

Cinders Poultry Farm, Ruabon

Appellant's Statement of Case

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Socio-Economic Statement (Ref: rpt.037.GM.25100001)

1. Executive Summary

- 1.1. This Statement of Case has been prepared on behalf of Soaltar Ltd (herein referred to as “the Appellant”) in support of an appeal against the decision of Wrexham County Borough Council (herein referred to as “WCBC” or “the Council”) to refuse planning permission P/2019/0455 for:

Application for variation of condition 19 imposed under planning permission P/2018/0577 relating to hours / days of operation

- 1.2. A copy of the decision notice for P/2019/0455 is contained at **Appendix 1**. This details one reason for refusal, as follows:

The proposals will result in traffic entering and leaving the site during the night and early hours of the morning to the detriment of the standard of amenity afforded to the occupiers of nearby residential properties. The proposals therefore conflict with policy GDP1(f) of the Wrexham Unitary Development Plan

- 1.3. The site to which the applications and this appeal relates is known as Cinders Poultry Farm located at Cinders Lane, Ruabon, Wales. A Site Location Plan is at **Appendix 2**.

Background of appeal

- 1.4. Application P/2018/0577 sought approval for:

Erection of four agricultural buildings for rearing livestock (poultry), ancillary buildings and plant, associated infrastructure, landscaping and access arrangements

- 1.5. The Planning Committee resolved in favour of the application on 4 March 2019.

- 1.6. A copy of the decision notice for P/2018/0577 is contained at **Appendix 3**.

- 1.7. The planning permission was granted subject to a condition (condition 19) restricting operating hours. The condition wording is as follows:

Subject to the exceptions detailed separately in this condition, all works in relation to the implementation of this permission, including deliveries to or from the site shall be undertaken only between the hours of 07:30 and 18:00 Monday to Friday, and 08:00 to 14:00 on a Saturday and at no time on a Sunday, Bank or Public Holiday. Vehicles associated with the delivery or collection of the birds shall be allowed to be on site from 06:30 hours with loading and unloading taking place from 07:00 hours. The removal of manure from the site shall not take place on Saturdays, Sundays, and Bank or Public Holidays

- 1.8. The condition was recommended prior to the committee debate by a councillor who was not a member of the planning committee. The councillor in question asked the committee to impose the condition on the basis that a similar condition had been imposed on another permission for a poultry unit at Talwrn Farm in Legacy. Planning Committee members accepted the non-member’s recommendation and the application was approved subject to the condition.

- 1.9. The condition is unacceptable because it is unduly restrictive and unnecessary and because

its meaning is not clear. In particular it is not clear what “works in connection with the implementation of this permission” means. This appears to refer to construction works, but the reference in the condition to “subject to the exceptions detailed separately” and the fact that the condition goes on to refer to “vehicles associated with the collection and delivery of birds” suggests that it does seek to control the catching of birds as well as their collection and delivery. That being the case, the condition is far too restrictive to allow the realistic operation of the poultry rearing facility and the restrictions are not justified on the basis of the evidence submitted in support of the application.

- 1.10. As such, a variation of condition was sought to rectify the matter and ensure there would be no adverse or unfair restriction of the operation of the facility.
- 1.11. Application P/2019/0455 was refused by Planning Committee against officer recommendation for approval. A copy of the officer’s Committee Report is contained at **Appendix 4**.
- 1.12. There is one reason for refusal, the application was supported by officers and there are limited areas of disagreement between the Council and the Appellant. As such, we request that this appeal is addressed by way of written representations.

The night time operation of the poultry facility is critical

- 1.13. There are two reasons why bird depopulation needs to take place at night. Firstly, for welfare reasons; and, secondly, for biosecurity and for logistical reasons. With regards the latter, the processing facility can handle birds from one farm per day, after which it must be cleaned and disinfected. The operation of the processing facility starts in the early hours of the morning so that arrival of the first HGV containing birds must align with the first shift and then continue throughout the day. If a farm is restricted so that it cannot deliver birds to the processing facility until after the first shift commences then the processing facility will not receive bird deliveries.
- 1.14. Given these contextual factors and the decision reached by WCBC, there are five reasons why the appeal should be allowed. These are set out below.

Reasons why the Appeal should be allowed

- 1.15. This appeal should be allowed for the following reasons:
 - The Environmental Statement (ES) (refs: ES NTS Vol.I.25100001, ES.Vol.II.031.25100001 Vol.III.25100001) submitted and approved in connection with application P/2018/0577 concluded that the poultry operation and associated vehicle movements (including night time bird collections and deliveries) would not result in any adverse environmental impacts or unacceptable impact on residential amenity. This was acknowledged in the Committee report (dated 4 March 2019) and the proposal therefore complies with planning policy GDP1 of the Wrexham Unitary Development Plan and Planning Policy Wales TAN18.
 - The application was supported by officers and presented to Committee with a recommendation for approval and that recommendation confirmed that the application complied with relevant policies of the UDP. The members had no substantial reason not to follow the professional advice of their officers.
 - There were no objections received from the key statutory consultees – WCBC Highways and Environmental Protection.
 - There is recent appeal precedent elsewhere in the Borough that supports this appeal:
 - The condition for which the variation was sought was imposed by Members who were under the impression that an identical condition had been imposed on the Talwrn

Farm scheme in Legacy. At the time this was correct, however, that was not a sufficient reason to impose the condition on this site as the individual circumstances of each site must be taken into account and in this case, there was no indication that such a restriction was justified. In any event, shortly after Committee on 14 March 2019, an appeal (ref: APP/H6955/A/18/3216674) (Appendix 17) was allowed in which the Inspector found that removing the disputed condition would not harm the living conditions of nearby residents in relation to noise and disturbance and consequently relaxed the restrictions on bird collections and deliveries. The condition was also in conflict with the RSPCA's animal welfare requirements which advises that bird collections are to be carried out during the night time or early hours when birds are resting, which this condition would prevent.

- Three concurrent appeals (refs: APP/H6955/A/18/3216187, 3216188 & 3216190) (Appendix 18) allowed the variation of a condition that resulted in additional traffic movements to a poultry processing site including movements during the night. The inspector found that the impact on amenity was outweighed by socio-economic benefits. The need for night time movements relating to this appeal is directly related to the hours of operation of that plant and the economic contribution made by the plant is dependent on deliveries from producers. These decisions are a material consideration because night time movements from farms to the processing plant have been permitted. The harm of those movements was considered, and it was found that the economic benefits (consistent with economic benefits identified in the Cinders Farm scheme) outweigh the harm.
- The night-time operation of the integrator/poultry processor is intrinsically linked to the socio-economic benefits generated by the appeal scheme. The night-time operation is a substantial contributor to the estimated 43.4 FTE jobs created by the development, once complete and operational. As such, for commercial and welfare reasons, it is essential that night time vehicle movements are allowed. The approved development will not be capable of viable implementation without the approval of night time operation. The economic benefits are a key aspect of the approved Cinders Farm development and comply with TAN23. This carries substantial weight in the planning balance.

- 1.16. In light of the above, it is wholly unreasonable to have imposed condition 19 on the Cinders Farm scheme in the first instance and there are no justifiable planning grounds for the refusal of the variation of this condition, which unfairly and unjustifiably impedes Soaltar's operational requirements. The appeal should therefore be allowed, and the condition varied as follows:

No construction deliveries shall take place outside of the hours of 0730 and 1800 Monday to Friday, and 0800 to 1400 on a Saturday and at no time on a Sunday, Bank or Public Holiday. Manure shall not be collected on Sundays or Bank and Public Holidays. Bird deliveries and collections shall be permitted 24 hours a day.

Structure of this Statement

- 1.17. This Statement of Case is structured as follows:
- Section 2 provides a description of the appeal site and its surrounding context as well as an overview of its planning history;
 - Section 3 details the poultry farm scheme approved in March 2019 to which the refused application under Section 73 related;
 - Section 4 sets out the relevant planning policy and guidance to be considered in this appeal;
 - Section 5 addresses the single reason for refusal, setting out five key reasons why this

appeal should be allowed; and

- Section 6 sets out the conclusions reached in support of this appeal.

2. Site Context

- 2.1. The site is located approximately 1.5km to the east of Ruabon as indicated on the location plan at **Appendix 2**. Existing features in the local landscape are illustrated on the aerial photographs at **Appendix 5**, which date from June 2009.
- 2.2. The site is located in a gently undulating lowland agricultural landscape. The land across the site falls from south-west to north-east across the 100m AOD contour, as illustrated on the Existing Site Plan (Dwg no 755-0717-T) contained at **Appendix 6**.
- 2.3. The main part of the site occupies part of a larger arable field which is in arable cultivation. This part of the site is bounded by mature hedgerows to the north, south and east whilst the remainder of the arable field defines the western boundary. There are occasional mature trees in the hedgerows (mostly Oak) and a drainage ditch along the northern boundary.
- 2.4. The smaller south-eastern and north-eastern part of the site occupies part of an adjacent pasture field. This part of the site is bounded by a mature hedgerow to the north-west, the existing farm buildings at Cinders Farm to the south, and the adjacent road to the east. There is no hedgerow along the roadside boundary.
- 2.5. The site is located a 750m crowfly distance north of the A539 and is accessed via a rural lane with a priority junction onto the A539. The proposed HGV route to the site takes traffic off the A539 at the aforementioned priority junction, and on to the rural lane before turning left into the new site access. HGV traffic leaving the site will turn right out of the new vehicular access and travel south for 750m before joining the A539 at the existing priority junction.
- 2.6. This HGV route is a voluntary scheme and is not a requirement of any previous planning consent on the farm. The operators of the proposed development will operate this HGV routing plan to avoid any conflict between poultry traffic using local routes and other vehicles and the approved access design will secure the use of this route. This HGV route is the shortest route to the A539 and wider strategic highway network, and there is no evidence of any historic incidents involving HGV's along this route.
- 2.7. There is an existing public footpath (RUA/91) which runs near the western site boundary. However, this cannot be well used as the crossing point to the drainage ditch near the north-western corner of the site is in very poor condition and is virtually inaccessible.
- 2.8. It can be seen from the aerial photographs that the site is surrounded by a mix of small to medium scale fields in mixed agricultural use. The fields are generally bounded by mature hedgerows with variable hedgerow tree cover.
- 2.9. The settlement of Ruabon and the A483 dual carriageway lie approximately 1.5km to the west. The historic parkland of Wynnstay Park lies approximately 1.0km to the south-west, south of the A539.
- 2.10. Elsewhere there are scattered farmsteads and cottages served by a network of country lanes. High voltage power lines on pylons cross this landscape in a north/south direction approximately 630m to the west.

Planning History

- 2.11. The planning history for the site is limited to the two planning applications (P/2018/0577 and P/2019/0455).

- 2.12. Application P/2018/0577 was granted full planning permission on 4 March 2019 for the following development:

*Erection of four agricultural buildings for rearing livestock (poultry);
ancillary buildings and plant; associated infrastructure; and landscaping.*

- 2.13. A copy of the decision notice is contained at **Appendix 3**.

3. Approved Development

Planning permission P/2018/0577

- 3.1. The approved scheme permits the creation of a farm for rearing broiler chickens for poultry meat for retail and wholesale and restaurant trade.
- 3.2. The following sections include a description of the main development components, operational arrangements and environmental controls and description of the production cycle.

Summary of approved development

- 3.3. The site would be laid out with four livestock rearing houses cut into the gentle slope of the site orientated north south. Gentle ground modelling would be located to the west and north of the site and in the adjoining field in the north-eastern part of the site.
- 3.4. A yard area would be to the north of the rearing houses and ancillary buildings will be located on or adjoining this yard: specifically feed storage bins; energy distribution building; a water storage tank; a generator; electricity substation; and office building.
- 3.5. The yard area would be connected to the local highway with an access track running through an existing field gateway.
- 3.6. A biomass boiler and storage building would be located to the north of the existing Cinders Farm and LPG storage tanks would be located adjoining this.
- 3.7. A control room would be connected to the front of each of the rearing houses.
- 3.8. A blending shed would be between each pair of houses.
- 3.9. Woodland planting and other landscape and biodiversity improvements would be located surrounding the site.
- 3.10. Two surface water attenuation ponds would be located to the north of the rearing houses and to the east of the biomass building.
- 3.11. Local highway improvements would be made to the visibility of the junction with the A539 and vehicle passing places along the minor road connecting the site to the A539.
- 3.12. Above each of the poultry rearing house main doors will be 1no. 100W metal haylide lamp. Such lights give a white light and will only be used during collection of birds at night. The lights will face downwards and will be protected by a metal cowl. The provision of a detailed external lighting scheme prior to installation is required by condition 12 of P/2018/0577 to ensure that light spillage is suitably controlled.

Details of buildings, plant and hardstanding

- 3.13. The following table sets out the detail of the building and plant:

Table 3.1 buildings and plant

Description	Dimensions (m)				Materials	Drawing ref.
	Length	Width	Eaves	Height		
4 no Rearing Houses	110.2	26.7	2.5	6.0	Steel portal frame. Insulated composite metal sheet cladding. Each house would be fitted with 19 ventilation fans.	GM-MZ228-201(A), GM-MZ228-201 (B) GM-MZ228-201 (C
	NB, the above measurement includes roof overhang. The gross external width is 24.7.					
Control rooms	10.4	4.0	2.5	5.4	As above.	As above
Feed storage bins		3.4 Ø		8.6	Metal sheeting coloured to match rearing houses.	As above
Blending shed	3.0	3.0	2.62	3.1	Metal sheeting coloured to match rearing houses	As above
Biomass Building	35.0	24.9	7.0	10.6	Concrete and metal sheet walls with metal sheet roof.	GM-MZ228-202
Gatehouse/ Office	10.0	10.0	3.6	5.0	Brick and timber cladding walls. Metal sheet roof	GM-MZ228-203
Water Tank		9.1Ø		3.0	Galvanized corrugated metal sheet with PVC sheet cover	GM-MZ228-204
LPG compound	18.0	7.3	2.4		6no LPG gas tanks with concrete wall compound	GM-MZ228-204
Generator	2.5	1.5	1.5		Painted metal sheeting.	Q9222653-KNI-205
Energy distribution building	7.0	2.5		3.5	Painted metal sheeting	Q9222653-KNI-206
Electricity Substation	6.4	6.4	2.7	2.7	Painted metal sheeting	GM-MZ228-207
Yard area	121.2	18.8			Concrete	GM-MZ228-181
Turning area	30.7	8.9			Concrete	GM-MZ228-181
Access Track	350.0				Stone	GM-MZ228-181

- 3.14. Copies of the approved buildings and plant drawings (refs: GM-MZ228-201(A), GM-MZ228-201(B), GM-MZ-228-201(C), GM-MZ228-202, GM-MZ228-203, GM-MZ228-203, GM-MZ228-204, Q9222653-KNI-205, Q9222653-KNI-206, GM-MZ228-207, GM-MZ228-181, GM-MZ228-181, GM-MZ228-301) are contained at **Appendix 7**.

Landscape and Biodiversity Management

- 3.15. The following table summarises the landscape and biodiversity features:

Table 3.2 Landscape works

Description	Area / Linear metres / number / volume	Details	Planning Drawing reference
New native Hedgerow Planting	658 m	Native hedgerow managed at 3.5 +.	1484.04
Existing hedgerow management and improvement	750 m	Existing hedgerow, gapped up where necessary and maintained at 3.5m +	1484.04, 1484.06
Hedgerow trees	26 no	New native hedgerow trees to be planted in hedgerows surrounding site	1484.04
Native woodland planting	1.15 ha		1484.04
Rough grassland	1 ha		1484.04
Attenuation Ponds	85 cu m, 988 cu m		Q9222653-KNI-302

- 3.16. Copies of the approved landscaping drawings (refs: GM-MZ228-301, 1484.04 and 1484.06 Rev A) are contained at **Appendix 8**.

Landscaping and relationship to built form

- 3.17. The siting of the buildings, the ground modelling and surrounding landscaping are designed to break-up and screen the site from views from outside towards the site to minimise visual and landscape impact.
- 3.18. The rearing houses will be cut into the natural slope of the ground. Ground modelling is proposed to the west of the rearing houses and this would have a gentle outward facing slope aligned with the existing ground level and a steep inward facing slope adjoining House 4. A hedge would be planted along the highest part of the ground modelling running in a north to south direction.
- 3.19. Ground modelling and woodland planting is proposed to the north and north-east of the rearing houses. Woodland planting is expected to grow to around six metres in ten years. In ten years, the height of the woodland would be two metres to five metres above eaves heights of the houses and at its lowest the woodland would be one metre below ridge heights. The feed bins are approx. eight and a half metres high. In ten years, the woodland planting would act as a successful screen breaking up views towards the site.

Surface water attenuation

- 3.20. On site surface water attenuation is to be provided by French drains and soakaways between the poultry rearing houses. Two surface water attenuation pools would be constructed, one to the north of the rearing houses and one to the east of the biomass building. These have been designed in consultation with the drainage engineers. The volume would be sufficient to attenuate surface water flow from the site to greenfield run-off rate from a 6-hour storm duration.
- 3.21. Details of the preliminary design of the attenuation is included in Appendix 11.1, of the ES (Vol III). Detailed design would be controlled through an appropriately worded planning condition.

Access

- 3.22. The approved development under P/2018/0577 will be served by a new vehicular access from the unclassified rural lane that serves Cinders Farm. This lane links directly to the A539 to the south. This lane already accommodates farm traffic (including HGV movements) to the farm, as well as being used by local residents to access residential properties located adjacent to the farm, as well as other smallholdings further north towards the B5426.
- 3.23. A General Arrangement (GA) drawing (drawing reference SK21685-05 Rev A) showing the site access onto the rural lane was submitted with application P/2018/0577. The access has been designed to accommodate a 16.5m articulated vehicle (as shown by the vehicle tracking at Appendix 4.6 of the ES (Vol II)), and also provides junction visibility splays that relate to the recorded 85th percentile speeds on the lane.
- 3.24. In addition, following negotiation with WCBC highways officers, it was agreed that Vehicle Activated Signs (VAS) would be erected to the east and west of the A539 junction with Cinders Lane prior to first use of the development. This provision was secured by condition 18 on the decision notice for P/2018/0577 and was imposed in the interests of highways safety and accepted by the applicant. Increased visibility splays were also to be provided at this junction and secured by condition 13 on the decision notice for P/2018/0577.

HGV Routing

- 3.25. The site has been chosen to minimise the travel distance for HGVs from the strategic highway network. All HGV traffic associated with the proposed poultry operation will route via the A539 via the existing rural lane. This route will be the defined route for vehicle movements associated with chick deliveries, collecting birds and delivering feed:
- HGV Route – traffic to the site will route from the A539 priority junction north along the rural lane past Cinders Farm to the new site access. The route will be reversed for outbound HGV movements.
- 3.26. A construction and operational site traffic management plan will be prepared before commencement of the development to confirm the details of the frequency/staggering of deliveries, type of delivery vehicles to be used, routing of delivery vehicles and the management of car parking for both construction and operation. This is consistent with other recently assessed poultry schemes within Wrexham and is secured by planning condition 20 on P/2018/0577.
- 3.27. Used bedding / litter generated from the proposed development will be used on land farmed by the applicant and taken from the farm by tractor and trailer. This is in line with existing farming practices on the site.
- 3.28. Copies of the approved highways drawings (refs: SK21685-08 Rev A, SK21685-09 Rev A, SK21685-10 Rev A, SK21685-11 Rev A and SK21685-20) are contained at **Appendix 9**.

Management cycle

- 3.29. The following paragraphs set out the poultry crop production process. They should be read in conjunction with the table below which has been extracted from the approved ES and sets out the proposed vehicle movements per crop cycle against which the amenity impact has been assessed.

Table 4.5 – Proposed Vehicle Movements per Broiler Crop Cycle

	Description	Vehicle Type, dimensions and approximate weight: full/ empty (tonnes)	Timing of delivery/collection	Number of movements per crop (Number of HGVs)
HGV	Bedding Delivery	HGV: 2.5m wide, 15.4m long	Between 0700 to 1200	2 (1)
	Chick deliveries	HGV: 4 axle rigid. 11.5T empty, c15.3T full.	Between 0700 and 1200	6 (3)
	Fallen Stock collection	7.5 tonne HGV	Between 0700 and 1200	10 (5)
	Night time Bird Collections (thinning over two days)	HGV: 2.5m wide, 15.4m long.	Between 0200 and 0700	18 (9)
	Day time bird collections (thinning over two days)		Between 0700 and 0800	2 (1)
	Night time bird collections (final clearance over two days)		Between 0200 and 0700	20 (10)
	Day time bird collections (clearance over two days)		Between 0700 and 0900	8 (4)
	Feed deliveries	HGV: 2.5m wide, 15.4m long. 17t empty, 44t full.	Between 0700 and 2300	30 (15)
Total HGV Movements				158 (79 HGV's)
Light Vehicles	Vet	Car	0700 to 2300	6
	Cleaning chemicals delivery	Van	0700 to 2300	2
	Cleaners	LGV	0700 to 2300	4
	Vaccination delivery	Van	0700 to 2300	2
	Litter spreader	LGV	0700 to 1200	2
Total Light Vehicle Movements				16

- 3.30. The crop management procedures, waste management processes and environmental management procedures would be in compliance with best practice, the Red Tractor Farm assurance standards, Best Available Technique (BAT) (see below) and in accordance with the conditions of the Environmental Permit. Regular environmental and welfare compliance audits would be carried out by Independent auditors of Natural Resources Wales and Farm Assurance Scheme representatives.
- 3.31. Prior to the crop cycle, wood chip fuel from locally-grown or home-grown woodland would be delivered to the site by foresters / saw mills and stored in the biomass boiler building ready for use in two boilers.
- 3.32. The site manager would prepare the poultry rearing houses would then be pre-warmed to 31°C in preparation for the chick placement.

- 3.33. A computerised climate control system would control the temperature, humidity, and air circulation to ensure ideal conditions for the birds throughout the crop cycle.
- 3.34. An air handling unit would be positioned on the ceilings of the poultry rearing houses. This would heat the houses, deliver the correct volume of fresh pre-warmed air and dried air to reduce CO2 levels.
- 3.35. Each rearing house would be controlled by the site manager using a computerised management control system providing accurate real-time information about the conditions of each rearing house include climate; feed consumption levels; water consumption; bird weights; and alarm status. The information would be accessible and controllable via a smartphone.
- 3.36. Bedding / litter (wood shavings) would be delivered to the site and spread evenly on the floor using a 'litter spreader' to an optimal depth to ensure best environmental conditions within the houses.
- 3.37. Feed would be delivered from local feed mills and stored in the feed storage bins. Home-grown wheat for blending into the feed (in the blending sheds) would be delivered and also stored in the feed bins.
- 3.38. Once the site is prepared, the chicks would be delivered from a hatchery and placed in the rearing houses.
- 3.39. At the start of the crop cycle the chicks would be fed with starter pellets which are manually delivered to the rearing houses.
- 3.40. The feed blend would gradually change over the course of the crop cycle to reflect the needs of the birds as they grow. Feed would be blended in the blending sheds before being automatically dispensed to feeders evenly located throughout the rearing houses.
- 3.41. Water sourced from a bore hole on site would pass through UV and sediment filters and then would be provided via nipple drinkers which are designed to minimise spillage. Water use in each house is monitored daily by meters.
- 3.42. Heat would be gradually reduced over the crop cycle.
- 3.43. Veterinary surgeons would make regular visits during the crop cycle to check the health of the birds.
- 3.44. Any fallen birds would be removed twice per day by the site manager and would be stored in vermin proof sealed containers on site prior to being collected by an animal health licensed contractor.
- 3.45. When the birds reach around five weeks old, 'thinning' would take place. A team of specialist poultry handling contractors collect and transport birds from the site to an abattoir. The thinning takes place over two days. Thinning is undertaken during the day time (ie between 0700 and 2300 hours) and night time (ie between 2300 and 0700 hours of the following day). The birds would be collected at a rate of one load per hour.
- 3.46. When the birds are around six weeks old, the remainder would be collected and transported from the site. The bird collection takes place over two days. Bird removal is undertaken during the day time (ie between 0700 and 2300 hours) and night time (ie between 2300 and 0700 hours of the following day).
- 3.47. At the end of the growing period, the used bedding / litter would be transported in covered trailers by local farm workers away from the site and stored in fields off-site prior to spreading on agricultural land as organic fertiliser in accordance with a manure management plan (Appendix 3.1 of ES (Vol III)). For bio security reasons no manure is stored on site,

even for a short period.

- 3.48. A team of local cleaning contractors would then blow down the inside of the houses with compressed air before washing down and disinfecting the rearing houses in preparation for the next crop. The yard area is also washed down.
- 3.49. During cleaning, a diverter valve would direct all wash water from the houses and the yard area to underground tanks located to the north of the yard. The tanks would be alarmed to avoid overflow and would be emptied by a tanker before being spread to agricultural land in accordance with the manure management plan (Appendix 3.1 of ES (Vol III) and also contained at **Appendix 10**).
- 3.50. Plumbers, electricians, information technologists and other maintenance contractors would then inspect the site and would carry out a service of feeders and drinkers; the biomass boiler; water treatment facilities; lighting equipment; computer equipment and sensors.

Construction Phase

- 3.51. It is anticipated that the construction period would last for approximately six months. During this period, construction vehicles and machinery would be active on the site including excavators, dump trucks and haulage lorries.
- 3.52. The sequence of works would start with the stripping of soils. Top-soil would be placed in temporary storage areas for re-use on site. Groundworks would include cut and fill operations to achieve the required finish levels, including the proposed ground modelling.
- 3.53. All required services would be connected, including water supply, electricity supply and drainage.
- 3.54. Concrete for floors and foundations would be imported onto site and structural steelwork would be erected. Roofing and wall cladding would be fitted to the framework.
- 3.55. The buildings would be fitted out with plumbing, heating and electrics.
- 3.56. Tradesmen required for the construction and fitting-out the buildings would be working throughout the construction phase, with the numbers on site varying according to workload.
- 3.57. New landscaping (woodland planting, hedgerow planting and grass seeding) will be completed during the first planting season following occupation of the proposed buildings.

Labour and Hours of Operation

- 3.58. The approved scheme will provide additional job opportunities, including a manager and part-time assistant manager, providing new local employment opportunities.
- 3.59. There will also be additional labour requirement relating to:

Raw Materials Production

- Production of cereals (feed wheat) on Cinders Farm;
- Feed Manufacture and delivery;
- Bedding manufacture and delivery;
- Forestry management and wood chip production and delivery;
- Chick production and delivery;

Crop Welfare

- Chick placement team;
- Fallen stock collection;
- Veterinary surgeon husbandry;
- Bird collection teams;

Cleaning and preparation

- Loading of manure, cleaning, washing;
- Carting of manure from site;

Preparing birds for market

- Factory employees

Ongoing maintenance and audit

- Natural Resources Wales, Farm Assurance auditing
- Landscape maintenance
- Plumbing, heating, electrical maintenance

- 3.60. The direct and indirect employment generated by the development will amount to the equivalent of approximately 43 FTE employees.
- 3.61. The development will require continual on site husbandry provided by existing employees and managers of the proposed poultry farm. The hours of operation are therefore continual whilst the birds are in the rearing houses; during the night time, staff are required to respond to alerts relating to any equipment repair for which an alarm system via operators' mobile phones will be in place. 24-hour support is also provided by equipment suppliers for the climate control system (heating and ventilation) and thus the development helps contribute to employment at the processing facility.

4. Relevant planning policy to this appeal

Wrexham Unitary Development Plan

- 4.1. The only local plan policy of relevance to this appeal is that stated in the reason for refusal – Policy GDP1(f). Policy GDP1 in general requires that new development does not lead to any adverse environmental impacts. An excerpt of the full policy wording is contained at **Appendix 12**.
- 4.2. Part (f) of Policy GDP1, which was where the conflict with policy was deemed to exist by Committee Members, states that all new development should:

Ensure the safety and amenity of the public and safeguard the environment from the adverse effects of pollution of water, land or air, hazards from industry and quarrying, and associated noise, odour or vibration arising from development.

Planning Policy Wales

- 4.3. In addition, Technical Advice Note 18 (TAN18) and Technical Advice Note 23 (TAN23) (Economic Development) is relevant to this appeal. Copies of TAN18 and TAN23 are contained at **Appendix 13**.
- 4.4. In respect of farm diversification, TAN18 (paragraph 3.14) states that local authorities should adopt a positive approach to development associated with farm diversification in rural areas, irrespective of whether farms are served by public transport (PPW paragraph 7.3.3). This type of smallscale economic development is attached to existing farm businesses that are often situated in relative rural isolation. It is important that a realistic assessment of the transport impacts is made, with a view to reconciling traffic issues with the benefits of encouraging diversification. In the majority of cases, it is expected that any transport problems should be capable of being resolved by appropriate minor junction or other highway modifications. Exceptionally, there may be cases where the anticipated increase in traffic cannot be reasonably accommodated. Such developments are more appropriately located on allocated industrial/ commercial sites, if available in the locality, or in or adjoining local service centres where the highway network is more robust.
- 4.5. TAN23 requires careful consideration of economic benefits where a development would cause environmental or social harm. It also makes clear that it should not be assumed that economic objectives are necessarily in conflict with social and environmental objectives and that planning should positively and imaginatively seek 'win-win' outcomes where development contributes to all dimensions of sustainability.

5. Reasons why the appeal should be allowed

- 5.1. The single reason for refusal given in application P/2019/0455 was:

The proposals will result in traffic entering and leaving the site during the night and early hours of the morning to the detriment of the standard of amenity afforded to the occupiers of nearby residential properties. The proposals therefore conflict with policy GDP1(f) of the Wrexham Unitary Development Plan

- 5.2. The above reason for refusal was given in the context of policy GDP1(f) of the Wrexham Unitary Development Plan. Policy GDP1(f) states that all new development should:

Ensure the safety and amenity of the public and safeguard the environment from the adverse effects of pollution of water, land or air, hazards from industry and quarrying, and associated noise, odour or vibration arising from development

- 5.3. In light of the above context, there are five key reasons that demonstrate why this appeal should be allowed:

- **Reason 1** - The Environmental Statement (ES) (refs: ES NTS Vol.I.25100001, ES.Vol.II.031.25100001 Vol.III.25100001) submitted and approved in application P/2018/0577 concluded that the poultry operation and associated vehicle movements (including night time bird collections and deliveries) would not result in any adverse environmental impacts or unacceptable impact on residential amenity. This was acknowledged in the Committee report (dated 4 March 2019) and therefore complies with planning policy GDP1 of the Wrexham Unitary Development Plan and Planning Policy Wales TAN18. No contrary evidence has been provided.
- **Reason 2** - The application was supported by officers and presented to Committee with a recommendation for approval and that recommendation confirmed that the application complied with relevant policies of the UDP.
- **Reason 3** - There were no objections received from the key statutory consultees in respect of amenity impact – WCBC Highways and Environmental Protection.
- **Reason 4** - There is recent appeal precedent elsewhere in the Borough that supports this appeal – appeal refs: APP/H6955/A/18/3216674 (Talwrn Farm), APP/H6955/A/18/3216187, 3216188 & 3216190 (Maelor Foods).
- **Reason 5** - The proposal complies with TAN23. The night-time operation of the integrator/poultry processor is intrinsically linked to the socio-economic benefits generated by the scheme. Furthermore, the Council did not give adequate weight to the socio economic benefits and gave undue weight to alleged harm.

- 5.4. Each of these reasons is discussed in greater detail below.

Reason 1 – The approved Environmental Statement confirms the unrestricted operation of the site is acceptable

- 5.5. All technical assessments discussed below were undertaken in line with the operational requirements set out at Table 4.5 of the approved ES. A copy of the approved ES is contained at **Appendix 14**. The ES was approved and supported by statutory consultees in P/2018/0577, concluding that the poultry farm operation would not result in any significant

environmental effects.

Traffic and transport

- 5.6. In terms of the increase in vehicle movements, chapter 4 and appendices 4.1-4.6 of the ES (refs: Vol.II.031.25100001 and Vol.III.25100001) provided an assessment of the traffic and transport impact of the approved development based on the operator's requirements, including night time deliveries. There are two reasons why bird depopulation needs to take place at night. Firstly, for welfare reasons; and, secondly, for biosecurity and for logistical reasons. With regards the latter, the processing facility can handle birds from one farm per day after which it must be cleaned and disinfected. The operation of the processing facility starts in the early hours of the morning so that arrival of the first HGV containing birds must align with the first shift and then continue throughout the day. If a farm is restricted so that it cannot deliver birds to the processing facility until after the first shift commences then the processing facility will not receive bird deliveries.

- 5.7. The ES confirmed that:

"Poultry depopulation good practice and bird welfare standards will be followed and the depopulation will not start earlier than 0200; on the longest depopulation day this will be completed by 1800 hours. The crop clearance will take place over two two-day periods separated by a week, and during the 0200 to 0700 period there will be typically no more than two HGV bird removal movements to/from the site per hour."

"There will be a maximum of ten HGV movements between 0200 and 0700 during the night for a maximum of 30 days during the year".

- 5.8. As stated at paragraph 4.55 of the ES (Vol.II.031.25100001), the approach to the depopulation process minimises disturbance to the small number of residential properties on the HGV route to/from the site to the A539. This approach also accords with good practice and bird welfare standards from the RSPCA which suggests that collection is undertaken at night or in the early hours of the morning when birds are resting (as acknowledged by the Inspector in the Talwrn Farm appeal decision – see paragraph 6 of appeal ref: APP/H6955/A/18/3216674.) As such, the ES confirmed that the additional vehicle movements during the night time would not result in any adverse traffic impact or disturbances to residents.

Noise

- 5.9. Chapter 5 and appendices 5.1-5.3 of the ES (refs: Vol.II.031.25100001 and Vol.III.25100001) provided a noise impact assessment of the approved scheme based on the operator's requirements, including night time deliveries. The assessment confirmed that residents would not be exposed to any adverse noise impacts and therefore residential amenity will not be unacceptably or adversely affected by the amended operating hours.
- 5.10. As stated at paragraph 5.102, the assessment of impact of the individual noise events for HGVs travelling along the access route suggested that, although there may be up to 10 vehicle movements over the course of an 8 hour night-time period, frequent excess (i.e. several times in any one hour) of the BS8233 LAFmax 45 dB criterion would therefore not occur. Additionally, in accordance with the guidance in the WHO Guidelines an exceedance of the indoor 45 dB LAFmax sound pressure level would not occur more than 10-15 times in any one night-time period as a result of operational road traffic.
- 5.11. As concluded at paragraph 5.112, the LAFmax criteria is not expected to be exceeded as a result of worst case night-time operational traffic on the access route. Although the sensitivity of the existing dwellings is high, the impact magnitude has the potential to be negligible, and direct, permanent, long term effects on existing receptors of **Negligible** significance have the potential to occur at worst.

- 5.12. Considering the above, the amended condition put forward in P/2019/0455 was therefore acceptable in technical terms, ensuring that there will be no adverse impact on residential amenity and thus in full accordance with Policy GDP1(f). It is common to impose controls over the timing of construction work and the applicant is happy to accept that they are appropriate. There is also an EP in place that ensures appropriate environmental controls are in place and covered by other legislation. There is no conflict with Policy GDP1(f) and therefore it cannot be used as a reason for refusal.

Reason 2 – The application was supported by officers

- 5.13. A copy of the officer's Committee Report for P/2019/0455 is contained at **Appendix 4**.
- 5.14. Having considered the impacts on amenity and the environment, the planning officer weighed the planning balance and concluded that:

The matter of night time traffic movements were given full consideration at the time of determination of the 2018 planning permission, in light of technical evidence provided in the ES, the production of the NRW EP and the conclusions of statutory consultees. There was no technical counter argument to this evidence provided by the Council in its imposition of the condition. Members are reminded that bird delivery and collection and manure collection is cyclical and not a daily occurrence.

The development will generate a total of 174 vehicular movements of all types over a 48 day cycle, although on 27 days out of that cycle it is anticipated there will be no vehicular movements to/from the site. The highest number of vehicular movements is expected to be on days 36, 37, 42, 43 and 44 of the cycle. Movements are likely to take place between 2am and 7am in the morning in relation to bird depopulation and repopulation (note that noise pollution by on site movements will be controlled by EP). The applicant anticipates that in the night time optimum depopulation 0200 – 0700 window there will be typically be no more than two HGV movements per hour. Across the year, taking into consideration crop cycle timings, there will be roughly a maximum of 10 HGV movements between 0200 and 0700 for 30 days in the year.

Bird de/population in accordance with the RSPCAs guidelines is not statutory, but as with most industries, I accept that trade and welfare best practice is a positive operational requirement. I have no reason to discount this.

There is no indication or requirement that manure collection will be carried out at night. Nevertheless, this element is controlled to a degree by the NRW EP as it is linked to a waste disposal element of the operation.

Since the Planning Committee's determination and resolution to impose the delivery restriction, there has been a material change in circumstances with the Planning Inspectorate upholding the view that animal welfare standards and accepted operational standards for such developments should be given consideration.

There remain adequate controls in terms of construction vehicle disturbance. Manure collection is intrinsically linked to the EP and bird collection and delivery, subject to welfare standards, is a well regulated operation. In taking all other matters in to consideration I am satisfied that there is no justification to resist the variation of the condition as proposed and this is reflected in my recommendation.

RECOMMENDATION: That permission be GRANTED

- 5.15. The decision of Committee Members therefore directly conflicts with their own officer's recommendation in spite of clear justification in policy and environmental terms.

Reason 3 – Key statutory consultees supported the application

- 5.16. The key statutory consultees from an amenity perspective were WCBC Highways and WCBC Environmental Protection.
- 5.17. WCBC Highways had no objection to the proposed variation of condition. A copy of the consultation response is contained at **Appendix 15**.
- 5.18. Likewise, WCBC Environmental Protection had no objection to the proposed variation of condition. A copy of the consultation response is contained at **Appendix 16**.
- 5.19. Both consultees accepted that the already approved ES in P/2018/0577 clearly demonstrated the facility could operate during the night without causing any significant adverse environmental effects.

Reason 4 – Appeal precedent elsewhere in the Borough

Talwrn Farm (Appeal Ref: APP/H6955/A/18/3216674) – Appendix 17

- 5.20. An appeal was allowed and planning permission granted on 14 March 2019 for the erection of an additional agricultural poultry barn building for barn egg production and associated infrastructure at Talwrn Farm without compliance with condition number 7 previously imposed on planning permission ref: P/2017/0053. The appeal followed WCBC's decision to refuse an application under Section 73 of the Town and Country Planning Act 1990 which sought the removal of the operational restriction to bird delivery/collection. The appellant sought to change the times when the delivery and collection of birds occurs to 24 hours a day and to remove the bank holiday restriction.
- 5.21. The condition in dispute was condition 7 that stated that:
- Subject to the exceptions detailed separately in this condition, all works in relation to the implementation of this permission, including deliveries to or from the site shall be undertaken only between the hours of 07:30 and 18:00 Monday to Friday, and 08:00 to 14:00 on a Saturday and at no time on a Sunday, Bank or Public Holiday. Vehicles associated with the delivery or collection of the birds shall be allowed to be on site from 06:30 hours with loading and unloading taking place from 07:00 hours. The removal of manure from the site shall not take place on Saturdays, Sundays, and Bank or Public Holidays.*
- 5.22. The condition imposed is a replica of condition 19 imposed on P/2018/0577. It includes the clause restricting removal of manure to mid-week and non-Bank Holidays only, which for the latter is prohibited in any case.
- 5.23. As a starting point, Inspectors generally review each appeal and scheme based on its own merits. For this reason, the Council should not have imposed this condition just because it was imposed in the Talwrn Farm case.
- 5.24. As a result of the appeal, the Inspector amended the condition as follows (changes in red):

Subject to the exceptions detailed separately in this condition, all works in relation to the implementation of this permission, including deliveries to or from the site shall be undertaken only between the hours of 0730 and 1800 Monday to Friday, and 0800 to 1400 on a Saturday and at no time

on a Sunday, Bank or Public Holiday. Manure shall not be collected on Saturdays, Sundays and Bank or Public Holidays. Egg collections shall not be made on Saturdays before 0800 or after 1400 or at any time Sundays. Bird deliveries and collections shall be permitted 24 hours a day but shall not take place after 1400 on Saturdays and at no time on Sundays or Bank or Public Holidays.

- 5.25. The appeal therefore relaxed the separated out the time restrictions for egg collections and bird deliveries and collections. In terms of bird deliveries and collections, the amended condition permits deliveries and collections 24 hours a day except for none after 1400 on Saturdays and at no time on Sunday or Bank or Public Holidays.
- 5.26. Amongst the Inspector's reasons for allowing the appeal were the following that are relevant to this application:

6. The request to change the delivery/collection times is based on animal welfare requirements from the RSPCA which suggests that collection is undertaken at night or in the early hours of the morning when birds are resting.

7. The timing of the visits, in my view, would not significantly change or make worse the effect on living conditions given the distance from the appeal site to neighbouring properties, the low occurrence of the event during the whole year, and the necessity to load/unload the birds so as not to prolong the process for animal welfare reasons.

9. This increase would be negligible over the year and would not unacceptably affect the living conditions of residents

11. I consider that that the development would not conflict with Wrexham Unitary Development Plan Policy GDP1(f). I conclude that the effect of removing the condition would not harm the living conditions of nearby residents in relation to noise and disturbance.

- 5.27. This appeal is an example of an Inspector taking into account the welfare of the birds as well as the likely impact on residents in his consideration of whether and to what extent a restriction is required. In the appeal case there is no evidence to suggest that the absence of a restriction would have a material adverse impact on the living conditions of residents and the imposition of a restriction will therefore have an unjustified adverse impact on the business and on the welfare of the birds.
- 5.28. There are clear parallels between the Talwrn Farm and Cinders Farm cases, but it does not follow that the same level of restriction is needed at Cinders Farm as at Talwrn. There will be no egg collections at Cinders Farm.

Maelor Foods (Appeal Refs: APP/H6955/A/18/3216187, 3216188 & 3216190) – Appendix 18

- 5.29. Three appeals were allowed and permission granted for a series of developments that will facilitate the expansion of the Maelor Foods poultry processing facility in Wrexham. The appeals were granted on 13 May 2019.
- 5.30. The Inspector considered impact of the poultry operation on residential amenity as part of the appeals. The Inspector noted that:

The appellant presently operates 12 livestock lorries from the site. Livestock lorries leave the site between 01.00hrs and 06.00hrs to go to the farms, with the first lorry returning at 06.30hrs in time for the start of processing at 07.00hrs. On average throughout a working day 6-7

refrigerated articulated lorries visit the site to transport the product, and, towards the end of the day, 2-3 articulated lorries carry waste from the site.

- 5.31. The three appeals allowed for vehicles to deliver birds to the Maelor Foods facility during the night. The Inspector therefore considered that it was appropriate for farms to supply the factory at night. Cinders Farm is one such farm. The decisions are a material consideration because night time movements from farms to processing plants have already been permitted in the County. The harm of those movements was considered, and it was found that the economic benefits (consistent with economic benefits identified in the Cinders Farm scheme) outweigh the harm of the night time vehicle movements.
- 5.32. The approved poultry farm at Cinders Farm is seeking to agree a contract to supply poultry to Maelor Foods. The Maelor decision illustrates that the factory has a need to receive birds in the early morning, which means that they must be caught and transported at night so that they are not waiting longer than necessary in vehicles. The economic benefit of the processing plant was weighed in the balance, but without deliveries of birds, that benefit is not sustained. Cinders Farm would be part of a wider poultry production operation, including the processing plant, which offers significant economic and social benefits. Not only does it provide economic and social benefits through employment and economic activity but it also contributes to food supply and security, which is a material consideration weighing in favour of the appeal (see **Appendix 19**).
- 5.33. As demonstrated in reason 5 below, the night-time operation of the integrator/poultry processor is intrinsically linked to the socio-economic benefits generated by the approved Cinders Farm scheme. The night-time operation is a substantial contributor to the estimated 43.4 FTE jobs created by the development, once complete and operational.
- 5.34. The appeal decision is therefore a material consideration in the determination of this appeal. It should be noted that in that case the volume of traffic and disturbance caused was above acceptable environmental thresholds (see paragraphs 29 and 34 of appeal decisions: APP/H6955/A/18/3216187, 3216188 & 3216190) but the harm was outweighed by the benefits. However, in the case of the appeal proposal no significant harm was found (see the 'technical matters' and sub-sections below) and therefore was in accordance with planning policy as set out in our Planning Statement (ref: PS.032.25100001 – chapter 4) - and as set out in the planning officer's report (see Committee report dated 4 March 2019 contained at Appendix 3) and confirmed by the Public Protection Officer (see consultation response dated 24 July 2018 contained at Appendix 14) and Natural Resources Wales (see consultation response dated 9 August 2018 contained at Appendix 15).
- 5.35. In any case, unlike the Maelor Foods appeals, as stated in paragraphs 5.5 – 5.12 of this Statement, the approved ES for the Cinders Farm scheme confirmed that there would be no adverse environmental impacts on residential amenity. The socio-economic benefits alone should therefore be sufficient in supporting amended operating hours in line with Table 4.5 of the ES.

Reason 5 – Socio-economic benefits

- 5.36. A Socio-Economic Statement (Ref: rpt.037.GM.25100001) was submitted with P/2018/0577. A copy is contained at **Appendix 19**.
- 5.37. It is Soaltar's intention to supply Maelor Foods. The night-time operation of the integrator/poultry processor is therefore intrinsically linked to the socio-economic benefits generated by the scheme. The night-time operation is a substantial contributor to the estimated 43.4 FTE jobs created by the development, once complete and operational.
- 5.38. As such, it is essential that night time vehicle movements are allowed. The approved development will not be implementable without the approval of night time operation. The economic benefits are a key aspect of the approved Cinders Farm development which weigh

in the balance in its favour and the development complies with TAN23. This carries substantial weight in the planning balance.

- 5.39. Furthermore, the Council did not give adequate weight to the socio economic benefits and gave undue weight to the alleged harm. There is no evidence of harm to amenity from traffic but there would be economic harm and welfare harm as a result of the restrictions imposed.
- 5.40. As stated earlier, there are two reasons why bird depopulation needs to take place at night. Firstly, for welfare reasons; and, secondly, for biosecurity and for logistical reasons. With regards the latter, the processing facility can handle birds from one farm per day after which it must be cleaned and disinfected. The operation of the processing facility starts in the early hours of the morning so that arrival of the first HGV containing birds must align with the first shift and then continue throughout the day. If a farm is restricted so that it cannot deliver birds to the processing facility until after the first shift commences then the processing facility will not receive bird deliveries from such farms and thus the Cinders Farm facility would have no commercial value.

6. Conclusion

- 6.1. Based on the substantial reasoning given in the previous chapter, it is wholly unreasonable to have imposed condition 19 on the Cinders Farm scheme in the first instance and there are no justifiable planning grounds to have refused the variation of this condition which unfairly and unjustifiably impedes Soaltar's operational requirements.
- 6.2. The appeal must therefore be allowed, and the condition varied as follows:
- No construction deliveries shall take place outside of the hours of 0730 and 1800 Monday to Friday, and 0800 to 1400 on a Saturday and at no time on a Sunday, Bank or Public Holiday. Manure shall not be collected on Sundays or Bank and Public Holidays. Bird deliveries and collections shall be permitted 24 hours a day.*
- 6.3. The amended condition will be broadly in accordance with the amended condition agreed by the Inspector in the Talwrn Farm scheme. Bird collection is a more sensitive operation than egg collection and therefore requires less operational restrictions.
- 6.4. The amended wording provides clarity to ensure it does not place an onerous requirement on Soaltar Ltd and its poultry farm operation whilst remaining well within the acceptable limits of noise, traffic/transport and residential amenity impact as demonstrated in the approved ES.
- 6.5. The amended condition will also ensure the poultry operation accords with animal welfare requirements from the RSPCA that advises on bird collections during the night time an early morning when birds of resting.

