

Appeal Decision

Site visit made on 30 September 2016

by Gary Deane BSc (Hons) DipTP MRTPI

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

Decision date: 3 November 2016

Appeal Ref: APP/B3030/W/16/3153789

**Land North of Staunton Works, Alverton Road, Staunton in the Vale,
Nottinghamshire NG13 9PE**

- 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 Edward Mayman against the decision of Newark and Sherwood District Council.
 - The application Ref 16/00316/FULM, dated 23 February 2016, was refused by notice dated 10 June 2016.
 - The development proposed is the erection of 6 No. poultry buildings, boiler building, site office, access and hardstandings.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of 6 No. poultry buildings, boiler building, site office, access and hardstandings on Land North of Staunton Works, Alverton Road, Staunton in the Vale, Nottinghamshire NG13 9PE in accordance with the terms of the application Ref 16/00316/FULM, dated 23 February 2016, subject to the conditions set out in the schedule to this decision.

Procedural matters

2. An application for costs was made by the appellant against the Council. This application is the subject of a separate decision.
3. I have had full regard to the environmental information and particularly that contained within the Environmental Statement (ES), which accompanied the planning application.

Main issue

4. The main issue is the effect of the proposed development on the character and appearance of the local area.

The proposal

5. The site is a field bounded by hedgerows and trees that is alongside Alverton Road, just to the north of Staunton Works and beyond the settlement of Staunton in the Vale, within the countryside. The proposal is primarily to erect 6 poultry units with associated buildings on the main body of the site. The enterprise would have a capacity of 250,000 broiler chickens per cycle with
-

each cycle lasting 45 days. On that basis, the proposed operation would have an annual throughput of about 2 million broiler chickens.

6. Each new broiler-rearing unit would be identical, measuring some 94.5metres by 21.2metres with a ridge height of about 5.6metres. Between the southern end of each pair of poultry units would be feed bins reaching a maximum height of 8.6metres. A concrete apron for vehicles to turn and park would run along the southern end of the poultry units, which would also serve a new boiler house. A gatehouse would be placed to one side of the boiler house. On each side of the row of poultry units would be grassland with new planting within the site and around most of the perimeter. The hedgerow along the site's highway frontage would be realigned to provide the necessary visibility at the proposed access point off Alverton Road.

Principle of development

7. Within the countryside, Policy DM8 of the Council's Allocations and Development Management Development Plan Document (DPD) states that development will be strictly controlled. Among the types of development identified in DPD Policy DM8 that are deemed to be acceptable in the countryside is agricultural/forestry that requires planning permission.
8. The ES identifies the proposal as agricultural development and I concur with that opinion. Consequently, the proposal is acceptable, in principle, within the countryside under DPD Policy DM8. Additionally, this policy requires an explanation of the need for the development, and its siting and scale in relation to the use that it is intended to serve. It also states that proposals should take into account any potential visual impact that they create.

Reasons

Character and appearance

9. The site falls within the South Nottinghamshire Farmlands Character Area and the Cotham Meadowlands as defined in the Council's Landscape Character Assessment Supplementary Planning Document (SPD). The SPD notes that the characteristic features for this area are a flat low lying topography, open spacious views sometimes enclosed by rising ground, a remnant pattern of large hedged fields, small broad-leaved plantations and an absence of farmsteads and other buildings. The SPD describes the overall condition of the landscape in this area as very poor and its sensitivity as very low. That some industrial buildings of Staunton Works are close to and evident from the site reinforces my view that the landscape sensitivity of the area to which the site belongs is very low even though the wider area encompasses the setting of some designated heritage assets.
10. The proposal, involving the construction of a row of sizeable poultry units, together with a boiler house, gatehouse, feed bins and hardstanding, would represent a significant change to the site. It would result in the loss of an agricultural field with new large-scale built development and related vehicle movements encroaching into the countryside. Even so, the proposed development would take advantage of a subtle difference in ground levels with the site forming part of a slight natural depression in the landscape with rising ground particularly to the east. Mature hedgerows and trees would also largely

screen the site, with its boundaries strengthened by additional planting. Furthermore, the new buildings, although sizeable in floor area, would be relatively low profile with their walls and roof coloured Juniper Green that would assist their assimilation into the landscape. Consequently, the new built form would be a discrete element in the landscape especially in longer-range views. Additional native tree and shrub planting and the provision of grassland areas within the site would mitigate the landscape impact even further. Taking into account all of these points and the condition and sensitivity of the local landscape, I consider that the appeal scheme would have a minor adverse effect on the site and its immediate surroundings.

11. The representations indicate that local people value the countryside around Staunton in the Vale. However, it is not covered by any qualitative designation nor is it identified in the evidence before me as being of scenic value or beauty. Furthermore, from what I saw traveling to and from the site, groups of agricultural buildings are not uncommon feature within the wider area.
12. There would be some limited hedgerow removal to accommodate the formation of the new access. A considerable length of hedgerow would also be repositioned on either side of the proposed access, which could take some time to achieve its principal mitigating effects. Nevertheless, additional planting elsewhere with the site and around its edges would more than offset this. The new planting would be consistent with the rural character of the area and would represent a benefit to the landscape of limited local significance. Overall, the significance of the landscape effects would be minor.
13. With regard to the visual effects of the new development, hedges and trees would largely restrict views into the site from most public vantage points. Users of Alverton Road would be aware of the presence of the new poultry units, feed bins and the boiler house, projecting above the boundary hedgerows especially during the winter months. However, the extent of screening provided by existing vegetation and the supplemental landscaping would limit the scale of the change in view. From what I observed, Alverton Road is not busy with most users traveling freely and at some speed as they pass the site. In doing so, drivers and passengers would glimpse the upper part of some of the new buildings. Nevertheless, on the immediate approach to the site's new entrance along Alverton Road, in both directions, the new buildings would have a modest presence and would not draw the eye, as their agricultural character would not be unexpected in this rural setting.
14. There would be greater awareness of the proposal opposite the new access with the full length of the nearest poultry unit in view as well as the gatehouse, part of the boiler house and a section of the new access road. Even so, the new buildings would be set back from the public highway behind an area of grassland with new tree planting. Most users of Alverton Road would be passing the site at some speed and so views across the development from the site's entrance would be fleeting, at best. Those highway users slowing down and turning into the site would be likely to be visiting or working at the site and thus familiar with the appeal scheme. Overall, I consider that the proposal would have a moderate visual effect when seen from Alverton Road.
15. From other highways and public rights of way, the proposed development would be barely perceptible with only parts of the new buildings seen from

some distance with trees and hedgerows on the intervening land. The proposal would not materially change these views and it would have a negligible visual effect from these locations.

16. Parts of the new development would be evident from Staunton Grange situated to the northwest of the site. Having viewed this residential property from the site, it is likely that the upper parts of the poultry buildings and feed bins would be seen from it. However, the hedgerow along the northern boundary of the site would be bolstered with new planting and the use of recessive colours to the buildings would help blend them into the landscape. As a result, the adverse visual effect would be of moderate significance from this vantage point. Other properties are located further away with greater screening provided by existing vegetation and the local topography so the effect of the development would be of minor significance on their visual amenity.
17. The level of activity associated with the new development would be significant, with 1,488 vehicle movements predicted each year and the vast majority of these would be heavy goods vehicles (HGVs). During the construction phase, there would also be an increase in traffic to and from the site albeit over a relatively short time period. Nevertheless, the overall volume of traffic generally and HGVs specifically would not unduly disturb the visual amenity of the local area, which I saw already includes lorries passing the site.
18. Overall, the proposal would offer some limited benefits to the landscape mainly through hedgerow and tree planting. Otherwise, there would be minor adverse effects on the local landscape and moderate adverse effects in views from the site's new entrance off Alverton Road and from Staunton Grange. To my mind, the effects of the new development would not be so great as to be significant. It would not appear inappropriate in scale and form to its context, which includes industrial buildings nearby, nor would the proposal be an uncharacteristic or unsympathetic addition to the local landscape.
19. On the main issue, I therefore conclude that the proposed development would not cause significant harm to the character and appearance of the local area. Accordingly, I find no material conflict with Core Policy 9 of the Core Strategy (CS) or DPD Policy DM8. These policies aim to ensure that development is of an appropriate form and scale to its context and that it complements the existing built and landscape environments. Nor would the adverse effects on the character and appearance of the locality conflict with a core principle of the National Planning Policy Framework (the Framework), which is to recognise the intrinsic character and beauty of the countryside.

Other matters

Amenity

20. The Framework states that local authorities should focus on whether the development itself is an acceptable use of the land, and the impact of use, rather than the control of processes or emissions themselves where these are subject to approval under pollution control regimes. In this case, the proposed operation would require an IPPC permit from the Environment Agency (EA). This regime would place the highest levels of protection on the operation of the proposal to safeguard the occupiers of nearby properties and the environment.

21. Objectors express considerable concern about the prospect of noise and also emissions from the new development with reference particularly to odour, gases and dust particles. These matters are largely covered in the ES.
22. The appellant's noise impact assessment considered the effect of noise on nearby dwellings from ventilation fans, on-site vehicle movements and from the use of the road network. The nearest dwelling in this case is Staunton Grange. The noise levels from the ridge mounted ventilation fans and side inlet vents and related transport activities were found to be very low even if windows of the dwelling were open, and substantially below the World Health Organisation environmental noise ingress limits. On that basis, the noise impact of the development during the night, when ambient levels are lower and residents are more likely to be at home, would be very low.
23. The process of rearing broiler chickens has the potential to affect air quality through the generation of dust including fine particles, emissions of airborne pollutants (ammonia being the main substance of concern) and odour from poultry manure. In this instance, the poultry units would incorporate ventilation systems with controls on temperature and humidity.
24. The appellant's Odour Assessment sets out descriptions of how odours may be perceived at different concentrations. Odour concentrations are expressed as European odour units per cubic metre of air (oue/cubic metre). From 3 to 5 oue/cubic metre, odours may be detectable, but they would generally be described as faint. Modeling of emission dispersion from the proposal indicates that levels would be well below 3oue/cubic metres. It is unclear whether the modeling exercise included cleaning out of the units. However, the main doors of the units would be on the south elevations, away from the nearest dwelling and the EA would take cleaning out into account in considering an application for the IPPC permit. The EA has also confirmed in writing that ammonia impacts from the proposal would be screened out and therefore detailed modeling in that regard is not required.
25. The dust report refers to DEFRA research which demonstrates that emissions from poultry units in terms of particulate matter reduces to background levels by 100metres downwind of even the highest emitting poultry houses and are sufficiently diluted so as not to pose a risk to those living in the vicinity. The dust report concludes the proposed poultry units are located 310metres from the nearest sensitive receptor and this is well beyond the distance where dust problems can occur.
26. Given the topography of the site and the generous distance between the poultry units and the nearest dwellings, the proposal will not result in any undue overbearing or overshadowing impacts. Existing vegetation and new planting would further screen the development and visually soften views of the new buildings when seen from beyond the site. With regard to potential light pollution, a condition could be imposed to require full details of external lights to ensure that the effects of the development are acceptable on the amenity of nearby residents.
27. That the local community has genuine concerns about the effect of the proposed development primarily on living conditions and health is in no doubt. However the evidence before me indicates that the proposal should not cause

an unacceptable worsening of conditions for residents or visitors to the local area. The environmental permitting regime also provides reassurance that the new development should not be incompatible with a good standard of living conditions in the local area.

28. Therefore, I conclude that the proposal would not unacceptably worsen the amenities of local residents or visitors to the area. It would adhere to a core planning principle of the Framework, which is to secure a good standard of amenity for all occupants of land and buildings.

Highways

29. The appellant's Transport and Access Statement concludes that a safe and secure access to the site can be achieved with no adverse consequences for the operation of local roads based on the nature and volume of vehicle movements generated by the proposal. The plans show that the required visibility splays can be achieved at the entrance off Alverton Road and that a HGV can turn on the concrete apron so that it can both enter and exit the site in forward gear.
30. The Highway Authority (HA) also states that the additional vehicles generated by the proposal can be accommodated on the road network with no significant harm to highway safety. For highway safety, the HA has recommended that HGVs be routed to the north of the site, which would avoid traveling through Staunton in the Vale and Kilvington to the south and negotiating the bends in some roads to which some objectors refer. Such an arrangement is acceptable to the appellant and could be covered by a condition. The agreed routing plan would take into account the suitability of roads to carry HGVs including any weight restrictions that apply. Once approved, that plan would be binding on the proposed operation.
31. Subject to the imposition of suitable conditions to deal with access arrangements, visibility and HGV routing I find that the development would include safe access and that it would be appropriate for the highway network in terms of volume and nature of traffic generated.

Flood risk and drainage

32. The western part of the site is located within Flood Zones 2 and 3, wherein there is a medium to high probability of flooding as a result of a 1 in 100 year event on the River Devon. Some objectors also note that the site floods.
33. A detailed flood risk assessment (FRA) has been carried out, which notes that the areas proposed for development and access thereto are outside Flood Zones 2 and 3. On that basis, there is no additional risk of flooding to people at the site. The FRA also notes that the development is beyond the limit of 1:1000 year fluvial flooding and so there is no need to apply the Sequential Test. As the proposal is classified as an agricultural use it is regarded as 'less vulnerable' than other uses such as housing. The FRA states that it is appropriate for 'less vulnerable' uses to be located within Flood Zone 3 and that it is not subject to the Exception Test.
34. The proposal includes a surface water management strategy in the form of a sustainable drainage system. The FRA concludes that it is very unlikely runoff from impermeable surfaces could not be managed using infiltration and

recommends that surface water should be mitigated using a 1,100square metre attenuation pond taking into account increased peak rainfall due to climate change. This pond would then release runoff into a drainage ditch to the west of the site at an attenuated rate that would not exceed the calculated green field run-off rate. As a result, surface water run-off rates to receiving watercourses would not be increased as a result of the development, which is a requirement of the Internal Drainage Board. Details of the attenuation pond and the arrangements for surface water disposal could be covered by condition.

35. With regard to foul drainage, each of the poultry units would be washed out at the end of each growing cycle with the inside of each building drained to a sealed tank and the wall surfaces treated with penetrating sealer to prevent leakage. The dirty water tanks would be below ground and would need to be compliant with the EA's permitting standards.
36. The EA raises no objection to the proposal provided that a condition is imposed to require the implementation of measures identified in the FRA. The County Council similarly raises no objection if the proposal adheres to the FRA. I have no reason to reach a different conclusion on these matters.
37. Therefore, with suitable conditions to ensure that the FRA is adhered to and the site is properly drained, the proposal would meet the flood risk and water management objectives set out within the Framework, which broadly aim to steer development away from areas with the highest flood risk.

Ecology

38. The appellant's Extended Phase 1 Habitat Survey found no protected species or rare habitats on or near to the site including those of butterflies. The Survey does, however, make clear that its findings are valid until July 2017, after which updated surveys would be required to ensure that the status of the site for European protected species has not changed.
39. The appeal scheme includes grassland areas and a significant water feature that together with a varied bank structure would enhance biodiversity by providing new habitats and landscaping suitable for nesting birds, bats and amphibians. Consequently, there would be a net gain in the value of habitats on the site. I note that Notts Wildlife Trust, Notts County Council (Ecology) and Natural England all raise no objection to the proposal.
40. Against that background, there would be no significant impact on ecology with significant opportunities to enhance biodiversity, which could be secured through conditions. The Framework states that pursuing sustainable development involves seeking positive improvements in the quality of the natural environment, including moving to net gains for nature. The proposal would be in accordance with this national policy.

Heritage assets

41. With additional planting along the site's northern boundary, the setting of the Grade II listed pidgeoncote at Staunton Grange would not be affected by the proposal given the intervening topography and vegetation that would effectively screen it from the site. Similarly, the gently undulating land levels and greenery, coupled with the generous separation distance involved, would

ensure no harmful effect on the setting of other listed buildings in the wider area. The proposed development would therefore have no effect on their significance as designated heritage assets and thus would comply with the Framework with regard to conserving such assets.

Other considerations

42. The cost of developing the poultry enterprise is estimated at £3.2 million. The project therefore represents a substantial investment in the local economy. It would also create 2 full time jobs and support associated services and industries within the poultry sector and in the local economy. The proposal is consistent with the support for economic development in rural areas and the development of agricultural businesses given in the Framework, to which I attach significant weight.
43. Once operational, the appeal scheme would produce poultry meat for which consumption is growing and is expected to continue to do so. It would contribute to meeting that need in a location that is well connected to poultry processing plants and generally away from dwellings. The scale and siting of the operation reflect those considerations. The role of the development in contributing to meeting food needs therefore carries some weight in support of the appeal. The development would also incorporate a biomass heating system and sustainable drainage measures, which point to the environmental sustainability credentials of the new poultry enterprise.
44. Reference is made to the possibility that the development may justify an agricultural workers dwelling on the site. Any request for planning permission for this type of development would be determined on its own merits in the light of the development plan, national policy and all other material considerations prevailing at that time.
45. Many objectors consider that the proposal should be resisted on animal welfare grounds. However, in line with national policy, my focus is on whether the development itself is an acceptable use of the land, and the impact of the use. Other pollution control regimes will cover the control of processes or emissions.
46. Objectors consider that the proposal would deter visitors to a recently approved holiday park at Kilvington Lakes. However, few details of this development have been provided and there is no convincing evidence before me to support this assertion. My attention is also drawn to complaints of odour at poultry unit at Orston although these problems do not necessarily indicate that similar issues are likely to arise in this instance.
47. An interested party considers that the proposal, if permitted, would set an undesirable precedent for further development in the countryside. However, I disagree. Each case should be assessed on its own merits, as I have done.
48. I acknowledge that the development has attracted strong opposition including a lengthy petition against the proposal. However, the level of objection is not, in itself a reasonable ground for resisting development. To carry significant weight, opposition should be founded on valid planning reasons, which are supported by substantial evidence. In assessing the proposal, I have taken into account all of the submitted representations at both the application and appeal stages, and all of the evidence before me.

Balancing exercise

49. The Framework sets out three dimensions to sustainable development: economic, social and environmental. The scale of the investment in the poultry enterprise and the associated job-creation are factors that would contribute to build a strong economy. Social gains would principally be achieved through the role of the development in helping to meet food needs. There would be moderate adverse landscape and visual effects although new landscaping and measures to enhance biodiversity would constitute environmental benefits. Incorporating a biomass heating system and sustainable drainage into the new development also strengthen the environmental credentials of the proposal.
50. The appellant has provided a cogent case to support the need for the development and has explained how its siting and scale relate to the use that it is intended to serve. It is an acceptable form of development in the countryside under DPD Policy DM8. The proposal would not significantly harm the character and appearance of the local area. It would not worsen the amenities of local residents or visitors to the area, not would it materially harm highway safety, drainage, flood risk, ecology or the setting of any designated heritage assets.
51. Overall, I consider that the totality of benefits clearly outweighs the harm arising from the proposed development. Taken as whole, the proposal represents a sustainable form of development.

Conditions

52. In addition to the standard time limit condition, it is necessary to impose a condition that requires the development to be carried out in accordance with the approved plans for certainty. To ensure the satisfactory appearance of the development, conditions are imposed requiring details of ground and floor levels, external materials, landscaping and external lighting. In the interests of highway safety, conditions are attached to provide appropriate visibility splays and to require that the access road is 7.3metres wide for a distance of at least 20-metres into the site from the highway. For the same reason, a condition is imposed to require that HGVs are routed to the north of the site, away from nearby settlements.
53. To promote biodiversity, a condition is necessary to provide measures to enhance wildlife, notably breeding birds and bats. Details of surface and foul water disposal are required by condition to ensure that the site is properly drained. To ensure that flood risk is minimised, the recommendations of the FRA should be fully implemented, which is secured by a condition. My assessment of the proposal reflects its capacity for up to 250,000 broiler chickens at any one time. A higher number of birds could have different consequences for the environment. Consequently, a condition is imposed to place a limit on the total number of broiler chickens on the site.
54. Where appropriate, I have amended the Council's suggested conditions to more closely reflect the Planning Practice Guidance and in the interests of clarity. A condition that requires the Council's written approval of the arrangements to deal noise and odour emanating from the site as required under the Environmental Permitting Regulations 2010 unnecessarily duplicates other legislation. It does not meet the test of necessity. Therefore, this condition

has not been imposed. Similarly, a condition that refers to the need for updated ecological surveys to be carried out after July 2017 is unnecessary since the surveys that support the Extended Phase 1 Habitat Survey, upon which my assessment has been based, remain extant.

Conclusion

55. For the reasons set out above, I conclude that the appeal should be allowed.

Gary Deane

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Refs IP/EM/01, IP/EM/02A, IP/EM/03, IP/EM/04, IP/EM/05, IP/EM/06, IPA20278 11A Sheet 1 of 2 and IPA20278 11A Sheet 2 of 2.
- 3) No development shall take place until details of the materials to be used in the construction of the external surfaces of the buildings and structures hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No development shall take place until details of existing and proposed ground levels and the finished floor levels have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 5) No development shall take place until details of hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include: car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (eg. sealed carcass bin, signs); proposed and existing functional services above and below ground (eg. drainage power, communications cables, pipelines etc. indicating lines, manholes, supports); retained landscape features and proposals for restoration, where relevant.

Soft landscape works shall include measures to protect retained trees, hedges and shrubs growing on the site; details of the attenuation pond that are in accordance with the Flood Risk Assessment reference K0720 dated January 2016; planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes, numbers and densities where appropriate; and an implementation programme.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out accordance with the implementation programme. Any trees, shrubs, hedges or plants which within a period of 5-years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next

- planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
- 6) No development shall take place until an external lighting scheme has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and retained thereafter.
 - 7) No part of the development hereby permitted shall be brought into use until the access road to serve it has been designed and thereafter completed to a standard that provides a minimum width of 7.3metres for at least the first 20metres from the nearer edge of the public highway.
 - 8) No structure, erection or planting exceeding 0.6metres in height shall be placed in front of a line from a point 2.4 metres measured along the centre line of the access to serve the development hereby permitted from the nearer edge of the carriageway, to points measured 215metres in a northbound direction and 175metres in a southbound direction along the nearer edge of the carriageway from the centre line of that access.
 - 9) No development shall take place until proposals for the incorporation of features into the development hereby approved that are suitable for use by bats and breeding birds, including a timetable for their implementation, have been submitted to and approved in writing by the local planning authority. The proposals shall be installed and thereafter permanently retained in accordance with approved details.
 - 10) No clearance of any vegetation between 1st March and 31st August (inclusive) in any year shall take place unless a detailed survey of the site has been undertaken beforehand by suitably qualified person to check for nesting birds. Where nests are found in any vegetation to be cleared, a 4-metre exclusion zone shall be left around the nest until breeding is complete. Completion of breeding shall have occurred when a suitably qualified person confirms it in writing to the local planning authority.
 - 11) No development shall take place until a scheme for the disposal of foul water and surface water from the site, which includes details of sustainable drainage measures and a programme for implementation has been submitted to and approved in writing by the local planning authority. The scheme shall be fully implemented in accordance with the approved details and programme.
 - 12) The development hereby permitted shall be carried out in accordance with the Flood Risk Assessment Report K0720 dated January 2016.
 - 13) No development shall take place until details of a route for heavy goods vehicles associated with the construction and operation of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The approved details shall be fully adhered to thereafter.
 - 14) The development hereby permitted shall be restricted to a maximum of 250,000 broiler chickens at any one time.