

REPORT OF THE CHIEF OFFICER PLANNING AND REGULATORY – 7th OCTOBER 2019

APPLICATION NO:
P/2019 /0455

LOCATION:
CINDERS FARM CINDERS RUABON
WREXHAM
LL14 6HN

DATE RECEIVED:
13/06/2019

COMMUNITY:
Ruabon

DESCRIPTION:
APPLICATION FOR VARIATION OF
CONDITION 19 IMPOSED UNDER
PLANNING PERMISSION
P/2018/0577 RELATING TO HOURS /
DAYS OF OPERATION

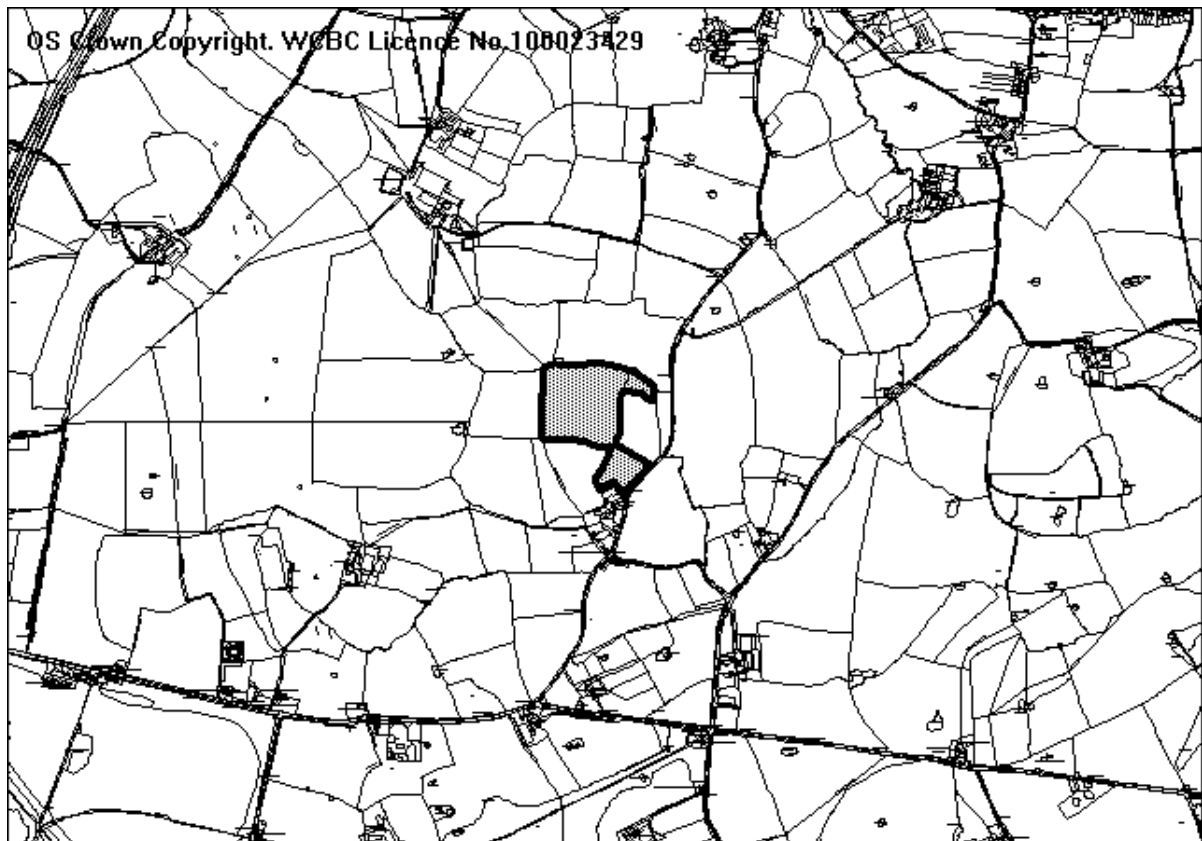
CASE OFFICER:
PF

WARD:
Ruabon

AGENT NAME:
WPS INDIGO
MR GUY MAXFIELD

APPLICANT(S) NAME:
SOALTAR LIMITED

THE SITE



PROPOSAL

Planning permission is sought to vary condition 19 of planning permission P/2018/0577 relating to the permitted hours of vehicular deliveries to read as follows:

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No construction deliveries shall take place outside 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.

HISTORY

P/2018/0577 ERECTION OF FOUR AGRICULTURAL BUILDINGS FOR REARING LIVESTOCK (POULTRY), ANCILLARY BUILDINGS AND PLANT, ASSOCIATED INFRASTRUCTURE, LANDSCAPING AND ACCESS ARRANGEMENTS. GRANTED 04.03.2019

PLANNING POLICY

The site is located outside any defined settlement limit with the Wrexham Unitary Development Plan. Policies PS2, GDP1, EC3, EC4, EC6, EC13 and T8 are relevant. Guidance is also contained in Local Planning Guidance Notes 16 – Parking Standards and 17 – Trees and Development.

Relevant national planning policy and guidance can be found in Planning Policy Wales (Edition 10) and accompanying Technical Advice Note 5 – Nature Conservation and Planning, 6 – Planning for Sustainable Rural Communities, 12 – Design and 18 - Transport.

CONSULTATIONS

Community Council:	Consulted 14.06.2019
Local Member:	Notified 14.06.2019
Site notice:	Expired 05.07.2019
Highways:	No recommendations.
Public Protection:	No comments.
Neighbouring occupiers:	33 neighbouring occupiers notified. 3 responses received raising the following points: • There is enough heavy traffic already on the A539 at night and weekends with out adding more; • The council imposed the restriction based on the protection of residents rights and conditions – the owners are trying to overturn this in their own way; • If this is a 24 hour operation it should not be next to residential properties; • The reference to RSPCA guidelines is emotional blackmail;

- The whole chicken farm venture has not been thought through and moral impact upon residents not considered;
- This may be better sited on the Industrial Estate and the level of immediate jobs is much lower than sated;
- Increased traffic brings noise, pollution and disturbance. The applicant's assert that the harm to residents has already been accepted. No harm is acceptable and the proposal will cause disturbance to residents;
- The economic/commercial gain should not be the only matter for consideration;
- A local resident is a medical professional who might get stuck due to passing HGVs at night;
- The applicant is not a member of the RSPCA assured scheme and it is for advice only and not legally enforceable. DEFRA is the statutory body and the existing condition does not contravene their standards;
- Deliberately operating at night is contrary to Health and Safety at Work legislation; and
- The restrictions are not stringent enough for construction vehicles.

SPECIAL CONSIDERATIONS

Background: In March 2019 the Planning Committee resolved to grant planning permission for the development of a poultry rearing complex for broiler chickens. The approved proposed development was comprised of the following elements:

- 4 poultry (livestock) buildings each measuring 110.2m long x 24.7m wide, 2.5m high to the eaves and 6m high to the ridge;
- 8 feed bins which will have a diameter of 3.4m and be 8.6m high;
- Biomass building measuring 35m long x 24.9m wide, 7m high to the eaves and 10.6m high to the ridge;
- Gatehouse;
- Water tank;
- Ancillary generator, ancillary power distribution building and substation;
- Hardstanding, access track and new site access; and
- Two surface water attenuation ponds.

In resolving to grant planning permission, Planning Committee Members sought to impose an additional planning condition in the same manner as was

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imposed on an egg laying unit at Talwrn Farm, Legacy (P/2018/0724 refers). The condition was worded as follows:

19. 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.

Shortly after Members resolve to grant planning permission, the developer of the Talwrn Farm scheme successfully appealed against the Council's refusal to allow a variation of the condition which would have allowed 24 hour bird and egg delivery and collection. The Inspector disagreed with the Council that the periodical end of cycle night time collection and delivery of birds to the unit would have a detrimental impact upon the amenity of the neighbouring occupiers.

This application now before Members seeks to vary the imposed condition in a similar manner. Firstly to separate out the timed restriction of construction phase deliveries and operational phase manure collections but to allow 24 hour bird delivery and collections. Without doing so the applicant considers that the imposed condition is unnecessary and operationally restrictive on the successful commercial operation of the proposed development. This is discussed below.

Amenity:

Environmental statement

The current planning permission was determined on the basis of a full Environmental Statement (ES) which considered carefully the impact of the development upon the amenity of surrounding neighbouring occupiers both in terms of traffic movements and noise impact. This ES concluded that the operation could occur (include night time bird collection and deliveries) without causing adverse impacts upon the environment or neighbouring amenity.

Environmental permit

The operation of unit also requires an Environmental Permit from NRW which has been issued. The EP process requires the operator to take all appropriate preventative measures against pollution particularly through the application of Best Available Techniques (BAT). It defines pollution as any emission as a result of human activity which may be harmful to human health or the quality of the environment, cause offense to human sense, result in damage to property or impair amenities or other uses of the environment. As was considered in the determination of the previous planning application, this would include controlling the impacts of on site traffic movements and

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associated activities such as loading and unloading of vehicles. It is accepted in planning practice that where matters are dealt with through other legislation, these should not be duplicated in the planning process. The issuing of the EP has effectively accepted the uncontrolled timings of bird delivery and collections subject to conditions within that permit.

Other similar sites

All planning applications should be considered on their own merits. However, the Planning Committee made direct comparisons to the egg laying unit at Talwrn Farm and the applicant refers to the same site and the recent appeal decision at Maelor Foods.

The Talwrn Farm developer's successful appeal against the refusal of the council to relax the same condition is directly relevant. The Inspector considered that the operational requirements of the applicant linked to the RSPCA's good practice depopulation guidelines should carry significant weight. The character of the residential properties around Talwrn Farm are similar to Cinders Farm and whilst the scale of operation is larger, I am satisfied that the noise levels will be low during these activities to a point where there will be minimal disturbance due to noise.

The applicant also makes direct comparisons to the recent appeals at Maelor Foods. The applicant is an intended supplier to Maelor Foods and in a recent appeal decision at that site, the Inspector noted that economic development benefits of allowing unrestricted livestock movements outweighed the potential harm to the neighbouring occupants. The applicant at Cinders Farm is a potential supplier to Maelor Foods and its night time operation is fundamental to the socio economic benefits of the scheme including the 43.4FTE jobs (on and off site) which are likely to be generated by the proposal.

The planning balance: 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

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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

CONDITION(S)

1. The development hereby permitted shall be commenced before the expiry of five years from the date of this permission.
2. The development shall only be carried out in strict accordance with the details shown on the approved drawing(s) numbered:
GM-MZ228-191 - Location Plan
GM-MZ228-181 - Site Layout
GM-MZ228-201 (A) - Livestock rearing house elevations
GM-MZ228-201 (B) - Livestock rearing house floor plan
GM-MZ228-201 (C) - Livestock rearing house roof plan
GM-MZ228-202 - Biomass Building Elevations
GM-MZ228-203 - Gatehouse Elevations
GM-MZ228-204 - Water Tank & Gas Tanks
Q9222653-KNI-205 - Generator elevations and plan
Q9222653-KNI-206 - Energy Dist. Building elevations and plans
GM-MZ228-207 - Substation Elevations and Floor Plans
GM-MZ228-301 - Site Sections
1484.04 - Landscape/Biodiversity Proposals
1484.06 Rev A - Off-site hedgerows
and as contained within the application documentation.

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3. The development hereby approved shall only be used for the purpose of a poultry rearing unit and shall not be used to house any more than 225,000 birds in total.
4. Prior to their first use on the development hereby approved a detailed specification of all facing materials shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the details as may be approved.
5. With the exception of the hedge translocation works as detailed on approved plan 1484.06 Rev A - Off-site hedgerows, soft landscaping shall be carried out in strict accordance with the details shown on drawing nos. 1484.04 - Landscape/Biodiversity Proposals during the first planting season (November to March) and seeding season (April to September) following the first use of the development and thereafter managed and maintained in accordance with the Landscape Management and Maintenance details specified on that drawing.
6. The soft landscaping carried out in accordance with the details shown on drawing 1484.04 - Landscape/Biodiversity Proposals shall be permanently retained throughout the lifetime of the development. Any planting or seeding becoming severely damaged or seriously diseased, is in poor physiological condition and/or is removed within the first 5 years shall be replaced during the next available planting or seeding season by trees, hedgerow or grass species of the same specification as those originally planted.
7. Hedge translocation works as detailed on approved plan 1484.06 Rev A - Off-site hedgerows shall be carried out prior to the first use of the development hereby approved in accordance with a detailed methodology, management and maintenance regime which has first been submitted to and approved in writing by the local planning authority. The scheme as approved and implemented shall be retained for the lifetime of the development.
8. No part of the development shall commence until a detailed Arboricultural Method Statement has been submitted to and approved in writing by the Local Planning Authority. No development or other operations shall take place except in strict accordance with Method Statement as is approved. The Method Statement shall include the following:
 - a) A specification for tree protection fencing and ground protection measures that comply with British Standard 5837:2012;
 - b) A Tree Protection Plan showing the location of the trees to be removed and retained with their crown spreads, Root Protection Areas, Construction Exclusion Zones, and location of protective fencing and ground protection measures accurately plotted;
 - c) A full specification for any access, driveway, path, underground services or wall foundations within retained tree Root Protection Areas or Construction Exclusion Zone, including any related sections and method for avoiding damage to retained trees;
 - d) Details of general arboricultural matters including proposed practices with regards to cement mixing, material storage and fires; and
 - e) Details of all proposed tree works, including felling and pruning.
9. No development shall take place until there has been submitted to and approved in writing by the local planning authority a scheme of great crested newt mitigation, compensatory measures and management regime. The

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approved scheme shall make provision for a compliance audit and report and its submission to and approval in writing by the local planning authority. Development shall be carried out in accordance with the approved scheme of great crested newt mitigation and compensatory measures and management regime.

10. Development shall not commence until a scheme of Reasonable Avoidance Measures (RAMs) in respect of great crested newts has been submitted to and approved in writing by the Local Planning Authority. Development shall thereafter only take place in strict accordance with the RAMs scheme as approved.

11. No development shall take place until there has been submitted to and approved in writing by the local planning authority a Biosecurity Risk Assessment that shall include measures to address invasive non-native species. Development shall be carried out in accordance with the approved Biosecurity Risk Assessment and its measures shall be retained thereafter.

12. No external lighting shall be installed on the buildings hereby permitted until full details of the light fittings, to include the location of all external lights and all cowls/shielding have been submitted to and approved in writing by the Local Planning Authority. No lighting shall thereafter be installed on the buildings or on any part of the site other than in strict accordance with the details as approved.

13. Prior to first use of the development hereby approved the vehicular access shall be laid out in accordance with the details contained in drawing no. SK21685-05 Rev A and shall provide visibility splays of 2.4 metres x 43 metres in both directions measured to the nearside edge of the adjoining highway. Within these splays there shall be no obstruction above the level of the adjoining carriageway. The splays shall thereafter be permanently retained clear of any such obstruction to visibility.

14. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting that Order with or without modification), no gate, fence, wall or other means of enclosure shall be erected, constructed or placed across the access within 20 metres of the highway boundary under Class A, of Schedule 2 Part 2.

15. The proposed works to the private drive, internal access, parking and turning areas shall be satisfactorily completed and laid out in accordance with the approved drawing no. GM-MZ228-181 - Site Layout prior to the poultry units first being brought into operation. The approved parking and turning areas shall thereafter be maintained at all times for that purpose.

16. All highways works as shown on drawing nos. SK21685-08 Rev A, SK21685-09 Rev A, SK21685-10 Rev A and SK21685-11 Rev A, SK21685-20 in relation junction improvements, passing places and visibility splays on the A539 and Cinders Lane shall be implemented prior to the first use of the development and shall be retained in this condition thereafter.

17. No part of the development shall commence until a scheme for the comprehensive and integrated drainage of the site indicating provision for foul water, surface water and land drainage has been submitted to and approved in writing by the Local Planning Authority. In accordance with the submitted Flood Consequence Assessment & Drainage Strategy (Cinders Farm,

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Ruabon Environmental Statement - Volume II: Main Report Appendix 11.1), any scheme must demonstrate compliance with the latest Sustainable Drainage Systems (SuDS) Standards for Wales. The submitted details shall:

i) Provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of receiving ground water and/or surface waters;

ii) Specify the responsibilities of each party for the implementation of the SuDS scheme, together with a timetable for that implementation; and,

iii) Provide a timescale for implementation, management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

18. Prior to the first use of the development hereby approved, junction warning Vehicle Operated Signs (VAS) shall be erected to the east and west of the junction of Cinders Lane and the A539 junction in accordance with detail which has been submitted to and approved in writing by the local planning authority. The signage shall be installed in accordance with the approved scheme and retained for the lifetime of the development.

19. No construction deliveries shall take place outside 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.

20. Prior to the commencement of the development a construction and operational traffic management plan including provision for contractor parking shall be submitted to and approved in writing by the Local Planning Authority. The plans as approved shall be fully implemented and maintained for the duration of the use hereby permitted.

REASON(S)

1. To comply with Section 91(3) of the Town and Country Planning Act, 1990.

2. To define the scope of the planning permission

3. Use restriction

4. In the interests of the visual amenity of the area and to ensure that the development accords with policy GDP1.

5. In the interests of the visual amenity of the area and to ensure that the development accords with policy GDP1.

6. In the interests of the visual amenity of the area and to ensure that the development accords with policy GDP1.

7. In order to ensure that the development makes a positive contribution to the locality in accordance with policy GDP1.

8. To ensure the work is carried out to accepted arboricultural practices for the long term wellbeing of the tree(s).

9. In order that the development makes provision for species which are protected by statute and in the interests of their habitat.

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10. In order that the development makes provision for species which are protected by statute and in the interests of their habitat.
 11. In order that the development makes provision for species which are protected by statute and in the interests of their habitat.
 12. In order that the development makes provision for species which are protected by statute and in the interests of their habitat.
 13. In the interests of highway safety and compliance with policy GDP1.
 14. In the interests of highway safety and compliance with policy GDP1.
 15. To ensure the formation and construction of a satisfactory access and parking facilities in the interests of highway safety in accordance with policies GDP1 and T8.
 16. In or order to ensure that the development provides for a safe means of access to the site in the interests of policy GDP1.
 17. To ensure satisfactory drainage of the site and to avoid flooding in accordance with policy EC13.
 18. In the interests of highway safety.
 19. To protect the amenities of the occupiers of nearby properties.
 20. In the interests of highway safety and the amenities of the occupiers of nearby properties.
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