

Application No: 12/3458N

Location: WADES GREEN FARM, MINSHULL LANE, CHURCH MINSHULL,
NANTWICH, CHESHIRE, CW5 6DX

Proposal: Erection of an agricultural building for barn egg production

Applicant: Ian Hocknell, I & K Hocknell

Expiry Date: 21-Jan-2013

SUMMARY RECOMMENDATION: Approve subject to conditions

MAIN ISSUES:

- Site History;
- Principle of Development;
- Torbay Farm (Winchester City Council v SSCLG 2006);
- Agricultural Use;
- Siting and Design;
- Amenity;
- Air Quality;
- Drainage;
- Landscape;
- Ecology; and
- Highways

REFFERAL

The application is included on the agenda as the proposed floor area of the building exceeds 1000m2 and therefore constitutes a major proposal.

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. There is already a large poultry shed and hopper on the site, which was approved on Appeal (APP/R0660/A/11/2162766 7th February 2012). Additionally, 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 89m long by 26m wide and is 2.7m high to the eaves and 6.3m high to the apex of the ridge. Furthermore according to the submitted plans there will be a link attaching the proposed building and the existing poultry shed.

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– Erection of a Stable Block and Menage, Construction of Market Garden, 3 Paddocks and Landscaping of Existing Pond – Withdrawn – 1st December 2004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

11/0573N – The Erection of Poultry House and Feed Hopper with Associated Access Road and Hardstanding – Refused – 6th October 2011. Appeal Allowed (APP/R0660/A/11/2162766) — 7th February 2012

POLICIES

National Policy

The application should be determined in accordance with national guidance set out in:

National Planning Policy Framework

Local Policy

The principle issue surrounding the determination of this application is whether the development is in accordance with the following policies within the Borough of Crewe and Nantwich Replacement Local Plan 2011:

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

CONSIDERATIONS (External to Planning)

United Utilities: No objections

Landscape: No objections

Natural England: No comments received at the time of writing this report

VIEWS OF THE PARISH / TOWN COUNCIL

The Parish Council object for the following reasons:

The Parish Council objected strongly to application 11/0573 for the initial poultry house at this location on the grounds that it was unjustified intrusion into open countryside, and failed to meet the requirements of Local Plan Policies NE2, NE13 and NE14. The Local Planning Authority accepted this view, and refused the application, only for the application to be granted on appeal.

At the time, the Parish Council expressed concern that granting of permission for the initial poultry house could lead to an intensification of use on the site, with potential further applications for a second poultry shed and/or on-site residential accommodation.

The Parish Council notes that its concerns were well-founded with 12/3458N seeking permission for a second shed, and 12/3863N seeking permission for a mobile home on the site. The Parish Council is strongly of the view that the applicant should have been required to lodge a single application covering all of his aspirations for the site, to have allowed a comprehensive assessment of the merits of the application and its implications for the local environment and planning policy.

The Parish Council remains of the view that the development of a poultry unit on this isolated Greenfield site within the open countryside was – and remains – inappropriate, and fails the tests of Policies NE13 and NE14:

It is **not** the diversification of an existing farm business;
It does **not** lie within an existing farm complex;
It **would** detract from the visual character of the landscape;
It is **not** ancillary to the use of the land for agricultural purposes;
It is **not** sympathetic in terms of design and materials.

The fact that the applicant is now of the view that a second shed is necessary for the operation to be commercially viable calls into question the commercial justification for approval of the first shed. Similarly, the claim in application 12/3863N that a permanent on-site presence (via a residential use) is essential on animal welfare grounds again calls into question the justification for approval of the first application.

OTHER REPRESENTATIONS

Two letters of representation had been received from the occupiers of The Old Barn and Wades Green Stables. The salient points raised are as follows:

- The application site is not Wades Green Farm. The land is not touching Wades Green Farm, and the land has never belonged to Wades Green Farm;
- This building will double the size of the already present building allocated to egg production. The objector believes that the proposed building, as well as the existing one,

is obtrusive to residential occupiers, to users of Minshull Lane, and to those using the public footpath between Minshull Lane and Paradise Lane;

- The landscaping has not been done;
- It was also mentioned in the original application that the first barn could not be erected in close proximity to the existing structure near Poole due to the possibility of 'cross contamination'. Perhaps there is a simple explanation why this no longer appears to be the case;
- The proposed building (along with the existing building) will detract from the visual character of the surroundings. I do not believe it is sympathetic in terms of its material and design with any other buildings on Minshull Lane, other than the one that it will duplicate on the same plot. There are other agricultural buildings, traditional in design, along Minshull Lane;
- This development, because of its size and nature (obviously a commercial venture on major scale), by being permitted, sets a precedent for any small package of land throughout the area, and this, I believe is going to ruin the nature of the Cheshire countryside forever;
- The proposal will have a detrimental impact on protected species.

APPLICANT'S SUPPORTING INFORMATION

Design and Access Statement

A Design and Access statement has been submitted to accompany the application. This is available on the application file and provides an understanding of the proposal and why it is required.

OFFICER APPRAISAL

Site History

Members may recall that they refused planning permission for a similar application (11/0573N) on the 14th September 2011 for the following reasons:

'The Local Planning Authority considers that the proposal would not create or maintain employment; or involve the diversification of a farm business. It is not required for, and ancillary to, the use of the land for agricultural purposes and is not essential either to an existing agricultural operation, or to comply with current environmental and welfare legislation, or to the maintenance of the economic viability of the holding. It is therefore contrary to policies NE13 (Rural Diversification) and NE14 (Agricultural Buildings Requiring Planning Permission) of The Borough of Crewe And Nantwich Replacement Local Plan 2011'.

'The Local Planning Authority considers that the proposal does not lie in or adjacent to an existing farm or commercial complex and therefore it is not satisfactorily sited in relation to existing buildings, in order to minimise its impact on the landscape and it would detract from the visual character of the landscape contrary to policies NE13 (Rural Diversification), NE14 (Agricultural Buildings Requiring Planning Permission) and BE2 (Design Standards) Of The Borough Of Crewe And Nantwich Replacement Local Plan 2011'.

Following the refusal, the applicant Appealed against the decision and this was subsequently allowed. The Inspector considered that the proposal *'would not have a harmful effect on the character and appearance of the surrounding area'* and the *'proposal would represent an appropriate land use on the appeal site'*.

Principle of Development

The principle of agricultural buildings that are essential to the agricultural practice is acceptable in the open countryside and accords with Policy NE.2 (Open Countryside). There is general policy support for agricultural development within the open countryside and paragraph 28 of the National Planning Policy Framework states that local planning authorities should:

'promote the development and diversification of agricultural and other land-based rural businesses'.

The Local Plan outlines the need to strike a balance between development which will sustain the rural economy and the need to protect the countryside for its own sake. It is also necessary to recognise the changing needs of agriculture.

These policies aim to protect the openness of the open countryside and safeguard it from inappropriate forms of development and ensure that the design of the new buildings is sympathetic to the existing agricultural character of the site, surrounding landscape and the wider area by virtue of being appropriate in form and scale and utilising sympathetic building materials. They also seek to ensure that neighbouring amenity nor highway safety is adversely affected.

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

Previously, there had 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. It was claimed that the proposal was an industrial process and reference was made above Judicial review case. Furthermore, it was claimed that if the Council determined that application the use of the land/building was considered to be an industrial process and would be contrary to Local Plan policy.

However, 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 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.

The Inspector at the recent appeal clearly concluded that the buildings were also acceptable in agricultural terms.

Policy NE.2 and guidance in the National Planning Policy Framework allow for agricultural development in rural areas. The National Planning Policy Framework 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 is an existing poultry shed on this site, the use is related to other units in the general area. It is considered 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.

According to Policy NE.14 (Agricultural Buildings Requiring Planning Permission) states that proposals for the erection, alteration or extension of agricultural buildings will only be permitted where:

- *The proposal is required for, and is ancillary to, the use of the land for agricultural purposes;*
- *The development is essential either to the agricultural operation or to comply with current environmental and welfare legislation, and maintain the economic viability of the holding;*
- *The proposed development is satisfactorily sited in relation to existing buildings, in order to minimize its impact on the landscape;*
- *The proposed development is sympathetic in terms of design and materials, and is appropriately landscaped;*
- *Adequate provision is made for the disposal of foul and surface water drainage and animal wastes without risks to watercourses;*
- *Adequate provision is made for access and movement of machinery and livestock to avert the perpetuation, intensification or creation of a traffic hazard;*
- *The proposal is of an appropriate location, scale and type so as not to be detrimental to the amenities of any nearby existing residential properties; and*
- *The proposal is not of a design and construction which makes it easily convertible to residential use.*

It is noted that the applicant's property is located some distance away from the application site, but within the same rural area. It is considered that this separation distance, is not a sufficient justification to warrant a refusal of the application as Policy NE.13 aims to assist the diversification of the rural economy where proposal would create or maintain employment or where they would involve the diversification of a farm business. Here, the proposed development would create and maintain employment, and therefore the farm business diversification criterion does not come into play.

It is acknowledged that the level of employment creation would not be great, it would be likely to represent an increase over that from the current use of the site and would overall support the viability of a local business in the rural economy, which is in accordance with Local Plan policy and guidance advocated with the National Planning Policy Framework. According to the Design and Access Statement there 1.5 additional jobs created at the site.

Notwithstanding the existing poultry shed on site, the proposal would be well separated from any existing farm complex. Therefore, the proposal does not comply with criterion III of policy NE.14, which seeks to ensure that development lies in or adjacent to an existing farm or commercial complex. However, in order to maintain bio security demands that poultry facilities are separated.

It is considered that the proposed building would be ancillary to the agricultural use of the land in terms of poultry farming, in accordance with Policy NE.14, as the policy does not refer to the agricultural use having to be related to the current use. The housing of the poultry would

be required for, and indeed essential to, egg production and therefore the proposal would satisfy the relevant criterion in Policy NE.14.

Siting and Design

The building is similar to the existing shed on site and the same as the poultry units permitted at The Pinfold in 2008 under reference P07/1152 and at Crowton Farm under references P09/0170 and 11/0506N. The proposed poultry unit will measure approximately 89m long by 26m wide (which equates to a floor area of approximately 2314m sq) and is 2.7m high to the eaves and 6.3m 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 be two personnel doors. According to the submitted plans there are no other apertures proposed. The proposal will run parallel to Minshull Lane, and will be located behind the existing unit on site, which is orientated the same way.

Although large in area, the design of the unit is typical of a modern poultry unit. 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 visible within the open countryside, it will be seen in the context of the existing poultry shed in situ. Furthermore, the building would be similar to others in the area and the Borough generally, and such agricultural buildings are indeed part of the local landscape. Overall, it is considered that the proposal would not have a detrimental impact on the character and appearance of the rural setting and the proposal is in accordance with Policy BE.2 (Design Standards).

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.

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. At the time of writing this report comments from Natural England are awaited and will be presented to Members in the update report.

Drainage

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. The National Planning Policy Framework 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.

Landscape

Policy NE.5 (Nature Conservation and Habitats) states that the LPA will protect, conserve and enhance the natural conservation resource. The policy goes on to stipulate in the justification 'Landscape features can be important individually, as well as helping to enrich the character of the landscape. These features should be conserved wherever possible'. The application site is bounded on front elevation by mature native hedgerows, which are punctuated at sporadic intervals with mature trees/shrubs. The remaining boundaries comprise hedgerow, which is patchy in places and sporadic trees. The Council's Landscape Officer has been consulted and raises no objection to the proposal. Overall, the development is in accordance with policy NE.5 (Nature Conservation and Habitats).

Ecology

There are numerous ponds and other water bodies within the locality of the application site and it is possible that Great Crested Newts and Lesser Silver Water Beetles which are both protected species under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended) may be affected by the proposal. Although there were no significant ecological issues on the previous appeal the Council's Ecologist has been consulted and an update will be provided for Members.

Highways

According to the submitted plans the existing access arrangements will be utilised. There is sufficient space for vehicles to enter/leave to manoeuvre and leave the site in a forward gear. It is considered prudent to attach a condition relating to surfacing materials. Overall, it is considered that the proposal will generate negligible amounts of additional traffic and the

proposal is in accordance with Policy BE.3 (Access and Parking) and TRAN.9 (Car Parking Standards).

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 expected 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.

RECOMMENDATION

Approve subject to conditions:

- 1. Standard**
- 2. Plans**
- 3. Materials**
- 4. Drainage**
- 5. Landscaping Submitted**
- 6. Landscaping Implemented**
- 7. External Lighting**
- 8. Method for the Control of Flies**
- 9. Treatment of Manure from Site**
- 10. The Auto Start Generator and Ridge Fans to be Installed and Maintained in Accordance with Manufacturers Instructions**
- 11. Surfacing Materials**

Application for Full Planning

RECOMMENDATION:



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