

AGENDA ITEM



Committee and date

16th April 2024

Development Management Report

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

Summary of Application

<u>Application Number:</u> 23/04940/FUL	<u>Parish:</u>	Claverley
<u>Proposal:</u> Application under Section 73A of the Town and Country Planning Act 1990 for the erection of agricultural buildings and operational development (resubmission of application 23/01726/FUL)		
<u>Site Address:</u> Oak Farm Claverley Wolverhampton Shropshire WV5 7AE		
<u>Applicant:</u> Mr And Mrs Oakley		
<u>Case Officer:</u> Mike Davies	<u>email:</u>	mike.daves.planning@shropshire.gov.uk
<u>Grid Ref:</u> 378676 - 292824		



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

REPORT

1.0 THE PROPOSAL

- 1.1 This application is a retrospective application for structures connected to the agricultural use of the site. Planning permission is sought for the following forms of development detailed below.
- 1.2 **Livestock building / goat pen** - The building proposed will cover a footprint of 127 sqm. The building would be constructed with profile sheeting forming the shelter areas, with a central covered goat pen. The building is required to house the goats and sheep on site. The two shelters provide space for animals to be separated for birthing and quarantining animals as required in addition to a dedicated milking parlour.
- 1.3 **Implement store** - Retrospective consent is sought for an existing implement store as constructed adjacent to the holding's access gates. This building provides secure storage for implements and machinery stored on site. The building was constructed further to the grant of planning permission 18/00470/FUL, although the

building is larger than that previously approved and the applicant sought to regularise the situation through a part retrospective application under reference 20/01900/FUL. As can be seen on site, the building is currently fully utilised for agricultural purposes, needed to be sited where it is to allow access into the site and would be compromised in functional terms if it was any smaller.

1.4 **Shipping containers** - The applicant has sited three shipping containers on site to provide additional space for secure storage and processing of produce on site. The containers have been linked with a roof structure to provide small, covered yard areas in the space between the containers.

1.5 In addition to the above, planning permission is also sought for the following items:

- Retaining wall
- Increasing the width of the access
- Soakaway
- Associated hardstanding

2.0 SITE LOCATION/DESCRIPTION

2.1 The site falls within open Green Belt countryside to the south west of the village of Claverley. It is accessed from the C4261 via other C roads from either the B4176 to the north or the A458 to the south. The area is generally characterised by sporadic agricultural and residential development, however Claverley Cricket Ground occupies a plot directly to the south of the site. The site is an agricultural field which is mostly level, but undulates towards the north end creating a dip in the land. The perimeter is defined by mature native hedging containing some trees along the western boundary with the road. Access into the site is via a wide gate at the south west corner and a pedestrian gate at the north west corner where additional fencing across to the boundary hedging suggests that the access was previously wider.

2.2 The site is located approximately 700m to the south west of the village of Claverley and is known as Oak Farm. The site is accessed via a gated vehicular access located in the northwest corner of the site. Oak Farm is a registered small holding. Land directly to the east and across the road to the west is agricultural. Adjacent to the north is a small copse of trees and beyond this several residential properties comprising Sandford House, Sandford Lodge, Sandford Mews and The Gate House which are not visible from the site and are a minimum 85m away. The cricket pavilion to the south is approximately 240m from the site.

2.3 The site comprises approximately 1.57 ha of agricultural land which includes an area of grazing land, with a yard and storage located along the site's northern boundary.

3.0 PLANNING HISTORY

3.1 Planning Permission was granted in 2018 under 18/00470/FUL, for a single agricultural building on the site with a floor area of 36sqm. It was subsequently discovered that the building had a floor area of 60sqm and a retrospective planning

application was invited. The case officer had negotiated a reduced scheme and whilst the applicant agreed these reductions they chose to build the building to the original size.

- 3.2 Rather than submit a retrospective application as invited to, the applicant chose to submit an application to vary the approved plans condition rather than include it as part of this application and a separate report has been prepared in relation to this application. However, it is important to understand this proposal in the context of this application and along with the original application which was amended to the smaller building that was granted approval.
- 3.3 Since the initial application and construction of the building on site, subsequent applications have been required to be submitted in order to regularise the development that had taken place. These are detailed as follows:
- 3.4 Application number 20/01900/FUL
Works to include erection of gates at the site entrance, a concrete panel retaining wall, installation of a soakaway, excavations to level an area and lay it with hardcore, the siting of 3 shipping containers and the erection of an agricultural building (part retrospective). This application was refused.
- 3.5 Application number 20/01901/VAR
Variation of condition number 2 (approved plans) attached to planning permission reference 18/00470/FUL dated 15/08/2018 to allow an amended design of the original proposal | Land To The North Of Claverley Cricket Ground Claverley Wolverhampton Shropshire WV5 7AE. This application was refused.
- 3.6 Application number 21/02922/ENF
Appeal Against Without Planning Permission, the material change of use of the land to a mixed use of agricultural and for storage associated with non-agricultural commercial use, namely storage of vehicles and materials in association with the carrying on of other businesses. The enforcement notice was quashed following an appeal in February 2022.
- 3.7 Notwithstanding the above appeal being upheld against an enforcement notice, there is a further enforcement notice still in force relating to the agricultural use of the land. As a result of the other appeal the local planning authority invited an application to regularise the development on site, with it being for agricultural purposes only.
- 3.8 Application Number 23/01726/FUL
Application under Section 73A of the Town and Country Planning Act 1990 for the erection of agricultural buildings and operational development – Withdrawn. This application was withdrawn at the request of the Local Planning Authority following a site visit which revealed discrepancies between the development being applied for and the development that was on site.

3.9 As can be seen from the site history set out above the site, the applicant has often adopted the approach of undertaking work and then seeking approval retrospectively. Clearly, this approach has not been well received by the local community, however undertaking development without planning permission is not unlawful in itself it only becomes unlawful when an enforcement notice is served and to serve a notice it has to be expedient to do so. Therefore, it is important when considering the current planning application that previous misdemeanours are ignored and the decision is based solely on the planning merits of the application before the committee.

3.0 REASON FOR COMMITTEE/DELEGATED DETERMINATION OF APPLICATION

3.1 The Parish Council object to the proposals and the Ward member has requested that the application be considered by the Southern Planning Committee.

4.0 Community Representations

4.1 Consultee Comment

4.1.1 **Claverley Parish Council** - Objects to the **retrospective** planning application 23/01726/FUL on the grounds that it is inappropriate development in the Green Belt being disproportionate in scale to the agricultural activity capacity being performed on the site and the land holding. The application for the erection of agricultural buildings and operational development does not comply with permitted development Class B (developments of units under 5 Ha).
development is not permitted
B1. (c) *Within 25m of a public highway.*
(d) *Within 400m of protected buildings.*
B2. (f) *Within 5m of site boundary.*

The Parish Council would also make the following points and observations regarding the works included (and not included) comprising this application:

Erection of gates at the site entrance (Retrospective)

The original 5 bar wooden field gate, which was set back from the public highway for periodic access to the grass field, has been replaced by:-

- a) New gates 2.2 metre high, solid construction, higher than the adjacent sandstone wall are not in keeping in this countryside Green Belt setting.
- b) For safe ingress and egress to the site on a now daily basis with associated agricultural equipment onto a Class C highway with a 60 mph speed limit, the entrance gates should be repositioned at least 5m back from the road to prevent obstructing the highway, as has been done at the southern site entrance.

Concrete Panels

The concrete panels are out of keeping with the local environment and not essential for agricultural use of the site. Therefore, they represent inappropriate development in the Green Belt.

Installation of a soakaway (Retrospective)

SUDs consultee states drainage must conform with BRE Digest 365 percolation test. Since there are no plans supplied (or percolation test details to comply with BRE365) for any drainage constructed on the site with this or any previous application the application cannot confirm that drainage requirements have been met.

To comply with Building Regulations H2 Waste Water Treatment Systems and Cesspool .

Siting of a Drainage field :

The following are none conformities on this site.

1.27 (b) at least 50m from the point of abstraction of any groundwater supply.

(c) at least 15 M from any building.

1.29 No supply pipes or underground services other than those required by the disposal system itself should be located within the disposal area.

1.40 Drainage fields should be constructed using perforated pipe, laid in trenches of a uniform gradient which should be not steeper than 1:200.

1.41 Pipes should be laid on a 300mm layer of clean shingle or broken stone graded between 20mm and 50mm BS 6297:20

It can be seen from the photographs included with this submission that none of the above conditions have been complied with and since the soakaway is a named part of this application it is grounds for refusal.

Photo 1.

Twin 4" soil pipes un perforated laid directly onto the sub soil .

Water and electric services laid in same trench.

Adjacent to water supply borehole (within 10 M).

Soak away pipes laid under Hay Barn and Goat shed.

Photo 2.

Waste water pipe from a container connected to a soil pipe, unknown flow destination.

Photo 3.

Shows electric and water services with soak away pipes in corner of hard standing area adjacent to water supply borehole.

Photo 4.

Showing location of plastic bottle septic tank unknown use and connections (foul water or rain water) but within 50M of water supply bore hole.

Excavations to level an area and lay it with hardcore (Retrospective)

a) If the 538 square metres of hardstanding in planning application 18/00470/FUL was inappropriate development in the Green Belt (policy MD 7b) it follows that the current 1400 square metres on the northern boundary and the 600 square metres in the south west corner are also inappropriate and out of scale and proportion.

b) The site hardcore area exceeds 456 square metres so it contravenes Town and Country Planning Act 2015 part 6 Class B.3 (d).

Siting of 3 shipping containers (Retrospective)

The 3 containers are linked by a single roof forming a single permanent structure so require planning permission in the Green Belt. The requirement for this structure needs to be accessed combined with the several other structures as to the appropriate building area need for the level of agricultural activity possible on this 3.74 acre site.

Hay Barn (Retrospective)

Using the current stated goat numbers of 22 the hay feed requirements for a milking goat 6.5 lbs/ day and 2-4 lbs /day for other goats, which equates to 3-4% of body weight.

At an average of 5lbs hay /day or 3-4% of body weight, small round bale hay (4x4 = 400-600 lbs)

22 goats x 365 days x 5 lbs = 40,150lbs divided by 500lbs = a storage need of 80 bales of hay fed for 365 days.

Given normal grass growth for 6 months the hay barn would need to store 40 bales, or 71m³. The built Hay barn is 3 times the required size.

Goat pen /shelter/parlour (Retrospective)

The required size of building is dependent on the stocking capacity of the 3.74 acre site. The information provided quotes 0.17acre orchard, 2.93 acre grassland (the remaining 0.64 acre is presumed hard standing /chicken runs), Brown Rural quote a stocking rate of between 4-10 goats/sheep /acre to project the site can hold 30 goats. The Parish Council consulted its own members with agricultural experience (130 yrs) in the parish, other livestock farmers in the parish and local land agents the consensus being a stocking rate of 3-4 /acre as the normal limit if the grassland is used for grazing and mowing. A stocking rate of 10/acre would only be achieved with stubble turnips on grade 2 arable land which this site is not. The site is light sandy grade 3 soil a stocking rate of 10/acre is unrealistic consequently this will affect the required building area as the holding capacity of the site would be 9-12 goats/sheep.

Brown's stated space requirements

30 goats at 2.5 m/goat shed size 75m²

Local consensus stocking rate 3-4/acre 12 goats at 2.5 m/goat shed size 30m²

Actual shed size 15.16 x 7.27 = 110.20 m²

Even using Brown's maximum inflated figures the Goat shed is 32% out of scale and proportion for the site, or 73% using local consensus stocking rates .

Pig enclosure

No plans for a pig enclosure have been provided in this application.

The 3 bay concrete panel storage structure is not a pig enclosure as it has no roof to protect stock from the elements, is not secure as it is only three sided and has no water provision. The storage this structure provides is out of scale and proportion

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along with the 600 square meters of hard standing in the south west corner of the site (see photo's 5/6 with skip used for burning imported waste).

Brown's appraisal state that the pig pens are sited on a "previously a small yard" but in planning application 18/00470/FUL (Amended Site plan) it clearly shows this south west corner to be grass pasture. It is inappropriate development in the Green Belt, affects the openness of the rural area and the amenity of the adjacent cricket ground and should be removed.

Storage Unit (Retrospective)

Permission for a 6 x 6m building (18/00470/FUL) was granted as being in scale and proportion for the 3.74 acre site. The storage unit that was built was 10 x 6m, of a different style, included a chimney and is within 25m of the public highway. It is an illegal structure and should be removed to comply with Class B permitted development regulation B.1 (c) and 18/00470/FUL.

Omitted Details

Application does not include an accurate site plan /block plan. The Land Survey plan does not include: (see actual site plan attached)

The hard standing in the south west corner

5/6 goat shelters reducing the grazing area

Two caravans one with paved area and covered awning and foul drainage connection to what ?. (photo 7)

Flood lights mounted on 8 metre poles on 24/7.

No ecology assessment on potential increased night predation of bats has been provided.

Companies House List Mr Gavin Oakley and Mrs Sonja Oakley as Director and secretary respectively for

Komo Services West Midlands,

Komo Lettings (West Midlands) Ltd,

Both with the service address as Oak Farm, Sandford Claverley WV5 7AE which building are these non agricultural businesses operating from? (see Doc 1-4)

Financial viability

At the end of the financial year the site needs to generate an income for Mrs Oakley and half of Mr Oakley's as stated by Emery Planning.

There are also the setup costs to be written off:

1400 approx. square metres hardcore 300 mm deep 840t at £17/ t £14,280

Listed machinery £58,200-£69,300

3 shipping containers £10,000

12 hives @ £450 £5,400

Bees £1,800

Concrete 150mm (Brown Rural areas 297 square metres) £6177

With the buildings erected, concrete panels, land purchase price, electricity supply, water borehole, fencing, retaining walls and gate, livestock purchase, costs will come

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to well in excess of a hundred thousand to be financed by the output of 12 hives, 15 goats 18 chickens off 3.74 acres.

This is not a financially sound solely agricultural business proposal for this size of site.

Information for consideration on scale and proportion

Oak Farm 5 hives, honey processing in an 8 x 20 foot container, existing local apiary has run 100 hives from a 8 x 16 foot wooden shed.

Tractor on site has turf tyres which are more associated with amenity business use than agricultural use.

Large agricultural holdings would struggle to justify a mini digger unless there was an alternative income stream use .

A small agricultural holding would use a tractor with a forend loader rather than a Telescopic telehandler as it is limited to only lifting material. On a site of this size a telehandler is extremely extravagant.

Machinery storage realistic appraisal

MACHINERY/IMPLEMENT	Machinery Requirement	Shed Requirement or Hard standing	Brown's Space Requirement	Realistic Space Requirement
Telescopic handler (Bobcat TL34.65HF Agri)	Contractor/Hire	No	13.50 m2	
Tractor (Kubota L380)	Own equipment	Yes	11.50 m2	11.50 m2
Bobcat Mini-digger	Contractor/Hire	No	9.00 m2	
Honda Fourtrac Quad	Own equipment	Yes	4.50 m2	4.5 m2
Quad trailer	Own equipment	Hard standing	6.50 m2	
Multipurpose Trailer	Own equipment	Hard standing	20.00 m2	
Chain Harrows	Own equipment	Hard standing	6.00 m2	
Stock trailer	Own equipment	Hard standing	15.00 m2	
Muck spreader	Contractor/Hire	No	13.00 m2	
Flail mower	Contractor/Hire	No	12.50 m2	
Mower/Conditioner	Contractor/Hire	No	15.50 m2	
Hay turner/rowing in machine	Own equipment	Hard standing	7.50 m2	
Baler	Contractor/Hire	No	15.80 m2	
Total			150.30 m2	16 m2

Claverley Parish Council contends that the scale and proportion of building works are disproportionate for the size of the site's agricultural output capacity and that it represents inappropriate development in the Green Belt . This application should be refused, the true building requirement assessed, a new application submitted and structures deemed disproportionate/illegal should be removed.

- 4.1.2 **Regulatory Services** - The submitted noise and odour assessments indicated no adverse impacts arising from the development. Therefore no further comments or conditions required.
- 4.1.3 **Highway Authority** - The planning statement, and drawings show the build and land particulars however there is a lack of highway details as they do not indicate the transportation proposals, no visibility measurements have been provided, along with the required dimensions for a vehicular parking arrangements with a safe access, egress for stock carrying vehicles and their associated trailers and transporters.

Therefore, Shropshire Council (SC) highways authority cannot evaluate this application, as the highways proposals do not provide enough detail for this resubmission.

It is recommended the drawings are re-submitted to accordingly demonstrate the highways and transport arrangements Along with annotated visibility splay measurements and dimensions. This information is required to fulfil the highways details for an unclassified highway within a national speed limit zone and are commensurate with the prevailing local highway conditions.

- 4.1.4 **County Ecologist** - Recommends the inclusion of informatives in relation to Nesting Birds, Wildlife protection and Lighting.
- 4.1.5 **Local Lead Flood Authority** - This is a minor development and the site is not located in a SuDs consultation area. It is considered that the proposals are unlikely to significantly increase the risk of flooding and according an informative should be attached to any approval granted.
- 4.1.6 **SC Landscape** - The site is set within an existing framework of mature trees along its northern and eastern boundaries, and a hedgebank along the western boundary with Pound Street. The nearest landscape designations are the Grade II Listed Registered Parks and Gardens at Ludstone Hall approximately 1.7km to the northeast, with the Shropshire Hills National Landscape [AONB] over 9km to the southwest of the site; given the scale of the proposals and the intervening vegetation and landform between the site and Ludstone Hall, and the separation distance with the Shropshire Hills, it is unlikely that the proposals will result in adverse effects upon either of these landscapes.

Visual receptors are likely to include those travelling by vehicle or cycle on Pound Street that passes to the west of the proposed buildings, and walkers on the two Public Rights of Way in the vicinity of the site, on Digbeth Lane [ref BOAT 0118/UN8/2] approximately 0.6km north, and on the footpath [ref Footpath 0118/23/1] approximately 0.4km to the southeast. We are aware from several public comments that the proposals may be visible from Claverley Cricket Club

approximately 0.2km south of the site. There are unlikely to be any views from nearby residential properties due to the intervening built form and mature field boundary vegetation. Road users on the minor road travelling between Farmcote and Claverley may have a glimpsed view of the proposed buildings, partially screened by the existing roadside hedge along Pound Street. Walkers on the two Public Rights of Way in the vicinity of the site, the byway on Digbeth Lane [0118/UN8/2] to the north, and the footpath [0118/23/1] to the southeast, will have views effectively screened by mature hedgerow along the field boundaries and landform.

In conclusion, it would appear that any adverse landscape and visual effects are likely to be limited; given the rural setting of the proposed buildings these are unlikely to be significant.

However, any potential adverse effects on recreational users at Calverley Cricket Club could be mitigated by a length of hedgerow planted along the southern boundary of the landholding, adjacent to the cricket club. We would recommend that should the application be approved, a pre-commencement condition be imposed requiring the submission of the appropriate landscape details and aftercare plan.

Provision should also be made to ensure that no retained tree would be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped, without the written approval of the local planning authority. Any tree work approved should be carried out in line with BS 3998:2010 (Recommendations for Tree Works).

4.1.7 **Environment Agency** - The application is not EIA and we would not be a statutory consultee. It doesn't appear to be a site that we would expect to make bespoke comment upon. The following is provided to help clarify.

Given the apparent scale and nature of the proposed agricultural operation, the proposed activity doesn't appear to be a site that we would regulate under Environmental Permitting Regulations (EPR). We would not therefore comment on any emissions/impacts to land, air and water. You may therefore wish to consult with your Public Protection team who may comment on aspects of the operation in this regard.

According to our records, the site falls within Source Protection Zone 3 (SPZ) and not SPZ1 as you have indicated. While I note the Parish Council has drawn attention to a borehole near/within the site (which would require its own protection zone), we do not hold records of private boreholes and you may wish to seek confirmation of this from the relevant Local Authority department along with any measures to protect that potential supply.

The plans do not appear to include any details of washdown or slurry storage/disposal measures. If a slurry lagoon or tank were proposed, we would refer you to our standard comments on SSAFO regulations (within our agricultural guidance note).

On this basis, the EA do not wish to provide bespoke comment.

4.1.8 **Severn Trent Water** - No comments received.

4.2 Public Comments

4.2.1 38 objections have been received in relation to the proposals the reasons can be summarised as follows:

- Unlawful Development and disregard for planning laws
- Contrary to Planning Policy
- Concern at lack of enforcement and site inspections
- Site should be cleared and reinstated
- Description of development misleading and should include 'retrospective'
- Use blights residents lives
- Attempt to build residential property by stealth
- Light Pollution
- Noise and Disturbance
- Barking dogs
- Odour
- Over intensive use of site
- Over development
- Inappropriate development in the Green Belt
- No very special circumstances demonstrated
- Use could contaminated local borehole supply
- Other land leased by applicant is irrelevant and should be disregarded
- Consultants not agricultural experts and their statements should be disregarded
- Bees have swarmed and caused cricket match to be abandoned on adjacent field
- The Agricultural and Planning statements contain insufficient data or expert agriculture/farming opinion
- The current agricultural use is not viable
- The submitted plans do not show the location of the soakaway
- No details of how slurry from livestock will be collected or stored on site
- The applicant continues to use the site as the correspondence address for non-agricultural businesses which operate from the site
- None of the work undertaken constitutes permitted development
- Anti Social Behaviour
- No Environmental Permit for the site has been applied for by the applicant which is required by law
- Unacceptable impact on Cricket Club
- This is not sustainable development
- Site gates out of character with rural location
- Does not comply with BRE Digest 365 or Building Regulations H2

- The three shipping containers on site linked by a roof needs to be considered against the over provision of buildings and plant & machinery for a small holding of 3.74 hectares as it is inappropriate
- Deliberate concealment of development
- Local Infrastructure inadequate to deal with additional vehicular traffic
- Development disproportionate to scale of agricultural operation
- Concrete fencing on site out of character with rural location
- Highway safety issues due to vehicles emerging from the site and not having sufficient visibility to see other road users
- No details of septic tank location

4.2.2 No supporting representations have been received.

5.0 THE MAIN ISSUES

Principle of development
Siting, scale and design of structure
Visual impact and landscaping
Residential Amenity
Highway safety
Ecology
Drainage
Other Issues

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 Section 38(6) of the Planning and Compensation Act 2004 requires that determinations be made in accordance with the development plan unless material considerations indicate otherwise. The development plan for Shropshire consists of the Shropshire Core Strategy (Adopted 2011) and the Shropshire Sites and Allocations Management of Development Plan (Adopted 2016). The emerging Shropshire Local Plan is also now at an advanced stage and can be afforded moderate weight in the decision-making process. In addition, the Sustainable Design Supplementary Planning Document (Adopted July 2011) is also a relevant consideration.

6.1.2 The National Planning Policy Framework updated in December 2023 and the accompanying National Planning Policy Guidance are also relevant considerations in relation to the determination of this application.

6.1.3 Green Belt policies CS5, MD6 and section 13 of the National Planning Policy Framework require that the openness, permanence and visual amenity of land within its boundaries is preserved. Inappropriate development is, by definition, harmful to the Green Belt and support is not given to such proposals except in very special circumstances. New buildings within the Green Belt are considered

inappropriate unless they are needed for agriculture or forestry (amongst other criteria). Essential facilities should be genuinely required for uses of land which preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.

- 6.1.4 Para 88 of the NPPF states that planning decisions should enable sustainable growth and expansion of businesses in rural areas including new buildings along with the development and diversification of agricultural and other land-based rural businesses. Para 89 goes on to state that *'decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements.'*
- 6.1.5 Para 152 of the NPPF states *'Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.'* However, at para 154 it lists a number of where the construction of new buildings is not considered inappropriate and this includes agricultural structures.
- 6.1.6 Turning to development plan policies CS5 reinforces national planning policy in relation to the Green Belt at a local level, stating that new development in the Green Belt will be strictly controlled. The policy goes on to state *'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.'* It then goes on to identify particular types of development which will be supported in principle including
- Small-scale new economic development diversifying the rural economy, including farm diversification schemes
 - dwellings to house agricultural workers and other affordable housing / accommodation to meet a local need
 - Agricultural related development
 - The retention and appropriate expansion of an existing established business
- 6.1.7 Policy MD6 Green Belt states that *'In addition to meeting the general requirements that apply in the countryside as set out in Policies CS5 and MD7a and MD7b, development proposed in the Green Belt must be able to demonstrate that it does not conflict with the purposes of the Green Belt.'* Clearly any new building will have an impact on the openness of the Green Belt which is a primary consideration when determining proposals which impact the Green Belt, however in this context there are also exceptions which are considered appropriate development in the Green Belt and these include agricultural buildings. Therefore, in this case the issue primarily revolves around the quantum of development and whether it is necessary to serve this small holding and the other land the applicants manage.
- 6.1.8 Policy MD7b General Management of Development in the Countryside states agricultural development will be permitted where it can be demonstrated that the development is:

- a. of a size/ scale and type which is consistent with its required agricultural purpose and the nature of the agricultural enterprise or business that it is intended to serve;
- b. Well designed and located in line with CS6 and MD2 and where possible, sited so that it is functionally and physically closely related to existing farm buildings;
- and,
- c. There will be no unacceptable impacts on environmental quality and existing residential amenity.

The policy accepts the appropriateness of agricultural development in the countryside and as such the main consideration comes down to whether the quantum of development is appropriate in relation to the scale of the agricultural operation.

6.1.9 Policy CS13 Economic Development, Enterprise and Employment recognises the importance of the rural economy in the county and the importance of farming for food production as well as supporting rural enterprise and diversification of the economy, in particular areas of economic activity associated with agricultural and the promotion of local food and supply chains.

6.1.1 SAMDev Policy S3.3(i) Wider Area Policies permits appropriate uses such as 0 agriculture in the Countryside and Green Belt.

6.1.1 The fact that the site is situated in the Green Belt has been the focus of much of the 1 objections along with applicants' willingness to undertake development without planning permission and then apply retrospectively. From a planning policy perspective, the use of the site for agricultural purposes is compatible with its Green Belt status so there is no in principle objection to the use itself. Clearly, the structures erected on site do impinge on the openness of the Green Belt however this needs to be weighed in the balance against the needs of the agricultural operation.

6.2 Siting, scale and design of structure

6.2.1 The site is located to the southwest of the village of Claverley in an area of open countryside designated as Green Belt on the adopted proposals map. The agricultural buildings and structures which are the subject of this application are situated in a hollow which has been excavated out by the applicant.

6.2.2 The main issue in terms of this development is its scale and whether it is justified in relation to the size of the agricultural operation. The applicant has chosen to use this site as their base for servicing the other agricultural holdings they control which amount to an additional 6.88 hectares on top of this site which covers 1.57hectares. Therefore, the total landholding covers 8.45 hectares.

6.2.3 Permitted Development rights are allocated to agricultural holdings of 5 hectares and above. However, in this case as the landholding is fragmented the individual

landholding are not large enough on benefit from permitted development rights and therefore planning permission is required for these proposals.

6.2.4 The application is supported by an agricultural appraisal undertaken by Brown Rural Surveyors which justifies the quantum of development based on the total landholding and it is considered that this is a robust report. Therefore, it is considered that the quantum of development has been properly justified in this instance.

6.3 Visual impact and landscaping

6.3.1 The site sits in a depression on the edge of Claverley Cricket Club and is well screened in general from outside of the site. Therefore, its visual impact in the landscape is not overly intrusive. Historical aerial photographs indicate that this depression appears to have been excavated since the applicant occupied the site and it has been laid with a hardstanding.

6.3.2 The Council's Landscape Consultant has suggested that the planting of a hedgerow should be conditioned as this would allow the site to be further screened from view from the adjoining cricket club to the south.

6.4 Residential Amenity

6.4.1 The site is located in open countryside to the south of Claverley and is used for agricultural purposes, which is considered to be an appropriate use in this context. Animal husbandry is an important part of the operation and as such this has the potential to give rise to disturbance through odour and noise. At present there are goats, sheep and chickens on site, with the intention to introduce a small number of pigs, however these are considered to be situated far enough away from residential properties to not result in any significant impact on the amenities of neighbours in terms of noise or odour.

6.4.2 An odour and noise report were submitted in support of the application and these concluded that there was no adverse impact on residential amenity. Regulatory Services have reviewed these reports and concur with their findings.

6.4.3 The floodlighting of the site has been raised as a concern by neighbours. There has been no application for floodlighting and no details are contained within this application. Following a meeting with the agent this information has been requested. It is considered that via the imposition of appropriate conditions requiring the installation of cowling to control light spillage and an hours condition restricting the use of the lighting that this element can be adequately controlled to make it acceptable.

6.4.4 The issue of Bees swarming on the adjacent cricket pitch is not a planning consideration and not something that can be controlled by the planning system. Bees clearly play an important part in the ecosystem and on occasions when they do swarm this can be frightening and potentially problematic. However, it is understood

that the applicant has since moved the beehives on site away from the boundary with the neighbouring cricket club.

6.5 Highway Safety

6.5.1 Access to the site is from Pound Street. There is a gated entrance to the site which is set back which allows a vehicle to pull off the highway and turnaround.

6.6 Ecology

6.6.1 The County Ecologist has raised no objections to the proposals as the site is intensively grazed by goats and as such has little value in terms of biodiversity. There are also several hives on site each housing a colony of bees which will assist in the pollination of wild flowers and other plants which will contribute positively to biodiversity.

6.7 Drainage

6.7.1 The site sits in an evacuated hollow and as such is below the ground level of the surrounding land. The site is within flood zone one and is not considered to be susceptible to flooding as there are no nearby watercourses. Hardstanding has been installed across part of the site which will increase surface water run-off however the LLFA do not consider this to be a major issue in the context of this location.

6.7.2 Comments were also received about the potential for the use to contaminate local boreholes. Both the EA and STW have been consulted on the application and have raised no concerns.

6.8 Other Issues

6.8.1 Several other non-material planning considerations have been raised which are dealt with below.

6.8.2 As the site is situated within the Green Belt it has been suggested by objectors that 'Very Special Circumstances' have not been demonstrated. However, as the site is in agricultural use and the development related to this there is no need to demonstrate 'VSC' as the use itself is in conformity with national and local planning policy. The issue that needs to be addressed is demonstrating that the development is required to support the agricultural operation and to this end the applicant has submitted a report from Brown Rural Surveyors in justification of the proposals. The case put forward to justify the development is considered to be robust based on the evidence provided.

6.8.3 The applicant's willingness to undertake development without planning permission on the site has also been the focus of much attention from objectors. However, undertaking development without the relevant planning permission is not unlawful in itself. It only becomes unlawful where an enforcement notice fails to be complied with. Taking enforcement action is a discretionary power of the Local Planning Authority and there needs to be clear justification for doing so as well as it being expedient to use these powers. Clearly, any development undertaken without the

prerequisite planning approvals is done so at the developers own risk, however the fact they do not have the necessary permissions in advance does not in itself justify the use of enforcement powers as a retrospective proposal needs to be considered in exactly the same way as prospective scheme. A developer should not be disadvantaged just because they have undertaken development without planning permission and the application needs to be considered against planning policy and on its material planning merits.

- 6.8.3 It has been suggested by objectors that 'Other land leased by the applicant is irrelevant and should be disregarded'. Clearly, the size of an agricultural holding has a direct correlation to how much built form is required to service the landholding. This approach is borne out by the differing permitted development rights allocated to larger and smaller agricultural enterprises. The fact that the applicant's landholding is not all in a single land parcel is not a material planning consideration and it needs to be considered in the round in terms of what structures are required to enable the agricultural operation to work efficiently and effectively. This needs to then be properly justified and the report by Brown Rural Surveyors does this.
- 6.8.4 Animal husbandry is an important part of this agricultural operation and their welfare considerations play an important part in dictating how much development is required to provide the necessary facilities to meet welfare standards.
- 6.8.5 The fact that separate named businesses namely Komo Services West Midlands and Komo Lettings (West Midlands) Ltd use the site has their registered address is not a planning consideration. Using the site as a registered address does not mean the business operates from there and it would only become a consideration if the businesses were causing harm as a result of their operations.
- 6.8.6 Two touring caravans have been stationed on site to provide welfare facilities for workers. However, given the existing structures on site it is not considered that the retention of these can be justified and as such any permission granted should be conditional on these two caravans being removed from site.
- 6.8.7 Allegations have also been made around breaches of other legislation namely environmental permitting and building control matters. Government guidance is extremely clear on such matters that the respective legislation should be used to control such matters and that planning decision should be concerned with controlling planning issues only and not intrude into other areas.

7.0 CONCLUSION

- 7.1 The use of the site for agricultural purposes is compliant with the NPPF and Development Plan policies in principle. Therefore, the main consideration is the quantum of development on site and whether this has been justified in the context of the Green Belt. A report by an agricultural consultant has been submitted to justify the development and it is considered that this robustly justifies the development on site, despite the differing views expressed by objectors and the Parish Council.

- 7.2 A significant concern expressed by objectors and the Parish Council is that the development of the site is a prelude to the future residential occupation of the site by the applicant. Whilst a significant amount of development has been undertaken on the site by the applicant without the benefit of planning permission and this appears to some to have served the applicant well. Undertaking development without the relevant planning permission is not in itself unlawful, however it does bring with it a significant risk to the applicant in that unauthorised development can be subject to enforcement action should the local planning authority deem it expedient and appropriate to take action to remedy any resultant harm.
- 7.3 In this particular case development has taken place in the Green Belt which has impacted its openness. However, the development is all related to the agricultural use of the land and has been fully justified by a supporting Agricultural Appraisal of the operation by Brown Rural Chartered Surveyors. The use of the site in connection with agriculture is supported by national and local planning policy and is an appropriate use in this location. It is acknowledged that there is a clear concern about further additional development and what this might lead to in the future, however the local planning authority cannot speculate on what might happen and can only consider the application currently before it. It therefore needs to assess whether the proposals are compliant with the development plan and if it considers it does whether other material planning considerations outweigh this. The residential occupation of the site would require a separate planning permission and the Local Planning Authority would then need to take a view on the appropriateness of such a proposal should it ever materialise.
- 7.4 Having regard to the above it is considered that the development has been properly justified and as such it is recommended that approval be granted subject to appropriate conditions.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

There are two principal risks associated with this recommendation as follows:

- As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.
- The decision may be challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore

they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be made a) promptly and b) in any event not later than six weeks after the grounds to make the claim first arose.

Both of these risks need to be balanced against the risk of not proceeding to determine the application. In this scenario there is also a right of appeal against non-determination for application for which costs can also be awarded.

8.2 Human Rights

Article 8 gives the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community.

First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents.

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

8.3 Equalities

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in Planning Committee members' minds under section 70(2) of the Town and Country Planning Act 1990.

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:

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West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

RELEVANT PLANNING HISTORY:

18/00470/FUL Erection of an agricultural shed GRANT 15th August 2018

20/01900/FUL Works to include erection of gates at the site entrance, a concrete panel retaining wall, installation of a soakaway, excavations to level an area and lay it with hardcore, the siting of 3 shipping containers and the erection of an agricultural building (part retrospective) REFUSE 3rd September 2020

20/01901/VAR Variation of condition number 2 (approved plans) attached to planning permission reference 18/00470/FUL dated 15/08/2018 to allow an amended design of the original proposal REFUSE 2nd September 2020

23/01726/FUL Application under Section 73A of the Town and Country Planning Act 1990 for the erection of agricultural buildings and operational development WDN 20th September 2023

23/04940/FUL Application under Section 73A of the Town and Country Planning Act 1990 for the erection of agricultural buildings and operational development (resubmission of application 23/01726/FUL) PDE

Appeal

21/02922/ENF Appeal Against Without Planning Permission, the material change of use of the land to a mixed use of agricultural and for storage associated with non-agricultural commercial use, namely storage of vehicles and materials in association with the carrying on of other businesses. ALLOW 8th February 2022

11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=S46I7LTDLHN00>

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
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Cabinet Member (Portfolio Holder) - Councillor Chris Schofield
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Local Member

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Cllr Colin Taylor

Appendices

APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

1. The development shall be carried out strictly in accordance with the approved plans, drawings and documents as listed in Schedule 1 below.

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

2. All caravans shall be removed from site within 2 months of date of this planning permission.

Reason: The caravans are an inappropriate form of development in the Green Belt and as such are contrary to Policies CS5 of the Shropshire Core Strategy and Policies MD6 of the SAMDev Plan.

3. A scheme for the cowling of the floodlights to prevent light spillage shall be submitted for approval to the local planning authority within 2 months of the date of this permission. The approved scheme shall then be implemented within 2 months following approval by the local planning authority and retained in perpetuity.

Reason: In the interests of residential amenity.

4. The floodlighting shall not be used outside of the hours of 07.00 to 20.00 daily.

Reason: In the interests of residential amenity.

5. Full details of both hard and soft landscape works (in accordance with Shropshire Council Natural Environment Development Guidance Note 7 'Trees and Development') shall be submitted to and approved in writing by the local planning authority within 2 months of the date of this permission. The landscape works shall be carried out in full compliance with the approved plan, schedule and time scales. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall upon written notification from the local planning authority be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscape in accordance with the approved designs.

Informatives

1. In arriving at this decision Shropshire Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework, paragraph 38.

2. A sustainable drainage scheme for the disposal of surface water from the development should be designed and constructed in accordance with the Councils SUDS Handbook which is available in the Related documents section on the councils website at:

<https://shropshire.gov.uk/drainage-and-flooding/development-responsibility-and-maintenance/sustainable-drainage-systems-handbook/Preference> should be given to drainage measures which allow rainwater to soakaway naturally.

Connection of new surface water drainage systems to existing drains / sewers should only be undertaken as a last resort, if infiltration techniques are not achievable.

Any proposed drainage system should follow the drainage hierarchy, with preference given to the use of soakaways. Soakaways should be designed in accordance with BRE Digest 365.

Connection of new surface water drainage systems to existing drains / sewers should only be undertaken as a last resort, if it can be demonstrated that infiltration techniques are not achievable.

Where a positive drainage connection is proposed, the rate of discharge from the site should be restricted to an appropriate rate as set out in the SuDS Handbook.

3. Nesting birds

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

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

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

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

[Netting of trees or hedges to prevent birds from nesting should be avoided by appropriate planning of work. See guidance at <https://cieem.net/cieem-and-rspb-advise-against-netting-on-hedges-and-trees/>.]

[If during construction birds gain access to [any of] the building[s] and begin nesting, work must cease until the young birds have fledged.]

4. General site informative for wildlife protection

Widespread reptiles (adder, slow worm, common lizard and grass snake) are protected under the Wildlife and Countryside Act 1981 (as amended) from killing, injury and trade. Widespread amphibians (common toad, common frog, smooth newt and palmate newt) are protected from trade. The European hedgehog is a Species of Principal Importance under section 41 of the Natural Environment and Rural Communities Act 2006. Reasonable precautions should be taken during works to ensure that these species are not harmed.

The following procedures should be adopted to reduce the chance of killing or injuring small animals, including reptiles, amphibians and hedgehogs.

If piles of rubble, logs, bricks, other loose materials or other potential refuges are to be disturbed, this should be done by hand and carried out during the active season (March to October) when the weather is warm.

Areas of long and overgrown vegetation should be removed in stages. Vegetation should first be strimmed to a height of approximately 15cm and then left for 24 hours to allow any animals to move away from the area. Arisings should then be removed from the site or placed in habitat piles in suitable locations around the site. The vegetation can then be strimmed down to a height of 5cm and then cut down further or removed as required. Vegetation removal should be done in one direction, towards remaining vegetated areas (hedgerows etc.) to avoid trapping wildlife.

The grassland should be kept short prior to and during construction to avoid creating attractive habitats for wildlife.

All building materials, rubble, bricks and soil must be stored off the ground, e.g. on pallets, in skips or in other suitable containers, to prevent their use as refuges by wildlife.

Where possible, trenches should be excavated and closed in the same day to prevent any wildlife becoming trapped. If it is necessary to leave a trench open overnight then it should be sealed with a close-fitting plywood cover or a means of escape should be provided in the form of a shallow sloping earth ramp, sloped board or plank. Any open pipework should be capped overnight. All open trenches and pipework should be inspected at the start of each working day to ensure no animal is trapped.

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Any common reptiles or amphibians discovered should be allowed to naturally disperse. Advice should be sought from an appropriately qualified and experienced ecologist if large numbers of common reptiles or amphibians are present.

If a great crested newt is discovered at any stage then all work must immediately halt and an appropriately qualified and experienced ecologist and Natural England (0300 060 3900) should be contacted for advice. The Local Planning Authority should also be informed.

If a hibernating hedgehog is found on the site, it should be covered over with a cardboard box and advice sought from an appropriately qualified and experienced ecologist or the British Hedgehog Preservation Society (01584 890 801).

[Hedgerows are more valuable to wildlife than fencing. Where fences are to be used, these should contain gaps at their bases (e.g. hedgehog-friendly gravel boards) to allow wildlife to move freely.]

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

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