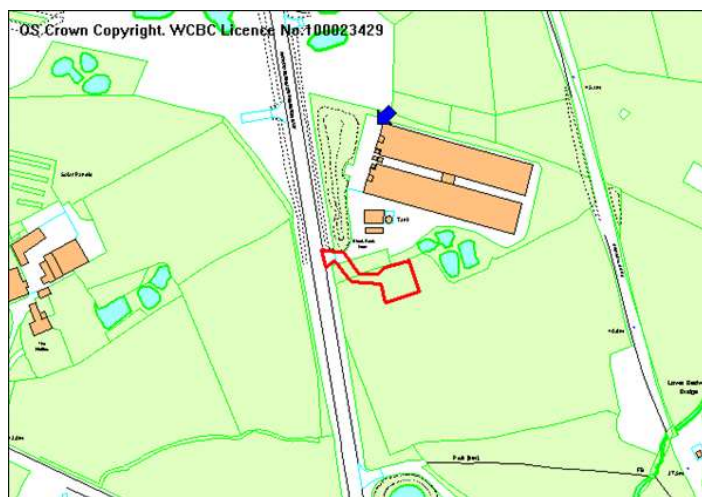


APPENDIX 1

Applicant	Agent Name and Address
MR & MRS ELLIOTT BLACK ROCK FARM SESSWICK WAY CROSS LANES LL13 0SQ	MR ANTHONY ATKINSON ACORUS RURAL PROPERTY LTD OAK HOUSE KINGSWOOD BUSINESS PARK HOLYHEAD ROAD ALBRIGHTON WOLVERHAMPTON WV7 3AU
Description of Development	Location of Development
APPLICATION FOR OUTLINE PLANNING PERMISSION (WITH SOME MATTERS RESERVED) TO ERECT A SINGLE DWELLING FOR AN AGRICULTURAL WORKER	BLACK ROCK FARM SESSWICK WAY CROSS LANES WREXHAM LL13 0SQ

THE SITE

The application site relates to an area of agricultural land to the south of an existing poultry unit and access/turning area at Black Rock Farm. The site is accessed directly via Sesswick Way, which bounds the site to the west. The application site is otherwise thereafter surrounded by further areas of agricultural land to the south and east.



PROPOSAL

Outline planning permission is sought for the erection of a new rural enterprise dwelling, together with associated works including a new driveway and parking area, and installation of foul drainage apparatus. Matters concerning access arrangements

are to be considered as part of the application, whilst appearance, landscaping, layout and scale are reserved for future consideration.

The proposed dwelling would have maximum dimensions of 8.5 x 11 metres, measuring a maximum of 4.8 metres to the ridge and 8.4 metres to the ridge. It is noted that a temporary dwelling, for 6 years, was granted at the site as part of appeal ref: P/2016/0533. The current proposal would provide a permanent replacement for the existing temporary dwelling on-site.

PLANNING HISTORY

From a review of the Council's records, the application site appears to have the following planning history of relevance:

P/2016/0533: Erection of two broiler chicken rearing buildings (each measuring 101.019m x 23.365m) housing up to 40,000 chickens each, to be served by 4 feed bins and a wood chip bin. Erection of associated control rooms, feed weighing rooms and mess facilities, construction of an agricultural storage building and temporary siting of mobile living accommodation in connection with operation of the development; Decision: Refused; Date: 12/01/2017.

Appeal subsequently allowed on 20/07/2017, including temporary permission for residential unit of accommodation for 6 years.

P/2017/0678: Discharge of Conditions 5 and 6 attached to appeal decision P/2016/0533; Decision: Granted; Date: 30/10/2017.

P/2017/0770: Discharge of Conditions 4, 7 and 9 attached to appeal decision P/2016/0533; Decision: Granted; Date: 30/10/2017.

P/2019/0127: Erection of agricultural building (in retrospect) ancillary to the poultry buildings currently under construction; Decision: Granted; Date: 07/05/2019.

RELEVANT PLANNING POLICY

National Planning Policy & Guidance:

- Future Wales: The National Plan 2040
- Planning Policy Wales (Edition 12)
- TAN 2: Planning & Affordable Housing
- TAN 5: Nature Conservation & Planning
- TAN 6: Planning for Sustainable Rural Communities
- TAN 12: Design
- TAN 18: Transport

Local Planning Policy & Guidance:

Adopted Wrexham Local Development Plan (2013 – 2028):

Policies SP1, SP2, SP11, SP12, SP13, SP14, SP18, SP19, H7, NE1, NE2, NE3, NE6, DM1 and T1 are of relevance.

Adopted Wrexham Local Planning Guidance Notes:

- 02 – Agricultural Appraisals
- 07 – Landscape & Development
- 13 – Housing in the Countryside
- 16 – Parking Standards
- 17 – Trees & Development
- 21 – Space Around Dwellings
- 30 – Design
- 32 – Biodiversity & Development

LEGISLATIVE CONSIDERATIONS

- Well-being of Future Generations (Wales) Act 2015
- Town and Country Planning Act 1990 (as amended)
- Planning (Wales) Act 2015
- Environment (Wales) Act 2016
- Welsh Government Circular 016/2014: The Use of Planning Conditions for Development Management
- Welsh Government Circular 008/2018: Planning requirement in respect of the use of private sewerage in new development, incorporating septic tanks and small sewage treatment plants

CONSULTATIONS

Sesswick Community Council:

Objects to the application. Substantial comments made in relation to the prematurity of the application before the financial viability of the enterprise has been demonstrated, as well as the requirements of TAN 6.

Local Member:

No response received at the time of writing.

Dwr Cymru Welsh Water:

No objections.

HSE:

Does not advise against granting planning permission.

Flood & Water Management Team:

Advises an informative in relation to SuDS approval.

Local Highway Authority:

No objections raised subject to conditions in relation to visibility splays and access surfacing.

Public Protection Officer:

No objections raised subject to informative notes in relation to construction noise, the burning of waste on-site and dust management.

Contaminated Land Officer:

No comments to make.

Natural Resources Wales:

Concerns raised in relation to protected sites as a result of the proposed foul drainage arrangements. Whilst concerns are also raised in relation to the potential impacts upon protected species, no objections are raised in this regard and issues could be dealt with by conditions. It is confirmed that the proposals would require an EPS Licence.

Arboricultural Officer:

No objections subject to conditions in relation to landscaping and adherence to the submitted tree report.

Ecology & Biodiversity Officer:

Raises concerns in relation to foul drainage arrangements and protected sites, as well as protected species.

National Grid:

No response received at the time of writing.

Wales & West Utilities:

No response received at the time of writing.

Public Representations:

A site notice was displayed on 16/01/2020. No public representations have been received at the time of writing this report.

SPECIAL CONSIDERATIONS

Principle of Development

The application site is located outside of any settlement boundary as defined by the adopted Wrexham Local Development Plan. For the purposes of this planning application, the application site is thus deemed to be located wholly within the open countryside.

Policy H7 (Housing in the Countryside) of the Wrexham LDP confirms that proposals for new housing development outside defined settlement limits will only be permitted where:

- i. It is for the purposes of agriculture, forestry or other rural enterprise as defined in TAN 6; or*
- ii. It involves the replacement of an existing dwelling (see policy H8); or*
- iii. It involves the subdivision of an existing dwelling, provided the dwelling is capable of subdivision without major extensions tantamount to the erection of an additional dwelling or dwellings; or*
- iv. It involves the conversion of an existing non-residential building (see policy H9); or*
- v. The proposal is for affordable housing rural exception sites on land adjoining the settlement limits (see policy H3); or*
- vi. One Planet development as defined in TAN6.*

In-line with Criterion (i), above, the main policy guidance in relation to the provision of new rural enterprise dwellings is contained within TAN 6 and the TAN 6 Practice Guidance for Rural Enterprise Dwellings.

The first determinant in deciding if a proposal falls within the scope of the rural enterprise dwelling policy is whether an enterprise is directly related to the management of rural land-related businesses, or has a character such that it can only be located in the open countryside, or has very particular reasons for a location in the open countryside, rather than in an existing settlement, as per paragraph 2.9 of the TAN 6 Practice Guidance on Rural Enterprise Dwellings.

The application seeks consent for the construction of a permanent rural enterprise dwelling, in association the running of the poultry farming enterprise at Black Rock

Farm. It is considered the nature of the business and the site does fall within the scope of the rural enterprise dwelling policy area, given that it relates to an agricultural farming business. Indeed, the development has been proposed on the basis it would be the first permanent dwelling on-site to serve the existing agricultural enterprise at Black Rock Farm. Part 4.3.1 of TAN 6 states that rural enterprise dwellings include *“a new dwelling on an established rural enterprise (including farms) where there is a functional need for a full time worker and the business case demonstrates that the employment is likely to remain financially sustainable”*.

Part 4.4 of TAN 6 goes on to provide more detailed policy guidance relating to new dwellings on established enterprises. It states the following:

“New permanent dwellings should only be allowed to support established rural enterprises providing:

- a. there is a clearly established existing functional need; (See paragraph 4.8.1).*
- b. the need relates to a full-time worker, and does not relate to a part-time requirement; (See paragraph 4.7.1) (See paragraphs 4.5.1 - 4.5.3 for policy exemptions).*
- c. the enterprise concerned has been established for at least three years, profitable for at least one of them and both the enterprise and the business need for the job, is currently financially sound, and has a clear prospect of remaining so; (See paragraphs 4.10.1 - 4.10.3).*
- d. the functional need could not be fulfilled by another dwelling or by converting an existing suitable building already on the land holding comprising the enterprise, or any other existing accommodation in the locality which is suitable and available for occupation by the worker concerned; (See paragraphs 4.11.1 - 4.11.2), and*
- e. other normal planning requirements, for example siting and access, are satisfied. (See paragraphs 4.12.1 - 4.12.2)”*.

Whilst it is considered the nature of the existing enterprise is such that the principle of a rural enterprise can be considered by the Local Planning Authority, in this instance, it is deemed insufficient information has been provided to meet the requirements of the Functional, Time, Financial and Other Dwelling tests as outlined within TAN 6.

Functional Test

Information accompanying the application states that the two poultry units on-site each contain up to 41,000 chickens at any one time, and that stockpersons are required to be on-site at unpredictable times for animal husbandry reasons and to meet any unexpected, emergency, situations. However, it is noted that such poultry units can operate with high degrees of automation, and this is commonplace for modern units of this nature. It is considered that the use of modern automation would reduce any identified functional need for a full-time worker to reside on-site. Furthermore, it has failed to be demonstrated why the needs of the enterprise could not be met through a re-organisation of the enterprise's employment structures, and through a rota system to ensure that a worker would be on-hand, or within the nearby vicinity, to meet any emergency situation that does arise. Whilst issues in relation to feeding have been identified in additional supporting information submitted, it is

noted that this would not comprise an unpredictable scenario; and in the vast majority of instances, feeding times/patters would be at a set-time when a worker could organise to be on-site. It is made clear within TAN 6 that the erection of a new dwelling should be a matter of last resort, and that the needs of the enterprise should be met through other means (such as re-organised rota systems etc) in the first instance. It is considered that insufficient information has been submitted to demonstrate there is a functional need for a full-time worker to reside on-site, and therefore the proposal is considered to be contrary to the requirements of TAN 6, the TAN 6 Practice Guidance for Rural Enterprise Dwellings, and Policy H7 of the LDP.

Whilst the Agent contends that the functional need was established as part of the appeal previously on the site, it is noted that this is not the case, with Para. 25 of the appeal decision stating: *“During the hearing it was apparent that there is a clear intent to develop and a financial case for the proposal. However, it was not apparent that there would be a clear functional need for a dwelling. With reference to the guidance in paragraph 4.6.2 of TAN 6, if this appeal were to be allowed, the proposed residential unit of accommodation would be appropriate for a temporary period limited by planning condition”*.

Time Test

The application has not been accompanied by a detailed ‘time test’ as is required by Part 4.9 of TAN 6. Whilst it has been stated that there is a requirement for in excess of one full-time worker to be present on-site, this has not been substantiated by a detailed time test calculation as is required by Parts 4.12 – 4.17 of the TAN 6 Practice Guidance for Rural Enterprise Dwellings.

It is thus considered that insufficient information has been submitted to demonstrate there is a requirement for a full-time worker to reside on-site.

Financial Test

The application has been accompanied by Profit and Loss Accounts for the financial years 2020, 2021 and 2022. Whilst the submitted information does indicate that the enterprise has been established for in excess of three years, and that it has been profitable in this time, it is noted the accounts submitted do not appear to include wages being drawn; contrary to Part 5.16 of the TAN 6 Practice Guidance. With wages being drawn as is required by the practice guidance, it is noted the financial performance of the enterprise would be reduced. Further, no information has been submitted to outline if the enterprise’s financial performance could sustain the build costs of the proposed permanent dwelling house. Additionally, no Design and Access Statement has been submitted to outline indicative build costs, contrary to Part 5.17 of the TAN 6 Practice Guidance.

In light of the above, it is considered that insufficient information has been submitted to confirm that the enterprise could sustain the build costs of the proposed dwelling, and therefore it remains unclear whether the enterprise is financially sound and whether it’s future (for up to at least the next five years) would be financially viable.

Other Dwelling Test

It is noted that the only existing unit of accommodation on-site is the temporary dwelling, granted consent on appeal, which will need to be removed from the site in 2024. It is further noted that there are no existing buildings on the site capable of conversion.

Notwithstanding this, the application has not been accompanied by any reasoned argument or clear robust evidence, as is required by Part 6.3 of the TAN 6 Practice Guidance, to demonstrate why any existing housing for sale or rent within the site's locality would be unsuitable to meet the needs of the enterprise. It is noted the submitted Rural Enterprise Appraisal states that on-site accommodation is essential. However, in-line with previous appeal decisions for similar proposals, it is considered that options should be explored within an approximate 2-3 mile radius of the application site; which would include the settlements of Cross Lanes, Marchwiel and parts of Wrexham. It is considered that alternative accommodation within this radius of the application site would allow a worker to travel to the site within an acceptable timeframe in order to deal with any unexpected situation that did arise.

In the absence of any robust supporting information or reasoned argument, it is considered insufficient information has been provided to meet the requirements of the other dwelling test.

In light of the above, it is considered insufficient information has been submitted to allow the Local Planning Authority to robustly assess the need for the proposed permanent residential unit on-site, and in the absence of any further supporting information, the proposal represents unjustified and unsustainable residential development within the open countryside, contrary to the requirements of Part 4 of TAN 6, Planning Policy Wales (Edition 12), LDP Policy H7 and Wrexham Local Planning Guidance Note 2.

Design, Scale & Landscape/Visual Impact

LDP Policy DM1 (Criterion i) requires development proposals to accord with or enhance the character, local distinctiveness and appearance of the site, existing building(s) and surrounding landscape/ townscape in terms of their siting, layout, scale, height, design, density, use of materials and landscaping. Further guidance is provided by TAN 12 (Design) and Local Planning Guidance Note 30.

The application site itself is not subject to any landscape designations, although it does lie within the open countryside.

The application has been submitted in outline, with matters in relation to appearance, landscaping, layout and scale being reserved for future consideration.

It is considered that a satisfactory design could be devised at reserved matters stage so as not to cause any adverse landscape visual impact; particularly given that the site is largely screened from view from the west by an existing mature hedgerow.

Impact upon Neighbouring Residential Amenity & Privacy

Policy DM1 (Criterion B) of the LDP confirms that development proposals must not have an unacceptable effect on the amenity of the occupiers of nearby properties/land; and provide a satisfactory standard of amenity for the occupiers/users of the development itself.

There are no neighbouring residential properties within close proximity to the application site, and therefore it is deemed there would be no potential for any adverse impacts upon neighbouring amenity and privacy to be caused by the proposals. However, given that the final design, siting and scale of the dwelling are reserved matters, this would need to be re-visited as part of a future detailed application.

Highway Safety & Parking Provision

Local Planning Guidance Note 16 sets-out the Authority's position with regard to parking provision. Policies T1 and DM1 (Criterion vi) of the adopted Wrexham LDP are also of relevance.

Access would be gained via an existing access, serving the poultry units and yard, off Sesswick Way. Upon consultation, the Highway Officer has confirmed no objections to the development subject to conditions securing visibility splays and access surfacing. The recommended conditions are deemed to be reasonable and necessary, and would therefore be attached to any permission granted.

In terms of parking, whilst siting is a reserved matter, it appears that sufficient space would exist on-site to provide an adequate parking and turning area to serve the dwelling house.

The proposals are thus considered to be acceptable in this regard in compliance with Policies T1 and DM1 of the adopted Wrexham LDP.

Ecology & Biodiversity

Planning Policy Wales (Chapter 6), TAN 5 and LDP Policies SP14, DM1, NE1 and NE2 are of relevance when considering ecological matters. Local Planning Guidance Note 32 also provides further detailed advice.

The application has been accompanied by information to confirm that Great Crested Newts (GCN) are present on-site. Upon consultation, NRW have raised concerns with the proposals, but are content that subject to a range of conditions to be attached to any outline consent granted, their concerns could be overcome. It has also been confirmed that a separate EPS Licence would be required from NRW prior to the commencement of any works.

Indeed, it is noted that the submitted Mitigation Strategy outlines that no works should be permitted within a 5 metre buffer of the identified GCN pond adjacent to the application site, and this could be controlled via an appropriately worded condition. Further, NRW have concluded that provided the development could be satisfactorily sited and remote from the adjacent pond, the development is not likely to be detrimental to the maintenance of the favourable conservation status of the

GCN populations provided that any subsequent consent is subject to the imposition of planning conditions / obligations to ensure the management of the compensation area for great crested newt. Any planning permission granted would therefore be subject to a Planning Obligation under Section 106 of the Town and Country Planning Act (1990, as amended) to secure appropriate compensation measures for GCN.

Further to the above, it is also noted that any outline consent granted would be subject to a condition to secure the submission and implementation of a scheme of net biodiversity benefit.

In light of the above, subject to the recommended conditions and the completion of a Planning Obligation, the development is considered to be acceptable in compliance with TAN 5, Planning Policy Wales (Chapter 6), and LDP Policies SP14, NE1, NE2 and NE3.

It should be noted, however, that failure of the Applicant to enter into a Planning Obligation to secure the long-term maintenance and management of the ecology compensation areas should constitute in a refusal of the planning application, due to the adverse impact upon protected species this could result in.

Phosphates

The application site is located within the freshwater catchment of the River Dee and Bala Lake SAC. Under the Habitats Regulations, where a plan or project is likely to have a significant effect on a European site, either alone or in combination with other plans or projects, and where it is not directly connected with or necessary to the management of the site (previously designated pursuant to EU retained law) the competent authority must carry out an appropriate assessment of the implication of the plan or project in view of the site's conservation objectives. Natural Resources Wales has set new phosphate standards for the river SACs in Wales. Any proposed development within the SAC catchments that might increase the amount of phosphate within the catchment could lead to additional damaging effects to the SAC features and, therefore, such proposals must be screened through a HRA to determine whether they are likely to have a significant effect on the SAC condition.

This application has been screened in accordance with Natural Resources Wales' advice for planning applications affecting phosphorus sensitive riverine Special Areas of Conservation (SACs) (updated in October 2023).

The application form confirms the proposed residential unit would connect to a new private package treatment plant on the site. However, no details as to its location, design, capacity and discharge have been submitted as part of the application. Furthermore, if a discharge to ground via a drainage field is proposed, no soil percolation test results have been submitted to confirm this would be a feasible option.

In order for the LPA to be able to 'screen out' the development, it would need to comply with the following from the NRW advice:

“Private sewage treatment systems discharging domestic wastewater to ground, which are built to the relevant British Standard (BS 6297:2007+A1:2008), the maximum daily discharge rate is less than 2 cubic metres (m3) and the drainage field is located more than 40m from any surface water feature such as a river, stream, ditch or drain and located more than 50m from a SAC boundary and at least 200m from any other known discharge to ground”.

From the information submitted, it is not possible for the LPA to undertake an Appropriate Assessment and conclude with sufficient certainty that the proposal would not result in an adverse effect on the integrity of the SAC. Consequently, granting of planning consent in the absence of an Appropriate Assessment, or where an Appropriate Assessment concludes that an adverse effect on the integrity of the SAC cannot be ruled out, risks contravention of The Conservation of Habitats and Species Regulations 2017 (as amended).

Whilst the Agent contends that the development would not result in an increase in the volume and phosphorous concentration of wastewater produced on-site as it would replace the existing temporary dwelling house, given that the temporary accommodation needs to be removed from the site in 2024, the LPA considers there is no ‘fall-back position’ in this instance. Indeed, the existing on-site accommodation was only granted permission on the proviso it would be of a temporary nature, and therefore once removed from the site, the construction of a new permanent dwelling house would have the potential for increased phosphate inputs to be created within the SAC catchment.

As such, the proposed development would have the potential to cause a likely significant effect upon the River Dee and Bala Lake SAC by virtue of increased phosphate inputs, and the development is thus contrary to the requirements of PPW, TAN 5, the Environment (Wales) Act 2016, and Policies NE1 and NE6 of the LDP.

Trees

The application has been accompanied by a detailed Tree Constraints Plan / Arboricultural Method Statement. Upon consultation, the Authority’s Arboricultural Officer raises no objections to the development proceeding, subject to recommended conditions in relation to adherence to the submitted information and the submission of further landscaping proposals.

The recommended conditions are considered to be reasonable and necessary, and will therefore be attached to any permission granted. In light of this, the proposals are deemed to be acceptable in this regard.

CONCLUSION

Having regard to the planning policy framework as outlined within this report, it is considered insufficient information has been submitted to justify the principle of a new residential unit within this open-countryside location. Insufficient information has been submitted to meet the requirements of TAN 6, LDP Policy H7 and Wrexham Local Planning Guidance Note 2. The proposal therefore constitutes unjustified residential development within an open-countryside and unsustainable location.

Furthermore, the development as proposed would have the potential to cause a likely significant effect upon the River Dee and Bala Lake SAC by way of increased phosphate inputs. The recommendation is therefore one of refusal for the reasons as outlined below.

It is considered that the decision complies with the Council's well-being priorities and the sustainable development principle in accordance with the requirements of the Well-being of Future Generations (Wales) Act 2015.

RECOMMENDATION

That outline planning permission be refused.

REASONS

1. Insufficient information has been submitted to justify the creation of a new residential unit within the open countryside. The functional requirement for a full-time worker to be resident on-site has not been demonstrated, the financial performance and future viability of the enterprise has not been proven, and a lack of alternative appropriate accommodation within the application site's vicinity has not been shown. The application is therefore contrary to the requirements of TAN 6, the TAN 6 Practice Guidance for Rural Enterprise Dwellings, Part 3.60 of Planning Policy Wales (Edition 12) and Policy H7 of the adopted Wrexham Local Development Plan.
2. The proposed development would lead to increased phosphate inputs entering the freshwater catchment of the River Dee and Bala Lake Special Area of Conservation. A likely significant effect upon the integrity of the SAC cannot be ruled out, contrary to the requirements of Planning Policy Wales (Edition 12), Technical Advice Note 5, Policies NE1 and NE6 of the adopted Wrexham Local Development Plan, as well as the Environment (Wales) Act 2016 and the Conservation of Habitats and Species Regulations 2017 (as amended).