Paragraph 9.1 of the officer's report on the previous application) puts undue pressure on officers and committees to approve applications which would otherwise be refused, as it grants a charter to applicants who can afford to appeal.

4.1.13 Shropshire Fire and Rescue Service – comment:

Refer to standing advice, especially regarding Building Regulations requirements for access for emergency fire service vehicles and water supplies for firefighting equipment.

4.1.14 Shropshire Council Ecology:

10/6/21 – objection:

Without additional information on potential effects of increased nutrient emissions and sedimentation on designated ecological sites nearby, the application should be refused as the development may cause an offence under relevant legislation and conflict with planning policy.

4.1.15 The site lies upstream of the River Clun SAC, so objective scientific evidence must be submitted to demonstrate that the development will not increase loads of phosphate, nitrogen and sediment entering the designated area. Damage could potentially be caused by construction activity or operation of the development disturbing watercourses, releasing reactive nitrogen (e.g. nitrogen oxides, nitrates or ammonia) or phosphates into water or air (via the slurry lagoon, changes in fertilizer/manure-spreading as a result of the development etc.), or by discharging other pollutants (by disturbing contaminated land, chemical spillages etc).

4.1.16 Where adverse impacts are possible, proposed avoidance and mitigation measures must be detailed.

4.1.17 Aerial emissions of ammonia and deposition of nitrogen could potentially also affect other designated sites including the Long Mynd, Onny River and Flat Coppice Sites of Special Scientific Interest (SSSIs), plus several ancient woodlands. Therefore, detailed emissions modelling by a professional air quality expert is required.

4.1.18 The Environment Agency should be consulted on the dirty water lagoon. The DAS says the dirty water will be applied when necessary, during suitable ground

conditions and using a dribble bar rather than being spread in the air, but a detailed manure management plan may be required.

- 4.1.19 The current and proposed herd sizes should be clarified.
- 4.1.20 Since the lagoon has already been formed, surveying a nearby pond for great crested newts would be pointless. However, appropriate habitat enhancements could be secured by condition.
- 4.1.21 13/4/22 – objection:
Without additional information on potential ammonia impacts on ancient woodland, the application should be refused.
- 4.1.22 Assessments of ammonia emissions and potential impacts on lichen in nearby ancient woodlands have now been submitted, along with proposals to cover the slurry lagoon. It is agreed that those woods actually surveyed exhibit effects of nitrogen pollution, and hence that lichens/bryophytes are unlikely to be an important part of their ecosystems' integrity. A critical level for ammonia of $3\mu\text{g NH}_3/\text{m}^3$ can therefore be applied in those locations.
- 4.1.23 Tables 5.1 and 5.2 of the ammonia emissions report detail the percentage changes in ammonia concentrations in the air at sensitive sites by comparing the previous (pre-development) and current (with the milking parlour and slurry lagoon in situ) scenarios. It is noted that the percentage changes in the *surveyed* woodlands are all at or below 1% of their critical level for ammonia. However, there remains uncertainty about potential effects at some other woodland sites where the increase in ammonia is modelled as being above 1% of a lower, $1\mu\text{g}/\text{m}^3$ pre-development critical level which would apply if lichens/bryophytes *are* important.
- 4.1.24 Table 5.4 compares pre- and post-development critical *loads* for ammonia (i.e. quantities deposited from the air to the ground), and lists twelve sites where the increase is modelled as exceeding 1% of the critical load (ranging from 1.4 to 3.9%).
- 4.1.25 Ammonia emissions and nitrogen deposition increases are confirmed as being below 1% of the critical level and load at the two nearby SSSIs. However, since the modelled impacts at some of the ancient woodland sites are not low enough to be 'screened out', further assessment of whether the development will lead to their deterioration or loss of must be undertaken using appropriate expertise.
- 4.1.26 The current ammonia report also presents a third scenario including mitigation in the form of reduced nitrogen application to the land as required under a sensitive farming initiative which the applicant apparently intends to enter. Whilst any such reduction would be welcomed, the Council cannot rely on this measure because a condition restricting nitrogen application across the wider farm holding may not meet the 'tests' in planning legislation of being relevant to the development, reasonable and enforceable.
- 4.1.27 In terms of the River Clun SAC, potential impacts would in fact be avoided through other legislation already applicable to the slurry store and associated manure

management.

4.1.28 27/5/22 – comment:

No objection is now raised, subject to conditions being imposed to mitigate effects of ammonia on sensitive ecological sites.

4.1.29 In response to previous comments, the applicant's ecological consultant has now completed further assessment on the impacts of ammonia emissions. This confirms that even after the development, the relevant critical level of $3\mu\text{g}/\text{m}^3$ will not be exceeded at any of the surrounding ancient woodland sites. Therefore, deterioration or loss of such woodland through increased ammonia concentrations is unlikely.

4.1.30 In terms of critical *loads*, the report justifies using a value of $15\text{kgN}/\text{ha}/\text{yr}$ based on the characteristics of the woodland surveyed and extrapolating this out to other nearby woodlands. Based on the evidence presented this is not disputed. The development is predicted to give rise at four sites to increased nitrogen deposition slightly above 1% of this critical load (ranging from 1.1% to 1.6%), and an increase of 2.6% of the critical load at Cabin Wood.

4.1.31 A report by Natural England (ref. NC2310) states:

Th[e] lack of an overall relationship between species richness and N[itrogen] deposition makes it difficult to assume a dose-response relationship to broad-scale N deposition in woodlands over a national gradient. However, it seems likely that the edges of the woodlands are likely [sic] to be more strongly affected by a nearby pollutant source such as an intensive livestock farm (Kirby et al., 20051).

4.1.32 Therefore, to counteract edge effects on Cabin Wood, as recommended in the ecological consultant's latest report, a 10-metre wide buffer of new tree planting should be established along the eastern edge of the woodland and fenced off from the adjacent pastureland. Besides intercepting ammonia emissions from the development itself, this would also buffer the ancient woodland from fertilizer applications.

4.1.33 Additionally, the previously submitted SCAIL modelling report and Nutrient Management Review detail other measures which are already being implemented on the farm under the new dairy system, including a reduction in mineral fertilizer application (as the change to dairy farming means it is no longer necessary to grow silage crops as were required to support the previous heifer-rearing operation). However, these would occur anyway, even if concerns about ammonia emissions had not been raised. Furthermore, whilst they will further reduce impacts on Cabin Wood and other ancient woodlands, as explained previously they cannot be relied upon to make the development acceptable in planning terms.

4.1.34 Therefore, conditions are necessary to secure precise details and implementation of the woodland buffer zone, plus installation of the proposed slurry lagoon cover within three months.

4.2.35 6/6/22 – comment:

Habitats Regulations Assessment completed (see Appendix 2).

4.1.36 Environment Agency – comment:

Despite the site being upstream of the River Clun SAC, this application does not fit the criteria for bespoke comments by the Environment Agency, whose officers therefore do not propose to review the submitted nutrient management/manure-spreading plans.

4.1.37 Neither is this site regulated under the Environmental Permitting (England and Wales) Regulations 2016 (as amended). However, in terms of other agricultural regulations, the following guidance on slurry lagoons/storage and manure management may assist.

4.1.38 The dirty water lagoon should be constructed in line with the Silage, Slurry and Agricultural Fuel Oil Regulations 2010. Every farmer must comply with these regulations if they build a new store or substantially alter one built before 1st September 1991. The regulations aim to prevent water pollution from stores of digestate, silage, slurry and agricultural fuel oil. They set out requirements for the design, construction and maintenance of new, substantially reconstructed or substantially enlarged facilities for storing those substances. Storage facilities should be sited at least 10 metres from inland freshwater or coastal water, and should have a 20-year life expectancy.

4.1.39 In England and Wales farmers must give the Environment Agency 14 days' notice before they use new or substantially altered stores. The applicant could be advised of this by way of an informative on any planning permission given.

4.1.40 Further advice is contained within the DEFRA Code of Good Agricultural Practice for farmers, growers and land managers.

4.1.41 In relation to subsequently controlling the impacts of manure management on water, the Environment Agency is responsible for enforcing rules relating to The Reduction and Prevention of Agricultural Diffuse Pollution (England) Regulations 2018. If they are breached, the Agency would take enforcement action in line with its published Enforcement and Sanctions guidance.

4.1.42 The above Regulations are implemented under The Farming Rules for Water. All farmers and land managers are required to follow a set of rules to minimise or prevent water pollution. The new rules cover assessing pollution risks before applying manures, storing manures, preventing erosion of soils, and managing livestock.

4.1.43 It should also be noted that the Environment Agency does actively monitor and advise upon land use management practices during site visits undertaken by field teams.

4.2 **Public comments**

4.2.1 Fourteen separate households object on the following grounds:

- The application is in fact entirely retrospective, and a deliberate attempt to

circumvent the planning process. The building does not accord with the previously approved plans and has been used from the outset as a milking parlour, whilst the grain silo, collecting yard and dirty water lagoon are also already complete and unauthorised.

- Although the building's footprint is smaller than agreed previously, the silo, yard and lagoon make the overall development area much larger.
- The collecting yard is a vast concrete eyesore in the AONB, whilst the industrial-scale milking parlour and grain silo are also clearly visible from many public vantage points including the adjacent footpaths and Hopesay Hill.
- Bad weather and animal welfare requirements are likely to result in another proposal for a large cattle shed, as no suitable facility currently appears to exist.
- It will take many years for the few tree saplings planted in front of the building and around the dirty water lagoon to provide an effective screen.
- The applicant originally told the Parish Council he would only have 140 cows on the farm. The DAS gives a figure of 200, and it is understood this may be expanded to 250.
- Intensively grazing large numbers of cattle outdoors year-round degrades the fields, whose steep gradient and poor/shallow soil have traditionally only been regarded as suitable for sheep and, periodically, a small beef herd. The National Trust has previously had to reduce its stocking rates on nearby Hopesay Hill.
- Run-off or leakage of slurry/dirty water, together with diffuse pollution from fertilizer applied when fields are reseeded with grass crops, will increase levels of phosphates, nitrates and other nutrients entering the river system, thereby causing eutrophication, damaging wildlife and adversely affecting the River Clun SAC downstream. The application form itself says surface water will drain to a nearby watercourse.
- DEFRA mapping shows the whole of Tadymoor and surrounding land as an environmentally sensitive area. Arrangements for manure and nutrient management should therefore be clarified, along with plans to minimise run-off and soil erosion.
- The Environment Agency should have been notified of the dirty water lagoon's construction in advance and carried out an assessment.
- The herd size already exceeds that used in sizing calculations for the lagoon.
- Numbers of trees planted around the lagoon should be clarified. They are unlikely to offset the methane produced by a herd of 200+ cows, or the carbon dioxide emissions involved in constructing the building and collecting yard.
- Fields previously managed specifically to promote wildflowers are now completely denuded of vegetation.
- Although the application form says no trees or hedges will be removed, this is only because they were removed in advance, during the bird nesting season.
- Any impact on local watercourses could exacerbate flooding in Hopesay village.
- A large milk tanker visits the farm every other day, together with at least four bulk feed lorries some weeks. These are too heavy for the narrow and poorly maintained local roads, including the bridge at Aston-on-Clun. Construction traffic has also damaged verges, and, despite recent repairs, the road surface at the junction of the lane leading up to the farm.
- On the location plan the lane to the farm is shown as being outside the applicant's control, yet conversely the DAS says it *is* privately owned, and a sign at the bottom says "no public right of way". This lane was historically the main

thoroughfare from Hopesay to Grist House and Round Oak, and a 2011 application to register it as a public right of way remains unresolved.

- Electric fencing has been placed across public footpaths through the farm.
- The applicant's attempts to prevent public access may have prevented the site notice from being seen.
- The development will not provide any new jobs in the area.
- If permission *is* granted, conditions should ban any further new buildings or conversions of existing ones, and restrict the number of cows kept on the holding to an absolute maximum of 200.

4.2.2 Nineteen separate households including the landowner, plus the National Farmers Union County Advisor, support the application on the following grounds:

- Applying for planning permission retrospectively is perfectly legitimate and within the law.
- The development has diversified an established business and created two full-time jobs for local people.
- The applicant and his family are young and local and have successfully operated a similar venture elsewhere in Shropshire.
- There is a strong economic need to support British produce post-Brexit.
- Relative to the size of the holding the farming system adopted has low inputs and a low stocking density, and the cows are kept outside except when milking, so it is far from intensive or 'industrial'.
- The land at Tadymoor is not well suited to arable farming so has always had animal stock. The applicant has in fact kept and overwintered 200+ youngstock and over 150 dry cows here since 2017. The only difference is that 120 of them are now milked on-site. The other animals present are calves.
- The dairy industry is highly regulated by other legislation and authorities whose roles the planning system should not duplicate.
- Reports of animal welfare concerns have been investigated and proved unfounded.
- The scheme accords with objectives in the AONB Management Plan for a living, working landscape with a sustainable economy and communities.
- More traditional approaches to hill farming are no longer viable.
- The milking parlour is proportionate to the pre-existing farmstead, and little more prominent given its dark green cladding and position against a hedge.
- Being cut into a slope and planted with trees, the slurry lagoon is barely visible in the landscape. At close range it resembles a pond.
- A 15-metre length of hedgerow was damaged but has since been replanted.
- The rotational grazing system is environmentally friendly in that it uses little purchased feed from elsewhere (thereby minimising the effects of growing, harvesting, processing and transportation) and has lower ammonia and carbon emissions than housing cows year-round.
- The low stocking numbers and minimal yard space mean slurry and dirty water can be accommodated easily and spread lightly over the more than adequate acreage.
- Slurry/water from the milking parlour and concrete yard is contained by bunds/walls, piped to the lagoon and spread at the appropriate time back onto the fields where the cows were kept in the first place. Increased pollution is therefore highly unlikely.

- The tenant and landowner have much other land managed under Natural England stewardship, and in conjunction with the Shropshire Wildlife Trust and AONB Partnership officers, some of it as wildflower meadows. Comparatively little requires regular reseeded.
- Now that the development is complete, vehicle movements are limited to a small milk truck every other day, plus nine loads of bulk feed spread over ten months of the year (there is a seasonal need for feed when calves are born, just as there is when sheep lamb).
- The wider area has numerous other working farms whose vehicles use the same road network.
- The access drive is a restricted byway whose usage is defined by highway legislation. The farm has a right to use it.

5.0 THE MAIN ISSUES

- Procedural matters
- Principle and scale of development
- Design and landscape impact
- Drainage and ecology
- Access, highway safety and rights of way
- Other matters

6.0 OFFICER APPRAISAL

6.1 Procedural matters

6.1.1 Section 73A of the Town and Country Planning Act 1990 provides a legal basis for applying for unauthorised development retrospectively. This application must therefore be considered objectively against planning policy, like any other, and the applicant's motives for deviating from the previously agreed scheme are irrelevant.

6.1.2 A site notice was displayed at the entrance into the farmyard, where it was visible from a junction of three public footpaths. This met national legislation and the Council's own adopted procedures on publicising planning applications.

6.2 Principle and scale of development

6.2.1 The Council's Core Strategy Policy CS5 and Site Allocations and Management of Development (SAMDev) Plan Policy MD7b facilitate agricultural development in the countryside provided its scale and form are consistent with its intended purpose and the nature of the enterprise concerned, its siting relates closely to existing farm buildings where possible, and there would be no unacceptable impacts on environmental quality or residential amenity.

6.2.2 In this case the development is immediately alongside and associated with a long-established farmstead at the centre of a sizeable holding. Although the nature of the operation has shifted from cattle-rearing to dairy farming under the current tenancy, and this has undoubtedly been facilitated by the new milking parlour for which full planning permission is required, it does not in fact amount to a material change of use away from agriculture. Meanwhile the herd size, stocking densities and the system by which the cattle are grazed on the surrounding fields are essentially commercial decisions subject to other legislation and largely outside of planning control (indeed, as noted in the public comments, the applicant

outwintered cattle previously).

6.2.3 The milking parlour and other associated development are simply and functionally designed and not unusually large in relation to the earlier buildings or the overall holding size. The acceptability or otherwise of any further development, such as a cattle shed, would need to be assessed if and when an application is submitted, and can cannot be predetermined at this stage.

6.2.4 For these reasons officers find the development acceptable in principle, subject to a condition reinforcing its agricultural use. Environmental and other impacts will be considered below.

6.3 **Design and landscape impact**

6.3.1 NPPF Paragraph 176 requires great weight to be given to conserving landscape quality and character in AONBs.

6.3.2 The milking parlour's additional height compared to the previously approved storage barn is acknowledged, as is the fact that it is discernible in views from the surrounding hills and clearly visible from the footpath to the south. However, it is seen in the context of the earlier adjacent buildings, and generally against a backdrop of higher ground and/or partially filtered/obscured by the landform or established trees and hedges. Its dark green cladding is visually recessive, whilst the recent new planting (which can be reinforced and protected through a landscaping condition) will further soften its appearance in time. Moreover, although functional looking it is fairly typical of modern agricultural development throughout the countryside. As such officers do not consider that it is unduly prominent or otherwise demonstrably harms the essentially open character or scenic beauty of the wider landscape, and it is also noted that the AONB Partnership does not object on visual amenity grounds per se.

6.3.3 Similarly the collecting yard, lying between the milking parlour and earlier buildings, and again being concealed by vegetation or the topography from most aspects, does not significantly detract from the wider landscape. It will also weather over time. Meanwhile the lagoon is already barely discernible except at very close range.

6.4 **Drainage and ecology**

6.4.1 The River Clun SAC downstream is designated for its population of rare freshwater pearl mussels. It is currently in an unfavourable condition, largely due to excess nutrients and sedimentation in the river. In particular, additional nitrogen, phosphate and sedimentation is likely to worsen the SAC's condition. Under the Habitats Regulations, the Council cannot legally grant planning permission without certainty that the development concerned would not have adverse effects.

6.4.2 As summarised above and explained further in the HRA attached as Appendix 2, the Council's Ecology Team is now satisfied that the SAC's integrity would not be compromised. Whilst leakage from the slurry lagoon and spreading of dirty water on the fields have been identified as pathways by which the SAC could *potentially* be affected, because these aspects are already tightly regulated and enforced by the Environment Agency through other legislation this will provide effective

mitigation.

- 6.4.3 Following the submission of further, detailed information the Ecology Team also accepts that, subject to conditions to ensure installation of a cover over the slurry lagoon and completion of further tree planting along the edge of nearby Cabin Wood (on land controlled by the applicant), the development would have no significant effects on the integrity of any ancient woodland sites.
- 6.4.4 The vast majority of pre-existing trees and hedges around the site appear to have been retained, whilst the new planting will afford some ecological enhancements besides helping to screen the development. Although the scheme is unlikely to be carbon-neutral, this is not in fact a policy requirement even of the physical works which are subject to planning control.
- 6.4.5 As can be seen from the supporting comments, objectors' concerns about loss of wildflowers and soil erosion are disputed by the landowner. In any event it is reiterated that the planning system cannot control the way in which the fields are grazed, planted, harvested or rotated.
- 6.4.6 Surface water run-off from the development should not be significant given that the milking parlour's roof area is smaller than the previously approved storage building, and that rainfall over the yard is collected and held in the dirty water lagoon, which in that respect effectively acts as a large attenuation pond. The Flood and Water Management Team's lack of objection is also emphasised.
- 6.5 **Access, highway safety and rights of way**
- 6.5.1 Whilst noting objectors' concerns about increased traffic, officers give greater weight to the Highways Development Control Team's professional advice that other local farms or the fallback of alternative farming systems here could conceivably generate broadly similar vehicle movements, and that refusing planning permission on highway safety grounds would probably not be sustained in the event of an appeal. It is also acknowledged that construction traffic may have had some localised impacts on the road network, but this would have been temporary and difficult to attribute categorically to this particular development.
- 6.5.2 The ownership, use and maintenance of the unadopted lane up to Tadymoor Farm is essentially a civil matter. Meanwhile the unresolved application to register it as a public right of way, together with any instances of current footpaths being obstructed, are also separate issues subject to other legislation and processes. Appropriate informatives are recommended, however.
- 6.6 **Other matters**
- 6.6.1 Being over 300 metres from the closest neighbouring dwelling, and with other farm buildings in-between, the development is unlikely to significantly affect residential amenity in terms of noise, odour or appearing overbearing.
- 6.6.2 The Fire and Rescue Service's standing advice is again addressed under separate legislation.
- 6.6.3 Finally, with reference to the Parish Council's comments, the paragraph concerning

financial implications in the officer's report on the previous application (and repeated below) is standard wording merely highlighting the potential financial costs involved in the event of an appeal against the Council's decision on any planning application. However, it does not tie members of the Planning Committee to any particular course of action.

7.0 CONCLUSION

7.1 The development is acceptable in principle as it relates spatially and functionally to a long-established farm which, fundamentally, is diversifying into new agricultural markets, and whose activities and management are generally regulated under separate legislation. The building is taller than that approved previously in the same position, and the development footprint greater overall, but in the context of the established farmstead and surrounding topography, and with appropriate landscaping, officers feel it does not appear isolated or otherwise unduly prominent within the landscape. Potential ecological impacts can be adequately mitigated through conditions and other legislation, and on balance highway safety impacts are not considered so severe as to warrant refusal. Moreover, no significant or direct impacts on residential amenity, surface water drainage or public rights of way are anticipated either. Overall, therefore, the application is considered to accord with the principal determining criteria of the relevant development plan policies and approval is recommended, subject to conditions to reinforce critical aspects.

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

8.1 Risk management

8.1.1 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

8.2.1 Article 8 of the First Protocol of the European Convention on Human Rights gives the right to respect for private and family life, whilst 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.

8.2.2 Article 1 also requires that the desires of landowners must be balanced against the impact of development upon nationally important features and on residents.

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

8.3 Equalities

8.3.1 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

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

10.0 BACKGROUND

Relevant Planning Policies:

Central Government Guidance:

National Planning Policy Framework

Shropshire Local Development Framework:

Core Strategy Policies:

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

CS7 - Communications and Transport

CS13 - Economic Development, Enterprise and Employment

CS17 - Environmental Networks

CS18 - Sustainable Water Management

SAMDev Plan Policies:

MD2 - Sustainable Design

MD7B - General Management of Development in the Countryside

MD12 - Natural Environment

Relevant Planning History:

20/02434/AGR – Erection of agricultural storage building (prior approval not required; July 2020)

11.0 ADDITIONAL INFORMATION

View details online: [21/01630/FUL | Use of existing building to house milking parlour and associated equipment, plus formation of collecting yard and dirty water lagoon \(part retrospective\) | Tadymor Farm Hopesay Craven Arms Shropshire SY7 8HF](#)

List of Background Papers: Application documents available on Council website
Cabinet Member (Portfolio Holder): Cllr Ed Potter
Local Members: Cllr David Evans Cllr Hilary Luff
Appendices: Appendix 1 – Conditions and Informatives Appendix 2 – Habitats Regulations Assessment

APPENDIX 1 – CONDITIONS AND INFORMATIVES

STANDARD CONDITIONS

1. The development shall be carried out in strict accordance with the approved plans and drawings listed below.

Reason: To define the consent and otherwise ensure a satisfactory development in accordance with Policies CS5, CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

CONDITIONS RELEVANT FOR LIFETIME OF DEVELOPMENT

2. Within three months of the date of this permission, precise details of all existing trees and hedges on and adjacent to the application site, to include numbers/densities, species and planting sizes of trees planted on the areas shaded green on the approved block plan, shall be submitted to the local planning authority for agreement. Any of these trees or plants which, within a period of five years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: To ensure that the external appearance of the development is satisfactory, and to help safeguard the visual amenity of the Shropshire Hills Area of Outstanding Natural Beauty, in accordance with Policies CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

3. Within three months of the date of this permission, precise details of additional tree planting and associated fencing as indicated in Section 4 of the submitted document entitled 'Response to letter from SC Ecology dated 12/4/22, requesting additional information to assess the impacts of ammonia on ancient woodland at Tadymoor Farm, Hopesay, Craven Arms' (by Kate Thorn (Churton Ecology) and dated 4th May 2022) shall be submitted to the local planning authority for approval. The scheme shall include:
 - a) A location plan and fencing specification for a buffer zone at least 10 metres wide along the eastern edge of Cabin Wood, where tree planting will take place and from which livestock and fertilizer applications will be excluded
 - b) A planting plan including a schedule of tree species, planting sizes and proposed numbers/densities
 - c) A written specification for establishment of planting and aftercare.

The planting shall be carried out in accordance with the approved details within the first tree planting season following the date of this permission. Any of these trees or plants which, within a period of five years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of the same size and species.

Reason: To mitigate impacts on sensitive environmental receptors, in accordance with Policy CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

4. Within three months of the date of this permission, the dirty water lagoon hereby permitted shall be fitted with a sealed floating cover as specified in details received by the local planning authority on 1st March 2022. This cover shall be maintained in an effective state and in accordance with manufacturer's guidelines for the lifetime of the development.

Reason: To mitigate impacts on sensitive environmental receptors, in accordance with Policy CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

5. The development hereby permitted shall only be used for the purposes of agriculture as defined by Section 336(1) of the Town and Country Planning Act 1990, and for no other purpose whatsoever.

Reason: To prevent the use of the building for purposes which might be inappropriate in the open countryside, in accordance with Policy CS5 of the Shropshire Local Development Framework Adopted Core Strategy.

INFORMATIVES

1. Your attention is drawn specifically to the conditions above which require the Local Planning Authority's prior approval of further details. In accordance with Article 27 of the Town and Country Planning (Development Management Procedure) Order 2015, a fee (currently £116) is payable to the Local Planning Authority for each request to discharge conditions. Requests are to be made on forms available from www.planningportal.gov.uk or from the Local Planning Authority.

Where conditions require the submission of details for approval before development commences or proceeds, at least 21 days' notice is required in order to allow proper consideration to be given.

Failure to discharge conditions at the relevant stages will result in a contravention of the terms of this permission. Any commencement of works may be unlawful and the Local Planning Authority may consequently take enforcement action.

2. The dirty water lagoon should be constructed in line with the Silage, Slurry and Agricultural Fuel Oil Regulations 2010, and appropriate notice given to the Environment Agency. Further advice is available at:
 - https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/290135/LIT_7783_9e2698.pdf; and
 - <http://www.defra.gov.uk/publications/files/pb13558-cogap-090202.pdf>.
3. The Environment Agency is responsible for enforcing rules relating to The Reduction and Prevention of Agricultural Diffuse Pollution (England) Regulations 2018. If they are breached, the Agency would take enforcement action in line with its published Enforcement and Sanctions guidance.

The above Regulations are implemented under The Farming Rules for Water. All farmers and land managers are required to follow a set of rules to minimise or prevent

water pollution. The new rules cover assessing pollution risks before applying manures, storing manures, preventing erosion of soils, and managing livestock. Full details can be found at <https://www.gov.uk/guidance/rules-for-farmers-and-land-managers-to-prevent-water-pollution>.

It should also be noted that the Environment Agency does actively monitor and advise upon land use management practices during site visits undertaken by field teams.

4. In the interests of fire safety, you should refer to the information contained within the Shropshire Fire and Rescue Service document entitled 'Fire Safety Guidance for Commercial and Domestic Planning Applications', available at <https://www.shropshirefire.gov.uk/safety-at-work/planning-applications>.
5. This planning permission does not authorise the obstruction, realignment, reduction in width, resurfacing or other alteration of any public right of way, temporarily or otherwise. Before carrying out any such operation you should consult Shropshire Council's Outdoor Recreation Team and obtain any closure order or further consents which may be required.
6. This consent does not convey any right of vehicular access over any public right of way, and it is a road traffic offence to drive a motor vehicle on a public footpath, bridleway or restricted byway without lawful authority. Any person intending to use a right of way for vehicular access should first satisfy themselves that such a right exists, if necessary by taking legal advice.
7. This planning permission does not authorise any right of passage over, or the obstruction, realignment, reduction in width, resurfacing or other alteration of, any private driveway or right of access. Before carrying out any such operation you should first satisfy yourself that you have the necessary consent from the landowner(s) and any other affected party, if necessary by taking legal advice.
8. In order to control/attenuate surface water at source and avoid increasing the risk of flooding at the site or elsewhere, the use of sustainable drainage systems (SuDS) such as soakaways designed in accordance with BRE Digest 365, water butts, rainwater harvesting, permeable paving, attenuation and grey water recycling should be considered.
9. In arriving at this decision the 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.

APPENDIX 2 – HABITATS REGULATIONS ASSESSMENT (HRA)

1.0 Introduction

The proposal described below has the potential to adversely affect a designated site of international importance for nature conservation. The likelihood and significance of these potential effects must be investigated.

This is a record of the Habitats Regulations Assessment (HRA) of ‘*Use of existing building to house milking parlour and associated equipment, plus formation of collecting yard and dirty water lagoon (part retrospective) - Tadymor Farm, Hopesay, Craven Arms, SY7 8HF (21/01630/FUL)*’ project, undertaken by Shropshire Council as the Local Planning Authority. This HRA is required by Regulation 61 of the Conservation of Habitats and Species Regulations 2017 (as amended), before the council, as the ‘competent authority’ under the Regulations, can grant planning permission for the project. In accordance with Government policy, the assessment is also made in relation to sites listed under the 1971 Ramsar convention.

Date of completion for the HRA:

06/06/2022

HRA completed by:

Suzanne Wykes, Specialist Practitioner (Ecology)

2.0 HRA Stage 1 – Screening

This stage of the process aims to identify the likely impacts of a project upon an international site, either alone or in combination with other plans and projects, and to consider if the impacts are likely to be significant. Following recent case law (*People Over Wind v Coillte Teoranta C-323/17*), any proposed mitigation measures that are not an integral part of the project but are to avoid or reduce adverse impacts are not taken into account in Stage 1. If such measures are required, then they will be considered in stage 2, Appropriate Assessment.

2.1 Table 1: Details of project

Name of plan or project and description	21/01630/FUL <i>Use of existing building to house milking parlour and associated equipment, plus formation of collecting yard and dirty water lagoon (part retrospective) - Tadymor Farm, Hopesay, Craven Arms, SY7 8HF</i>
Name and description of Natura 2000 sites	The River Clun is a tributary of the River Teme, which is the second largest tributary of the River Severn, draining a hilly, predominantly rural catchment of Silurian and Devonian rocks. The site includes only the lower reaches of the river and extends upstream from the confluence with the Teme to Broadward Bridge near Marlow. This section of the river holds a population of the freshwater pearl mussel <i>Margaritifera margaritifera</i> , one of the few lowland populations left in the UK. The freshwater pearl mussel larvae attach to the gills of salmon and trout before eventually detaching and settling in the riverbed gravels where they grow to adulthood.

Is the project or plan directly connected with or necessary to the management of the site (provide details)?	No
Are there any other projects or plans that together with the project or plan being assessed could affect the site (provide details)?	Yes, multiple other planning applications for new housing units and additional overnight (tourist) accommodation are currently pending consideration in the catchment of the river Clun SAC all of which generate additional nutrient in the catchment.

2.2 Table 2: Screening for likelihood of significant effects

European designated site	Distance from project site	Site vulnerability	Potential Effect Pathways	Screening conclusion
River Clun SAC	7.6km	Soluble Reaction Phosphorous - target exceeded Total Oxidised Nitrogen - target exceeded	<ul style="list-style-type: none"> Increased nutrients derived from diffuse water pollution in River Clun catchment arising from slurry lagoon and dirty water spreading. 	Screened in as proposal could have a likely significant effect through increased nutrients entering the River Clun.

2.3 Screening Conclusion

Following Stage 1 screening, Shropshire Council has concluded that the proposed development, in the absence of mitigation, is likely to have a significant effect on the River Clun SAC.

3.0 HRA Stage 2 Appropriate Assessment

3.1 Predicted Water Quality Impacts

Freshwater Pearl Mussels are sensitive to changes in water quality, with nutrient enrichment impacting long term adult survival and juvenile recruitment. Recent water quality monitoring shows nutrient concentrations within the River Clun SAC to be exceeding the targets for Soluble Reaction Phosphorous (SRP) and Total Oxidised Nitrogen (TON). Any nutrients entering the catchment upstream of the locations which are exceeding their nutrient targets, will make their way downstream and have the potential to further add to the current exceedance.

Any additional P, N and sediment entering the SAC is likely to make its condition worse. P and N can be discharged to the environment via diffuse agricultural pollution run-off.

3.2 Counteracting (mitigation) measures

The slurry lagoon and associated dirty water management will be regulated by the Environment Agency under the Water Resources (Control of Pollution) (Silage, Slurry and Agricultural Fuel Oil) (England) Regulations 2010 (SSAFO) and the Reduction and Prevention of Agricultural Diffuse Pollution (England) Regulations 2018 respectively, therefore through existing regulation, impacts to the River Clun SAC will be avoided.

As a retrospective application, the Environment Agency have confirmed that the slurry lagoon constructed complies with the SSAFO Regulations.

3.3 Assessment of Adverse Effects Alone

There will be no adverse effect on site integrity alone.

3.4 Assessment of Adverse Effects in-combination

There will be no adverse effect on site integrity in-combination with any other proposals as residual effects will be absent.

3.5 Securing of mitigation measures

No specific conditions are appropriate as all mitigation is secured, managed and enforced by another competent authority under the Habitats Regulations and the LPA cannot duplicate existing mitigation already in place.

4.0 Final conclusions

Following Stage 1 screening, Shropshire Council concluded that the proposed development, in the absence of mitigation, is likely to have significant effects on the River Clun SAC through the listed pathways detailed in this HRA. Shropshire Council has carried out an Appropriate Assessment of the project, considering further information.

The Appropriate Assessment concludes that the proposed works under planning application reference *21/01630/FUL* will not adversely affect the integrity of the River Clun SAC, either alone or in-combination with other plans or projects.