

## Appeal Decision

Site visit made on 19 April 2016

**by Jonathan Bore MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 12 May 2016**

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**Appeal Ref: APP/W1850/W/16/3143328**

**Upper House Farm, Moreton-on-Lugg, Herefordshire, HR4 8AH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr and Mrs S Perkins against the decision of the County of Herefordshire District Council.
  - The application Ref 143769, dated 15 December 2014, was refused by notice dated 5 August 2015.
  - The development proposed is the construction of 6 poultry houses and feed bins, ancillary works, erection of a biomass boiler building and single storey ancillary building, amendments to the existing vehicular access and associated landscaping.
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### Decision

1. The appeal is allowed and planning permission is granted for the construction of 6 poultry houses and feed bins, ancillary works, erection of a biomass boiler building and single storey ancillary building, amendments to the existing vehicular access and associated landscaping at Upper House Farm, Moreton-on-Lugg, Herefordshire, HR4 8AH in accordance with the terms of the application, Ref 143769, dated 15 December 2014, and the submitted plans, subject to the conditions set out in Appendix 1.

### Applications for costs

2. Two applications for costs were made by Mr and Mrs S Perkins against the County of Herefordshire District Council. These applications are the subject of separate decisions.

### Main Issue

3. The main issues in this case are, firstly, the effect of the scheme on the living conditions of nearby residents and visitors, having regard to odour emissions and noise, and secondly, the impact of the scheme on the landscape.

### Reasons

#### *Living conditions*

4. The farm currently has six poultry units and the proposal is for another six in a field to the west. This would in effect operate as a separate site. The Environment Agency has granted the appellants a variation to their existing Environmental Permit (EP) to operate with a maximum of 610,000 birds across
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the two sites although the actual bird population on the site arising from the scheme would be a maximum of 542,000.

5. There is considerable local concern about the proposal, but it is clear from the submissions that the business would be very tightly regulated. The Environmental Permit would control day to day general management, including operations, maintenance and pollution incidents, in respect of the existing and proposed units. Odour and emissions would be addressed through the determination of the EP. Operating under an EP demonstrates that the site uses best available techniques, thereby minimising emissions to the receiving environment. Animal welfare regulations control stocking densities, climate control and the concentrations of ammonia and carbon dioxide.
6. The existing and proposed units would be subject to different cycles of cropping, which would create more clearing out operations but would avoid the intensity of these activities occurring at the same time. Litter would be removed at the end of each cycle by specialist contractors in accordance with a manure management plan and would be loaded inside the doors. Dirty water from the clean-out process would be collected through a dedicated sealed drainage system.
7. It is therefore evident that the units would be subject to a high degree of regulation. The closely-controlled nature of the existing operation was very evident during my site visit.
8. A full Environmental Statement (ES) accompanied the application, which assessed a wide range of environmental impacts. Appendix 15 of the ES is "A Report on the Atmospheric Dispersion Modelling Study of the Impact of Odour Emissions from the Existing and Proposed Poultry Units" (July 2014, henceforth referred to as the odour report). The odour report identified and took into account a number of residences, occupied sites and commercial premises in the vicinity of the site. It indicated that the 98<sup>th</sup> percentile hourly mean odour concentration would remain below the Environment Agency's benchmark for moderately offensive odours in these locations. The data in the report recognises that more intense odour would occasionally be experienced, but these would represent very short periods.
9. The Council offers no technical evidence of its own to indicate that the impact would not be as stated in the odour report. Rather, it draws attention to the difference between the odour report submitted with this application, produced by AS Modelling and Data Ltd, and that submitted in connection with the previous, now built, application, produced by ADAS, which pointed to a more extensive odour impact. However, the two cannot be compared because the site is different, being further from the village, and the present scheme can be modelled in the light of the experience of the existing units. It is also clear (as the same senior scientific modeller was involved in both studies) that the odour report produced by AS for the current appeal is based on more representative meteorological datasets, and includes the likely internal odour concentration at stages of the flock cycle and the likely ventilation rate at the time, which is weather dependant. These and other differences would tend to make the study submitted with the current application more specific to the appeal scheme. I am satisfied on the evidence that the odour report submitted with the current scheme is a fair assessment of the likely odour impact of the scheme.

10. Many local objectors say that they regularly experience offensive odour from the existing units. However, investigations by the Council's Environmental Health Officer in response to repeated local complaints over the last two years have found very few instances of offensive odour attributable to the site and this is clearly demonstrated by the Council's complaints log. This bears out the effectiveness of the regulation regime overseen by the Environment Agency and the carefully-controlled nature of the operation. There was certainly a strong smell in the area during my visit, but it was coming from a fertiliser spreading operation on nearby fields, and had nothing to do with the operation of the appeal premises.
11. Given the degree of external control over the operation through the Environment Agency and the EP, the demonstrable level of operational care over every aspect of the enterprise, the evidence from the odour report, the evidence from the complaints log, and my own site observations, I consider it unlikely that the proposed development would be the source of offensive odour for nearby residents and visitors for the great majority of the time. Residents might experience some odour during the clearing out process, but this would be of short duration on a periodic cycle and would not be unacceptable in a rural area. It would probably be less significant than the odour from other agricultural operations in the area that are unrelated to the appeal premises. In respect of the impact of odour on neighbouring residents and visitors, I conclude that the scheme would be acceptable.
12. A number of local objectors, though not the Council, raise the issue of noise. The site is well away from the village and has direct access to the A49, limiting the effects of plant and vehicle noise. The wood chipping activities that take place at the farm are connected with the existing operation and the biomass boiler that it serves, and the proposal does not include any wood chipping or external storage for stacking timber. Some objectors have said that they have experienced noise and disturbance, but it is clear from the record of repeated Environmental Health investigations that the enterprise currently operates satisfactorily in respect of noise. The noise assessment submitted as part of the ES for the current proposal assessed the operation of all the proposed plant and equipment on site and found the impact to be insignificant. I can see no evidence to suggest otherwise.
13. On the first issue therefore I consider that the scheme would not have an unacceptable effect on the living conditions of residents in, or visitors to, the area through odour or noise. The scheme would accord with Policies SS6 and SD1 of the Herefordshire Local Plan Core Strategy 2011-2031 in respect of the protection of local amenity.

#### *Landscape impact*

14. The poultry units would be sited some way to the rear (west) of the existing units, and would be separated from them by a perry orchard. The Herefordshire Landscape Character Assessment (2004, 2009) locates the site within the Wet Pasture Meadows landscape type, close to the Principal Settled Farmlands landscape type. However, the site itself is not a wet pasture meadow; it is relatively flat, drained arable land with few features and the site and its immediate surroundings have limited landscape value. The flatness of the land on and around the site, the existing orchards, the planting scheme,

and the moderate building heights of the units, would limit the visual impact of the scheme.

15. From Moreton Road, which runs along the nearest ridge to the site, the units would appear as a fairly substantial extension of buildings into the flat farming landscape of the valley floor. Other more distant views of the development would be obtainable from some specific positions on the hills to the north, west and south. But this scene is not wholly undeveloped; it already contains a number of other significant structures including an industrial estate and agricultural buildings. A substantial amount of planting has already taken place over the whole of the site which in time will mature to provide a significant degree of hedge and tree cover, and the planting proposals accompanying the appeal scheme would assist in softening the impact of the development on the landscape. A sympathetic colour scheme for the walls and roofs of the buildings, which could be required by condition, would further reduce the visual impact.
16. The scheme would enhance biodiversity in comparison with the existing rather featureless field. The scheme would result in a great deal of new planting of indigenous species (as has already occurred with the existing units) which over time would significantly improve the site's biodiversity interest.
17. Thus whilst the scheme would be seen in views from certain elevated positions, the site itself is of little landscape value and planting and design measures can be taken that would limit the impact of the development. I do not consider that the scheme overall would conflict with Herefordshire Local Plan Core Strategy Policy SS6 which seeks to ensure that development proposals should conserve and enhance the environmental assets that contribute towards the county's distinctiveness, maintain and improve the effectiveness of ecosystems and adopt an integrated approach to planning and environmental considerations. Nor do I consider that it would conflict with Policy LD1 which requires that development proposals should demonstrate that the character of the landscape has positively influenced the scheme, and requires them to incorporate new landscape schemes and maintain and extend tree cover.

### *Benefits*

18. Poultry is a consumer staple, is the most affordable meat, and is bought more than any other meat in the UK. The poultry meat industry is estimated to support a £3.6 billion gross value added contribution to GDP, with exports valued at £305m in 2014. Moreover, agriculture has a major role in the economy of Herefordshire and plays an important part in the health and vibrancy of local communities in the county. The appellants have previously invested over £3m in the poultry enterprise and the business spends over 75% of its turnover on local suppliers. The current proposal would involve further initial capital investment of at least £3.5m, most of which would support local contractors and suppliers, and it would have an annual local input of £5m for goods and services. The farm is close to the CME factory which it supplies, and is close to most of its suppliers, thus keeping to a minimum the necessary transport distances. Whilst only a small number of extra people would be directly employed in connection with the development, the scheme would clearly have a much wider impact both in contributing to a successful part of the UK economy and in supporting other local businesses.

19. The scheme would be fully in accordance with Policy RA6 (Rural Economy) of the Herefordshire Local Plan Core Strategy, which indicates that a range of economic activities will be supported, including proposals which support and strengthen local food and drink production and support the retention of existing agricultural businesses.

### *Conclusion*

20. Though residents might notice odour at certain points during the cycle, the scheme overall would not have an unacceptable effect on the living conditions of residents in the area through odour or noise. The development would be seen from some elevated viewpoints, but there are other substantial buildings in the overall scene, and the land on which the development would be sited has limited landscape value. Visual impact would be softened by landscaping and appropriate colour finishes. There would be economic benefits nationally and for the Herefordshire economy. The proposal would accord with Policies SS6, SD1, LD1 and RA6 of the Core Strategy. In respect of the objectives of the National Planning Policy Framework, the development would help to build a strong economy and support a prosperous rural economy whilst conserving the natural environment. The proposal represents sustainable development.
21. I have considered all the other matters raised but none is of such weight as to alter the balance of my conclusions. For all the above reasons, the appeal is allowed.

### *Conditions*

22. In addition to the standard commencement condition, I have attached a condition requiring details of the colour of the buildings to be submitted to the Council to limit the visual impact of the development. For the same reason a condition is also necessary to ensure the implementation of the landscaping scheme. I have attached a condition requiring a detailed surface water drainage strategy, though not to the level of prescription suggested by the Council since the contents of such a strategy are a matter for the Council in discussion with the developer. In respect of ecology it is disproportionate and unnecessary, given the limited ecological interest of the site at present, for the developer to submit a scheme for the Council or to appoint an ecological clerk of works to oversee ecological mitigation work as suggested by the Council. Biodiversity enhancement can be incorporated into the landscape scheme. It is not appropriate to impose a condition relating to the velocity of the ridge extraction fans since this is a matter more properly controlled by the Environment Agency and the EP. It is also unnecessary to require a separate condition seeking details of finished floor levels or road surfacing for visual or amenity reasons given the relative isolation of the site; if these matters are relevant to drainage, they will be covered by the surface water drainage strategy.

*Jonathan Bore*

Inspector

## Appendix 1

### Conditions

- 1) The development hereby permitted shall be begun not later than three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with approved plans HA15677/01, 02/E, 03/C, 04/A, 05 and 06.
- 3) Before development is commenced, details of the colour finishes to be used on the buildings, including the roofs, shall be submitted to and approved by the local planning authority and the development shall be carried out in accordance with the approved details.
- 4) Before development is commenced, a detailed surface water drainage strategy for the proposed scheme shall be submitted to and approved by the local planning authority and the development shall be carried out in accordance with the approved details.
- 5) The landscape scheme shown on drawing HA15677/04/A shall incorporate a species mitigation and habitat enhancement plan, following the recommendations of sections 11 to 13 of the Environmental Statement, Appendix 10. All planting, seeding, turfing and habitat enhancement in respect of the landscape scheme shown on drawing HA15677/04/A shall be carried out in the first planting and seeding season following the completion of the development, and any trees or plants which die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size or species, unless the local planning authority gives written consent to any variation.