

Application No: 11/0573N

Location: LAND ADJACENT, MINSHULL LANE, CHURCH MINSHULL, CW5 6DX

Proposal: The Erection of Poultry House and Feed Hopper with Associated Access Road and Hardstanding

Applicant: Mr Ian Hocknell

Expiry Date: 28-Jun-2011

SUMMARY RECOMMENDATION: Approve subject to conditions

MAIN ISSUES:

- Principle of Development;
- Design;
- Amenity;
- Ecology;
- Air Quality;
- Drainage;
- Highways; and
- Other Matters

REFERRAL

The application was originally included on the agenda as the proposed floor area of the building exceeds 1000m² and therefore constitutes a major proposal. Members may recall that this application was discussed at a previous committee meeting (3rd August 2011). However, it was deferred for a site visit in order to assess what impact the proposal may have on neighbouring amenity and the character and nature of the open countryside. In addition, clarification was sought to whether the use of the building could reasonably be regarded as being agriculture. To this extent officers have sought legal opinion which is incorporated into the report accordingly.

DESCRIPTION OF SITE AND CONTEXT

The site of the proposed poultry unit lies to the north of Minshull Lane. It is noted that the application site is generally level, but the field slopes gently to the north. Furthermore, there is an overhead electricity line, which bisects the field. Located to the west of the proposal is a timber stable. Furthermore, there are numerous ponds within and just outside the application site. The field is demarcated by good boundary hedgerows and is punctuated at sporadic intervals with established mature hedgerow trees (of varying species). The site is located in open countryside in the Borough of Crewe and Nantwich Replacement Local Plan.

DETAILS OF PROPOSAL

The development includes the erection of a large poultry shed measuring approximately 97.1m long by 26.7m wide and standing 6.6m high to the ridge of the roof. The hopper will be 2.8m in diameter and will be positioned adjacent to the proposed poultry house (on the southern elevation) and will stand 7.5m to the top, from ground level.

RELEVANT HISTORY

P04/1307 – Erection of a Stable Block and Menage, Construction of Market Garden, 3 Paddocks and Landscaping of Existing Pond – Withdrawn – 1st December 2004

P05/0133 – Erection of Stables, Menage, Hard Surfaces and Associated Facilities – Refused – 29th March 2005. APP/KO615/A/05/1185252 - Dismissed

P09/0080 – To Rebuild 11Kv Overhead Lines Supported by Wood Poles – No Objection – 10th February 2009

POLICIES

The relevant development plan policies are:

Local Plan Policy

BE.1 Amenity

BE.2 Design

BE.3 Access and Parking

BE.4 Drainage Utilities and Resources

NE.2 Open Countryside

NE.5 Nature Conservation and Habitats

NE.9 Protected Species.

NE.13 Rural Diversification

NE.14 Agricultural Buildings Requiring Planning Permission

NE.17 Pollution Control

Other Material Considerations

PPS1: Delivering Sustainable Development

PPS7: Sustainable Development in Rural Areas

PPS9: Biodiversity and Geological Conservation

PPG13: Transport

PPS25: Development and Flood Risk

Planning for Growth

CONSIDERATIONS (External to Planning)

Highways: No objections subject to the following comment

Providing that the visibility splays submitted with this application are achievable, there are no highways objections. In addition conditions relating to the gates opening inwards and being set back 13m from the edge of the highway.

Ecology: I am now satisfied that none of the ponds in close proximity to the proposed works are reasonable likely to support Great Crested Newts. Additionally considering the nature of the surrounding land use it is unlikely that the proposed development would result in a significant loss of habitat

Environmental Health: No objections subject to conditions relating to hours of construction, the lighting to be provided in accordance with the submitted information, the poultry house to be kept on a deep litter system, removal of waste, hours of delivery and the ridge fans should be installed and maintained in accordance with manufacturers instructions

Cheshire Wildlife Trust: No objections subject to the following comments

The application includes a Great Crested Newt Habitat Suitability Index Assessment for a single pond located in the same field as the site for the new poultry unit. At the same time reference is also made to two ponds (plural) in the field, and 'ponds' (plural) are referred to throughout the report. We have checked aerial photographs and the 2000 edition of the 1:25000 Ordnance Survey – these show a single pond in the same field as the proposed unit, but up to four other ponds at around 250m from the proposed building footprint/access road route, including a pond on the south side of Minshull Lane. Although these may be in a similar condition to the pond that has been assessed, we consider that they should be included in the HSI Assessment to ensure that any potential meta-population of GCNs has not been overlooked, and that, if necessary, appropriate recommendations for mitigation are made.

Planting proposals on the Block Plan indicate small discrete blocks of trees and native shrub planting on the southern edge of the pond. We consider the small formal blocks of trees to be atypical in terms of landscape character and of low ecological value. Shrubs on the south side of the pond will eventually shade part of the pond, further reducing its potential value for GCNs. A continuous belt of tree and shrub planting to reinforce the existing southern field boundary would be more effective as a screen for viewpoints from Minshull Lane and of greater potential value to biodiversity.

Natural England: No objections subject to a condition relating to emissions from manure on protected land

VIEWS OF THE PARISH / TOWN COUNCIL

Objects to the application on the following grounds:

The site lies within open countryside as defined by Policy NE2 of the Local Plan.

As such development is only permitted where “**essential** for the purposes of agriculture”. There is no existing agricultural activity on the site (other than open grazing) and no agricultural necessity for such a development on this site. As such the proposal therefore fails to meet the requirements of Policy NE13 (Rural Diversification) on the following grounds:

- a) it does **not** “involve the diversification of an [existing] farm business”;
- b) it does **not** “lie in or adjacent to an existing farm or commercial complex”;

c) it **would** “detract from the visual character of the landscape” by introducing an industrial-style building of considerable size into the open countryside.

The conditions necessary to permit the erection of agricultural buildings requiring planning permission are set out in Policy NE14. The application fails to meet the following requirements:

- a) “the proposal is required for, and ancillary to, the use of the land for agricultural purposes” – the proposal is entirely unrelated to the use of the land for agricultural purposes as a stand-alone enterprise;
- b) “the proposed development is satisfactorily sited in relation to existing buildings” – there are no existing buildings, the development introduces structures into open countryside;
- c) “the proposed development is sympathetic in terms of design and materials” – the large building of industrial character would introduce an entirely alien feature into open countryside.

Permitting a development of this nature onto a site in the open countryside would create a precedent for piecemeal ribbon development on small sites along Minshull Lane, and other lanes in the area.

Planning Policy BE1 requires that new development is “compatible with surrounding land uses” – as outlined above this development would not be compatible with nearby land uses – and will “lead to an increase in air, noise or water pollution”. Policy NE17 also requires “appropriate measures ... to prevent, reduce or minimise pollution”. It is unclear what steps are proposed to address air pollution in particular and whether the processing and disposal of waste can be achieved without causing significant smell nuisance.

OTHER REPRESENTATIONS

Letters of objection have been received from the occupiers of Old Orchard, Primrose, Meadow View, Weaver Manor, Willow Grange, The Old Post Office, Willow Tree Farmhouse, Wades Green Stables, Garden Cottage, The Old Barn, Rosalie Farm, Paradise Farm and Woodpecker Cottage. The salient points raised in the objection letters are:

- The application site is located within the Green Belt where there is a presumption against development which does not maintain the openness. It is considered given the size of the proposal it does not accord with this policy;
- The noise/smell emanating from the building will have a significant detrimental effect on residential amenity;
- The stand alone building will be highly prominent and stark in appearance and as such will be out of keeping with the character and appearance of the area;
- The proposal is not for an agricultural use but a commercial enterprise and as such would be better located on a brownfield piece of land in a more appropriate area;
- The building due to its size and massing would be overbearing and incongruous;
- If the proposal is approved it could lead to more poultry units on the site or residential development;
- Great Crested Newts and other varieties are abundant in the local area and utilise the ponds;
- A number of trees have already been felled and removed from the site prior to the determination of this application;

- There is very little information regarding how the site will be drained and Eel brook may become polluted in time;
- The additional traffic servicing the proposal will have a detrimental impact on highway safety and local villages within the area;
- The proposal will be a visual intrusion into the open countryside and Green Belt;
- The proposal will lead to light pollution;
- There will be significant amounts of noise and disturbance generated from the proposal impacting on local residents;
- The hopper will be visually intrusive due to its size;
- The development is in a conservation area;
- We have difficulty in understanding how specific breeding for vaccine purposes falls within the category for agricultural purposes;
- What provisions have been made for the storage and removal of manure;
- We believe that the proposed specialised building will be redundant in a very short period because the market for the eggs to be produced is not sustainable in the long term. This is because the big vaccine producing companies including Baxter, Sonofi, GlaxoSmithKline and Novartis (C&K Wood's main customer) are all suggesting a move to cell culture methodology that does not require eggs at all. In particular we would point out that:

Novartis (and others) has licensed product produced using the cell culture method and their main vaccine division web page states that it is their future direction

There are numerous mentions of the UK and US governments and their drug license authorities requiring the new more scalable and reliable methodology for supporting pandemic supplies.

It is reported that it is these governments' flu pandemic vaccine orders that have mainly fuelled the egg production capacity increases to date. Novartis reported a 74% drop in demand for flu vaccine from 2009 to 2010;

The proposal would be better sited at Crowton Farm where there are already a number of units which are owned and operated by the applicant.

Letter from McDyre and Company on behalf of residents of Rosalie Farm, Willow Grange, Willow Tree Farmhouse and The Old Barn dated 24th May 2011.

- The production of eggs for vaccines does not fall within any of the categories for which essential development will be permitted in the open countryside, nor is it a use which is appropriate to a rural area or essential to have a rural location;
- The application site is not a small gap in an otherwise built up frontage;
- The proposed building due to its size and massing will have a significant detrimental impact on the character and appearance of the streetscene;
- The use of the building is not appropriate in this rural location as it is not an agricultural use;
- The building is in an isolated and remote location not adjacent to any other building within the immediate locality and as such does not comply with policy and exacerbates its prominence;

- The proposal will establish a new farmstead in the open countryside which could be expended at any time in the future;
- Placing such a large building in an isolated open field cannot be regarded as sympathetic in terms of its overall design. Nor can a building of this scale be appropriately landscaped without drastically changing the character of the area, which itself is inappropriate; and
- The use of the building and its size will have a significant detrimental impact on residential amenity in the area.

Email from Glynn Bridge (Agent) acting on behalf of residents of Rosalie Farm, Willow Grange, Willow Tree Farmhouse and The Old Barn.

- An application was refused in 2005 for a lambing shed on the same length of Minshull Lane in order *'to avoid a proliferation of buildings in the landscape'* and because *'the proposed building by virtue of its size and height would prove to be an unnecessary and incongruous feature in the open countryside'*. That proposal was less than 20% of the size of the proposal that is currently being proposed. If the current application is approved there is a significant level of inconsistency;

R. (On the Application of Winchester City Council) v Secretary of State for Communities and Local Government submitted by Glyn Bridge

- The above decision related to a Certificate of Lawfulness which was decided by a Judicial Review;
- The proposal related to a large poultry unit at Torbay Farm which was producing specific pathogen free (SPF) eggs for vaccine production at another site;
- The Council refused to grant a Certificate of Lawful Use or Development. However, the application was allowed at Appeal;
- This case considered whether the production of eggs was incidental to Vaccine production which occurred elsewhere and whether the Inspector has erred in law;
- The main issue raised in this Judgment was whether the production of disease free fertile poultry eggs to be used in the production of human and animal live vaccines amounted to an industrial process;
- It was accepted by all parties that the proposal did not constitute an agricultural use and it was confirmed that the primary use should be described as the production of SPF eggs through the breeding, hatching, rearing and keeping of poultry within a controlled environment;
- The primary purpose of the site was the production of SPF eggs and it was concluded that the proposal amounted to an industrial process.

Email from Glyn Bridge (dated 2nd August 2011)

I have taken advice from a senior planning barrister and his clear and unequivocal views are:

- Treating the proposal as an agricultural development is wrong;
- The Council are therefore applying the wrong policies; and
- If the Council continue in this way, they would be open to challenge.

APPLICANT'S SUPPORTING INFORMATION

Design and Access Statement (Prepared by Ludlam Associates dated February 2011)

- The site covers an area of approximately 3 hectares and is located at Wades Green, Minshull Lane, Church Minshull, Nantwich. The site is currently agricultural open land and is accessed from Minshull Lane. The site boundaries are demarcated by established hedgerows;
- The applicants are part owners of the nearby Crowton Farm, suppliers of fertile hatching eggs to CK Wood which are used for making vaccines. CK Wood presently imports eggs from France. They are hoping to source eggs from local suppliers in order to reduce transport costs and enable monitoring of production and quality;
- The proposal is to construct a poultry unit with an access road and service yard. The building is identical in construction to the poultry house at Crowton Farm;
- The proposed poultry house has a typical modern rural design for such types of agricultural buildings. It is clearly intended for a rural use and would not be suitable for conversion to dwellings;
- It would be size and height appropriate to its use. The building would measure 3.3m high to the eaves and 6.6m to the top of the ridge. 15 ventilation shafts would be positioned along the ridge and would be approximately 0.7m in height. The feed hopper would be sited next to the proposed building;
- The building would be sited approximately 90m back from Minshull Lane and it would be least 400m from the nearest residential properties;
- The development would be positioned behind an established hedgerow and trees which will provide some natural landscaping and screening from the road;
- There is a significant change in level with land sloping from north to south across the site. The proposed building is positioned in response to the sloping topography avoiding the need for major excavation works;
- There is also a requirement to provide a 6m easement for power cables that run east to west axis. This orientation of the building also minimises the potential visual impact by presenting the smaller gabled elevation to face the barn conversion 400m to the east;
- The materials are Plastisol coated steel panels. In terms of colour the elevations are in Country Green and the roof is Moorland Green;
- The poultry house would be accessed from Minshull Lane at the existing access gate. A new 6m wide agricultural track would be constructed. A hardstanding would be provided adjacent to the eastern elevation to provide parking and turning area for staff and delivery vehicles;
- The number of vehicles visiting the site would be minimal. One staff car daily with one feed lorry and two egg collections made weekly;
- Acoustic performance is vital to the design of the building. Standby power is provided by an auto start generator in an acoustic box which is 70db at 7m and therefore cannot be heard from off the site;
- Ventilation is provided by ridge fans and is fully automatic and computer controlled to create a constant internal temperature of 20 degrees. The fans are very quiet and cannot be heard from off the site. This type of deep litter housing does not create odour due to the low moisture content and deters flies;
- The cleaning and stocking of poultry houses takes place annually and takes two days. The manure is collected directly from the site by local farmers and is used as fertiliser.

This sustainable practice of recycling a valuable bi-product of the farm minimises the environmental impact of waste from the proposal;

- A septic tank would be provided to the east of the building adjacent to the access track for foul waste and rainwater would be run-off to a soakaway;
- As part owners of separate poultry farming business the applicants are highly experienced and run a similar operation in Poole. They have never experienced problems with or received complaints from neighbours; and
- The applicants have an interested party to take supply from the poultry house as part of its contract farms.

Lighting Diagram (Produced by Cooper Lighting and Safety dated January 2010)

Various Emails from Mr. Hocknell (Applicant) and Mr. Ludlam (Agent)

- A neighbour has concluded that the business has a short life expectancy. However, Novartis vaccine production have been looking into finding alternative production methods for Vaccines for the 20 years and cell culture is possibly an alternative to using eggs, the process of making this change takes a number of years to trial, and needs to be certified by the American Government before being able to sell into the market. This process itself can take a minimum of 8 years;
- We are essentially poultry breeders and we have various alternatives available to us if there was a change to our present outlet;
- With exactly the same building and internal equipment we could go onto Broiler Breeders, Layer Breeders or Grand parent flock, or even with the forthcoming banning of the 'battery cages' all eggs produced for the supermarket chains are from barn egg production systems or free range;
- Our modern building satisfies all the legislation for barn egg production, presently any of our eggs that don't go to produce vaccines are sold into the barn egg market, we have DEFRA flock code that enables us to do this;
- The eggs which are to be produced are not SPF eggs

Protected Species Survey (Produced by Biota)

- The field is currently ploughed and is bounded on all sides by an intact species-poor hedgerow with occasional Oak and Ash standard trees. There are two ponds within the field, but no others detected within 250m in the adjacent fields;
- The pond is located in the middle of the arable field and contained little suitable vegetation that Great Crested Newts could utilise for egg laying. The HIS score for the pond is less than that for ponds normally associated with Great Crested Newts;
- The construction of the deep litter poultry unit and access road will not be detrimental to Great Crested Newts. The site is considered unlikely to support Great Crested Newts, but the survey was undertaken outside the optimal survey period;
- The deep litter poultry unit will be delivered to suit as a pre fabricated unit and erected. There will be a requirement for services to be taken to the building, so water and electricity will need to be fed to the unit. It is therefore recommended reasonable avoidance measures are undertaken; and
- Ponds with 250m of the proposed site for chicken rearing unit at Wades Green were assessed for their likelihood to support Great Crested Newts. The ponds were not considered suitable as breeding habitat for Great Crested Newts, however due to the

season in which the survey was undertaken, reasonable avoidance measures are proposed.

OFFICER APPRAISAL

Principle of Development

According to Planning Policy Statement 4 – Planning for Sustainable Economic Development, Policy EC10.1 requires Local Planning Authorities to adopt a positive and constructive approach towards planning applications for economic development. Paragraph 4 of the document states that ‘economic development’ includes not only Class B employment uses but all uses which provide employment and generate wealth. Planning applications that encourage sustainable economic development should be treated favourably. Furthermore, recent Government guidance states that there should be a presumption in sustainable development and LPA’s should take a positive approach to development.

Torbay Farm (*Winchester City Council v SSCLG 2006*)

There has been much debate about whether the proposed use of the building and land for the keeping of poultry where the eggs are to be used for vaccine production is an agricultural process. The objectors claim that the proposal is an industrial process and have made reference to the above Judicial review case. Furthermore, the objectors claim that if the Council determine that the use of the land/building to be an industrial process then the proposal is contrary to Local Plan policy.

The Torbay Farm decision was based on the poultry units producing SPF eggs, which are defined as *‘hatching eggs, which are used for diagnostic procedures in laboratories, for the production and testing of vaccines and for research and pharmaceutical purposes and have to be marked with a stamp. SPF eggs are not fit for human consumption and must be produced in accordance with the valid European Pharmacopoeia, in which the requirements are defined’*.

It was agreed by both parties at the start of proceedings that the production of SPF eggs was not ‘agricultural’. The eggs which were produced at Torbay Farm were produced under sterile and clinical conditions. For example, a number of the units at the Farm were converted into sealed isolator units for the production of fertile SPF eggs. The flocks were housed in a fully microbiological environment, with pressured air supply, and a regular temperature was maintained. All materials entering/leaving the site passed through fumigation cells or two way chemical dumps. Poultry food was specially compounded vacuum packed and irradiated or gassed with methyl bromide. Staff entry to the units was via a complete shower and change procedure.

To ensure continuing status as a SPF flock 5% were blood tested each month in accord with the relevant protocol and each sample was tested for 22 different pathogens. Further clinical examination was carried out at least once a week to verify that the birds were free from fowl pox and signs of other infections. Any positive findings of disease meant the entire flock could no longer be designated as an SPF flock.

The applicant has stated that the design and management of the proposed poultry shed would be typical of many commercial poultry breeding farms and the eggs produced would not be SPF eggs. The applicant acknowledges that the majority of the eggs produced will be used for vaccine production but a small proportion will enter the human food chain. Furthermore, the applicant claims that his birds have free access to nests, litter area, feed and water in the same way as in any other commercial barn egg production and as such the unit and birds would not meet the stringent requirements needed for a SPF flock.

It is noted that the SPF flocks are kept in a very strictly controlled environment, they are not vaccinated and are very intensively monitored, and whilst the conditions in which the applicant proposes to keep his flock is entirely different.

The argument in this case focused on whether the production was an 'industrial process' for the purpose of the Use Classes Order and to that extent the case is not analogous to the present one. The Judge held 'The Inspector looked at the circumstances as a matter of fact and degree, as he was fully entitled to do. The circumstances that he took into account are all clearly set and the judgment he made was entirely open to him. It is not suggested that the decision was an irrational one that no inspector properly directing himself could reach'.

Overall, it is considered that the way the birds are managed is no different to any other poultry shed, whilst it is acknowledged that the end user is different. It is considered that the way that the flock and eggs are produced/maintained is not the same as the Torbay Farm decision, therefore the parallels which can be drawn are limited.

Agricultural Use

The term 'agriculture' as it is used in planning policy and legislative provisions is that set out in Section 336 of the Town and Country Planning Act 1990:

'agricultural' includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of woodlands where that use is ancillary to the farming of land for other agricultural purposes, and 'agricultural' shall be construed accordingly'.

It is accepted that the keeping of livestock for agriculture does not include the keeping of any animal for any purpose. Animals found not to be livestock in this context include cats and dogs (*MAFF v Appleton*) and horses (*Belmont Farms Ltd v Minister of Housing and Local Government 1962*).

In deciding whether the keeping of animals is agricultural in circumstances beyond those mentioned in brackets in the definition (production of food, wool, skins or fur or for the use of farming) it must still be in circumstances which can properly be brought within the general meaning of 'agriculture' (*Belmont Farms Ltd v Minister of Housing and Local Government 1962*).

It is a matter of fact and degree for the decision maker in each case to decide whether the keeping of particular animals in particular circumstances is agriculture. For example, keeping

bulls for the production of semen (*Fenchurch Residential Ltd v FSS 2005*) was an example in which a decision maker was entitled to conclude that the use of the land was agricultural. The collection of semen from bulls had all the hallmarks of agriculture. The production of semen was 'what bulls do, so far as their use for human beings' purposes are concerned'.

By analogy in the present case it would be open for the Council as decision maker:

- To accept that hens are ordinarily capable of being described as 'livestock';
- To note that the production of eggs for the manufacture of vaccine is not to keep hens for the purpose of the production of food, wool, skins or fur, or for the purpose of its use in the farming of land. To note also that this is not conclusive so far as reaching a decision on whether the proposed use of the building is agricultural;
- Producing eggs is 'what hens do, so far as their use for human beings' purposes are concerned'
- The way that the hens in this case are to be kept and fed has 'all the hallmarks of agriculture'
- This proposal is different from the Winchester case on the basis that the way the hens were kept and fed in that case had 'all the hallmarks of an industrial process' and, indeed, a very special process of which there remains but one example in the UK.

It is considered given all the factors cited above that the development as described in the submitted application can reasonably be regarded as being agriculture.

In addition to the above, the applicants currently have poultry units where eggs are produced for the pharmaceutical industry at The Pinfold at Poole, and a number of other units within the Borough. However, the pharmaceutical industry requires large scale units in order to produce a large quantity of eggs. The fact that there may be other poultry farms in the area where this building could be sited is not a reason to refuse this application. Furthermore, the applicant has stated that his poultry units are located at various sites around the Borough is in order to deal with possible disease management issues. Therefore, the issue is whether the proposed poultry unit meets the requirements for agricultural buildings and is acceptable on this site. Policy NE.2 and guidance in PPS 7 allow for agricultural development in rural areas. PPS 7 notes that planning policies should support development which allows agriculture to adapt to new and changing markets and diversify into new agricultural opportunities. Whilst there are no existing buildings on this site, and Wades Green Farm is not an existing farming establishment, the use is related to another unit in the general area. The case officer considers it prudent to attach a condition stipulating that no SPF eggs shall be produced at the site. Therefore, there are no objections in principle to the proposed use at this site.

Siting and Design

The building is the same as the poultry unit permitted at The Pinfold in 2008 under reference P07/1152 and at Crowton Farm under reference P09/0170. The proposed poultry unit will measure approximately 97.1m long by 26.7m wide (which equates to a floor area of approximately 2592.57m sq) and is 3m high to the eaves and 6.6m high to the ridge (excluding the ventilators). Located on the east facing elevation will be two large apertures and on the west facing elevation there will two personnel doors. According to the submitted plans there are no other apertures proposed. Internally the building will comprise staff room, office, toilets, egg room and the rest of the building is where the chickens will be located. The

proposal will run parallel to Minshull Lane, the agent was advised that the building would sit more comfortably if it was located perpendicular to Minshull Lane. However, this was not feasible due to a variety of reasons, firstly, there is an electricity line which bisects the field and there is a 6m wide easement requirement. Secondly, the field has a gentle slope and locating the building at 90 degrees to Minshull Lane will require considerable earth movements. The agent has stated that in this position there is an approximate 2m change in level across the footprint of the building. Although large in area, the design of the unit is typical of a modern poultry unit. Whilst the hopper will stand above the ridge of the roof, there are other hoppers at farms in the locality and across the Borough, of similar dimensions.

The building is sited some 135m from the dwelling known as 'The Loft', which is located to the east of the application site and the nearest building to the west is approximately 390m away. Located to the south of the application site is Minshull Road and open fields beyond that and to the north are open fields. A hedgerow to the east of the site of the proposed poultry unit and intervening trees (albeit quite sporadic) will provide some screening when viewed from the east. The pond, boundary hedge and trees will provide some screening when viewed from Minshull Lane. If planning permission is to be approved a condition for additional landscaping around the site will be attached to the decision notice and this will provide some additional benefits for wildlife and screening.

It is accepted that while the building will be clearly visible within the open countryside, it is not uncharacteristic of other large agricultural buildings which form part of the rural landscape.

Amenity

The unit will be managed in the same way as the poultry units at Crowton Farm and The Pinfold. The birds will be housed in 'deep litter' with a ventilation system which does not attract flies or result in odour problems. In the event that any flies were present daily inspection and collection of eggs will allow for any isolated flies to be treated with an insecticide. Following consideration of the details and on the basis of knowledge of the similar operations, the Environmental Health Officer has raised no objections to the development subject to a number of conditions. The ventilation system will not generate noise (and will be conditioned if planning permission is to be approved) which would adversely affect residential amenities bearing in mind the location of the dwelling relative to the site. The nearest dwelling is over 135m away and with the above controls, the proposed poultry units would not adversely impact on residential amenities in the locality, in respect of noise and odour. The poultry houses are emptied of manure once a year when the poultry are changed. It is understood that this operation is to be completed in 2-3 days and the manure spread on fields in the locality and will be conditioned accordingly.

Ecology

The EC Habitats Directive 1992 requires the UK to maintain a system of strict protection for protected species and their habitats. The Directive only allows disturbance, or deterioration or destruction of breeding sites or resting places,

- in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment

and provided that there is

- no satisfactory alternative and
- no detriment to the maintenance of the species population at favourable conservation status in their natural range

The UK implements the Directive in the Conservation of Habitats & Species Regulations 2010 which contain two layers of protection

- a requirement on Local Planning Authorities (“LPAs”) to have regard to the Directive’s requirements above, and
- a licensing system administered by Natural England.

Circular 6/2005 advises LPAs to give due weight to the presence of protected species on a development site to reflect EC requirements. “This may potentially justify a refusal of planning permission.”

PPS9 (2005) advises LPAs to ensure that appropriate weight is attached to protected species “Where granting planning permission would result in significant harm [LPAs] will need to be satisfied that the development cannot reasonably be located on any alternative site that would result in less or no harm. In the absence of such alternatives [LPAs] should ensure that, before planning permission is granted, adequate mitigation measures are put in place. Where ... significant harm ... cannot be prevented or adequately mitigated against, appropriate compensation measures should be sought. If that significant harm cannot be prevented, adequately mitigated against, or compensated for, then planning permission should be refused.”

PPS9 encourages the use of planning conditions or obligations where appropriate and again advises [LPAs] to “refuse permission where harm to the species or their habitats would result unless the need for, and benefits of, the development clearly outweigh that harm.”

The converse of this advice is that if issues of detriment to the species, satisfactory alternatives and public interest seem likely to be satisfied, no impediment to planning permission arises under the Directive and Regulations.

It was noted that there was a couple of ponds within 250m of the proposed development and as such the proposal could have a detrimental impact on Great Crested Newts. Therefore, the applicant has submitted a Protected Species Survey to accompany the application. However, it is noted that the survey was undertaken outside optimal season for survey work. In any event, the conclusions of the report state that the ponds are considered unlikely to support Great Crested Newts. Pond 1 is isolated in the middle of the arable field and contained little suitable vegetation that Great Crested Newts could utilize for egg laying. The HIS score for the pond is less than that for ponds normally associated with Great Crested Newts. Pond 2 is heavily shaded and very eutrophic, resulting in a HSI Score of 0.31, which is below the threshold for ponds supporting Great Crested Newts. Given the nature of the development on arable land that is not typical Great Crested Newt habitat and lack of connectivity between the pond and the development footprint, the development will not have an adverse impact on the pond. However, the applicants ecologist recommends that reasonable avoidance measures

are undertaken due to the time the survey was undertaken, and will be conditioned accordingly. All the other ponds which are within 250m of the application site are no longer in existence. It is now concluded that none of the ponds in close proximity to the proposed works are reasonable likely to support Great Crested Newts. Additionally considering the nature of the surrounding land use it is unlikely that the proposed development would result in a significant loss of habitat. Consequently, the proposed development accords with policy NE.9 (Protected Species).

Air Quality

The proposal is located approximately 2.5km away from Wettenhall and Darnhall Woods SSSI. An important material factor is whether the proposal will have a detrimental impact that is likely to damage a SSSI (through pollution or other impacts). In order to assess what impact the proposal may have on the SSSI, the applicant has submitted an air quality assessment and colleagues in Natural England have confirmed they have no objection. However, they have requested that a condition is added advising the applicant of his responsibilities regarding the disposal of manure. However, it is considered that the most appropriate way of dealing with this issue is by an informative. Overall, it is considered that the proposal will not have a detrimental impact on air quality and the proposal is in accordance with policy NE.17 (Pollution Control).

Drainage

According to the submitted planning application forms the proposed method for drainage would be via a septic tank. Development on sites such as this generally reduces the permeability of at least part of the site and changes the site's response to rainfall. Planning Policy Statement 25 (Development and Flood Risk) states that in order to satisfactorily manage flood risk in new development, appropriate surface water drainage arrangements are required. The guidance also states that surface water arising from a developed site should, as far as possible, be managed in a sustainable manner to mimic the surface water flows arising from the site prior to the proposed development. It is possible to condition the submission of a drainage scheme in order to ensure that any surface water runoff generated by the development is appropriately discharged.

Highways

The application site will be served by the existing access arrangement and a new track will be formed running parallel to the adjacent hedgerow. It is considered that there is sufficient on site parking and turning for vehicles, which will allow them to enter/leave in a forward gear and to be parked clear of the public highway. According to the applicants Design and Access Statement there will only be one staff car daily with one feed lorry and two egg collections weekly. It is considered that the proposal will generate negligible amounts of additional traffic. Colleagues in Highways have been consulted and they conclude that 'Providing that the visibility splays submitted with this application are achievable, there are no highways objections'. Therefore, it is considered that the proposal accords with Policy BE.3 (Access and Parking).

Other Matters

A number of objectors are concerned that if planning permission is approved for the proposed poultry shed it will create a precedent for other development with the locality. Furthermore, the objectors are concerned that if the application is approved there is a significant level of inconsistency as a much smaller lambing shed was refused planning permission in 2005, in a similar location. However, whilst the concerns of residents are noted each application must be determined on its own individual merits. It is not considered refusing this application on a hypothetical situation is a sufficient justification to warrant a refusal.

A number of representations make reference to the application site lying within the Greenbelt and Conservation Area. However, this is not the case and according to the Local Plan the whole of the application site is located wholly within the open countryside.

CONCLUSIONS AND REASON(S) FOR THE DECISION

The proposed poultry house will provide an agricultural building of appropriate size and design for the proposed use. The proposed use of the building for the production of eggs that will predominately be for the manufacture of human influenza vaccine is, as a matter of fact and degree in this case, an agricultural use. The development by virtue of its location set back from the highway and from residential properties in the locality will not adversely impact on the character and appearance of the area or residential amenities. The proposal will generate negligible amounts of traffic and the existing vehicular access and proposed turning area is sufficient and the development will not adversely impact on highway safety. The two ponds on the site are not considered to provide suitable habitats for Great Crested Newts. The development is considered to comply with policies NE.2 (Open countryside), NE.9 (Protected Species), NE.14 (Agricultural Buildings Requiring Planning Permission), BE.1 (Amenity), BE.2 (Design), BE.3 (Access and Parking) of the Borough of Crewe and Nantwich Replacement Local Plan 2011.

Approve subject to the following conditions:

- 1. Standard Time Limit**
- 2. Plan References**
- 3. Materials**
- 4. Drainage**
- 5. Landscaping Submitted**
- 6. Landscaping Implemented**
- 7. Development to comply with Reasonable Avoidance Measures of Great Crested Newts Assessment Dated November 2010**
- 8. Hours of Construction**
- 9. External Lighting**
- 10. Method for the Control of Flies**
- 11. Treatment of Manure from Site**
- 12. Hours of Operation**
- 13. The Auto Start Generator and Ridge Fans to be Installed and Maintained in accordance with Manufacturers Instructions**
- 14. Visibility Splays**
- 15. Surfacing Materials**

16. Gates Set Back 13m from Edge of Highway and Open Inwards
17. No SPF Eggs to be Produced

