



Penderfyniad ar yr Apêl

Gwrandawriad a gynhaliwyd ar 27/03/19

Ymweliad safle a wnaed ar 27/03/19

**gan Hywel Wyn Jones BA(Hons) BTP
MRTPI**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 06.06.2019

Appeal Decision

Hearing Held on 27/03/19

Site visit made on 27/03/19

**by Hywel Wyn Jones BA(Hons) BTP
MRTPI**

an Inspector appointed by the Welsh Ministers

Date: 06.06.2019

Appeal A ref: APP/H6955/A/18/3216187

Site address: Maelor Foods Ltd, Pickhill Lane, Cross Lanes, Wrexham, LL13 0UE

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Mulkh Mehta, Maelor Foods against the decision of Wrexham County Borough Council.
- The application, ref: P/2017/1032, dated 13 December 2017, was refused by notice dated 1 October 2018.
- The application sought planning permission for the change of use to poultry processing facility without complying with a condition attached to planning permission ref: P/2014/0781, dated 2 March 2015.
- The condition in dispute is No. 14 which states that: *No more than 400,000 birds shall be processed each week at the site subject to this permission.*
- The reason given for the condition is: *To protect the amenities of the occupiers of nearby properties.*

Appeal B ref: APP/H6955/A/18/3216188

Site address: Maelor Foods Ltd, Pickhill Lane, Cross Lanes, Wrexham, LL13 0UE

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Mulkh Mehta, Maelor Foods against the decision of Wrexham County Borough Council.
 - The application, ref: P/2017/1037, dated 13 December 2017, was refused by notice dated 1 October 2018.
 - The application sought (in summary) planning permission for extensions and upgrading of facilities and buildings without complying with a condition attached to planning permission ref: P/2017/0165, dated 25 April 2017.
 - The condition in dispute is No. 11 which states that: *No more than 400,000 birds shall be processed each week at the site subject to this permission.* For the avoidance of doubt 'the site' is the area edged red on the approved drawing no. c3697 L01 Revision P1: Existing Location Plan.
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- The reason given for the condition is: *To protect the amenities of the occupiers of nearby properties.*

Appeal C ref: APP/H6955/A/18/3216190

Site address: Maelor Foods Ltd, Pickhill Lane, Cross Lanes, Wrexham, LL13 0UE

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Mulkh Mehta, Maelor Foods against the decision of Wrexham County Borough Council.
 - The application, ref: P/2017/1038, dated 13 December 2017, was refused by notice dated 1 October 2018.
 - The application sought (in summary) planning permission for extension, alteration and upgrading of existing facilities and buildings without complying with a condition attached to planning permission ref: P/2015/0838, dated 1 February 2016.
 - The condition in dispute is No. 11 which states that: *No more than 400,000 birds shall be processed each week at the site subject to this permission.* For the avoidance of doubt 'the site' is the area edged red on the approved drawing no. c3697 L01 Revision P1: Existing Location Plan.
 - The reason given for the condition is: *To protect the amenities of the occupiers of nearby properties.*
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Decision

Appeal A

1. The appeal is allowed and planning permission is granted for the change of use to poultry processing facility at Maelor Foods Ltd, Pickhill Lane, Cross Lanes, Wrexham, LL13 0UE in accordance with the application ref: P/2017/1032, dated 13 December 2017, without compliance with the conditions previously imposed on planning permission ref: P/2014/0781, dated 2 March 2015 and subject to the conditions set out in the attached Schedule.

Appeal B

2. The appeal is allowed and planning permission is granted for extensions and upgrading of facilities and buildings including: roof alteration on extension, despatch storage, store and crate storage, extensions to lairage building, new despatch bay, installation of additional plant – chemical scrubber, gas tank, 3 No. water tanks and 2 No. storage tanks at Maelor Foods Ltd, Pickhill Lane, Cross Lanes, Wrexham, LL13 0UE in accordance with the application ref: P/2017/1037 dated 13 December 2017 without compliance with the conditions previously imposed on the planning permission ref: P/2017/0165 dated 25 April 2017.

Appeal C

3. The appeal is allowed and planning permission is granted for extension, alteration and upgrading of existing facilities and buildings including: extension for covered delivery/lairage, extension for covered waste removal area, first floor office extension, recladding of key building exterior (including main building, office block and training block), plant area screen, exhaust air scrubber (EMMI), installation of package treatment plant for domestic foul sewage, and alterations to entrance at Maelor Foods Ltd, Pickhill Lane, Cross Lanes, Wrexham, LL13 0UE in accordance with the application

ref: P/2017/1038, dated 13 December 2017 without compliance with the conditions previously imposed on the planning permission ref: P/2015/0838, dated 1 February 2016.

Application for costs

4. At the Hearing an application for costs was made by Mr Mulkh Mehta, Maelor Foods, against Wrexham County Borough Council. This application is the subject of a separate Decision.

Procedural Matters

5. Appeal A seeks the removal of a condition that was imposed on a planning permission granted in 2015 which permitted the site's change of use to a poultry processing facility. The same condition was imposed on 2 subsequent permissions for the erection of buildings and other works associated with the approved use. As it is agreed that duplication of the condition is not necessary, I shall focus my attention on the disputed condition subject to Appeal A. The appellant accepts that a limit of 1 million birds per week would be appropriate and I have assessed the scheme on that basis.
6. The appeals have been the subject of a screening direction issued on behalf of the Welsh Ministers dated 20 December 2018 which confirmed that the change in throughput proposed by the schemes is not Environmental Impact Development within the meaning of the relevant regulations.
7. New written evidence was submitted at the hearing both in support and objection to the scheme. I have taken these into account in my determination of the appeal satisfied, having canvassed the views of those present, that their late submission has not caused injustice to any party.

Background and Preliminary Matters

8. The appeal site lies to the south of Cross Lanes within an area of countryside with sporadic development nearby of mainly dwellings and farmsteads. Commercial operations commenced on the site some 80 years ago. It operated as a creamery for many years.
9. The Council explained that the limitation on poultry processing numbers, which is the subject of the appeals, was imposed as an indirect means of restricting traffic volumes using the site. Whilst the stated reason for the conditions on the permissions only refer to the amenity of nearby residents, the reason for refusing the subsequent applications to remove the restriction also cites highway safety concerns.
10. Birds were initially processed on site in low numbers, commencing in November 2017 and thereafter increased to the throughput limit by the following June and has since been operating at that level. The appellant wishes to increase the throughput for commercial reasons and to meet growing demand. This increase would be met by the installation of a second production line within the existing buildings and would not require more buildings or infrastructure. The site presently has an Environmental Permit from Natural Resources Wales (NRW) to process 1,000,000 birds a week.

Fallback Position

11. An important part of the appellant's case is that the traffic flows associated with the historical use of an adjacent site, known as the Lloyd Fraser site, was greater than the predicted traffic flows associated with the appeal scheme. The Council's planning and

highway officers accepted the appellant's case, which has been described as offering a 'betterment', in that the appeal scheme would provide an opportunity to prevent the re-commencement of the previous activities on the adjacent site. At the hearing, in response to questioning from me, clarification was provided on the significance of this adjacent site.

12. The appellant accepted that the matter to be established was whether the potential for higher traffic flows on the adjacent site constituted a realistic fallback position against which to assess the effects of the appeal scheme. It was confirmed that the appellant had not pursued a Certificate of Lawful Use under section 191 of the Act to confirm the lawful status of the site. The Council's officer explained that such an application had not been sought as the status of the land seemed clear and was effectively confirmed by the decision it granted in October 2018 on that site (ref: P/2018/0591).
13. At the hearing Mr McCarthy described how he started working on the site in 1977 as a driver eventually becoming site manager in 2000. He explained that the site was used by Dairy Crest as a base to transfer milk from smaller tankers serving local farms into larger articulated lorries for onward transportation. This was a 24 hours/7 day a week operation handling 4.2 million litres of milk a week. He estimated the number of tanker lorries using the site during that period to be 80 smaller lorries and 40 articulated lorries. Taking into account other vehicle movements such as employee cars these figures are broadly consistent with the appellant's previous estimate of between 140-160 daily vehicular movements which has been accepted as reasonable by the Council's highway and planning officers.
14. It is accepted that the Lloyd Fraser business has an operator's licence which at one time was for 46 lorries although, when the activities on the site contracted, the licence was changed to 3 lorries and 26 trailers. Since the use ceased there has been no significant activity on the site to indicate that the historical use had been abandoned or superseded by a new use. The recent planning permission has not been implemented and it was confirmed that Lloyd Fraser continued to hold an operator's licence for the site.
15. Whatever the numbers of lorries using the site historically, there is compelling evidence before me to suggest that the site could be lawfully used in the future as a logistics depot without any restrictions on such a use, including in terms of working hours, and the number and size of vehicles. An unmade, single-width track links Pickhill Lane with a pair of gates bounding the Lloyd Fraser site and also provides access to an adjacent field. A local farmer suggested that this track, which joins the Lane adjacent to the main appeal site entrance for cars, could only be used as an emergency access to the Lloyd Fraser site. However, there is no evidence to show that this track could not be used to serve the site, despite its sub-standard nature. The site could also be readily accessed from the appeal site.
16. The appellant has purchased this adjoining site and was granted planning permission in October 2018 (P/2018/0591) to change the use from transport logistics depot (*sui generis*) to a use ancillary to the established neighbouring poultry processing facility. This permission allows only uses that would be ancillary to the main site, including open storage, lorry and trailer parking, and maintenance. The appellant explained that it proposes to provide a holding facility for live birds on this site to serve the increased throughput of the processing plant. Planning permission for such a facility has not yet been sought. The appeal scheme offers the opportunity to prevent the recommencement of the historical use of the site through the imposition of an agreed condition.

17. I turn now to consider whether it is likely that the adjacent site would be used in the future in the event that the appeal is dismissed. Mr McCarthy explained that, whilst his employer had sold the site in 2009 because it no longer held contracts locally, that situation had now changed. It explained that it might be seeking to secure the site if it became available, particularly if one of the existing sites that they rent ceased to be available.
18. The appellant's stated that a haulage/transport depot of this size and location, unencumbered by planning restrictions, is much sought after in the area given the flexibility it offers prospective operators. This was not seriously challenged at the hearing and it seems to me to be credible. For that reason it seems to me likely that the appellant, as land owner, would seek to realise a financial return by securing the re-use of this commercially valuable asset if it does not pursue the uplift in throughput that is sought. This is particularly the case as the additional space that its incorporation into the appeal site would provide is only required to serve the increase in throughput.
19. For the foregoing reasons I consider that the use of the former Lloyd Fraser site as an unrestricted transportation depot represents a realistic fallback against which to compare the appeal scheme. The historical traffic flows, which have been estimated as reaching between 140-160 daily Heavy Goods Vehicles (HGVs) movements seem to me to represent a reasonable indication of the volume of traffic flows that might arise in the future if the use is recommenced. Local residents explain that the size of vehicles and hours of operation meant that the previous traffic was less objectionable than that proposed by the appeal scheme. This appears to have been the main reason that the Council's Members did not follow the advice of its officers when it decided that the previous use of the site did not justify approving the proposed increase in processing. However, regardless of whether local residents are correct on the historical nature of the traffic, there is good reason to believe that a future transportation operation on this unencumbered site could be at least as high as the figures cited by the appellant, and could comprise large HGVs operating day and night. I shall return to this consideration in my overall balancing section below.

Main Issue

20. Whether the disputed condition is reasonable and necessary having regard to the safety of highway users; the living conditions of nearby residents, particularly in terms of any odour, noise or other disturbance; and the local economy.

Reasons

Highway Safety

21. There is no dispute that the increased productivity would result in 2.5-fold increase in HGV traffic using the site. The appellant has presented a figure of 29 daily HGV movements as the present level. This was the predicted figure used to support the original permission for poultry processing. However, at the hearing it emerged that, when taking into account all associated HGV visits, this figure was closer to 50. This corresponds with the results of a recent traffic survey by local residents. It follows that the likely total figure on implementation of the appeal scheme would be in the region of 125 daily HGV movements, rather than the appellant's estimation of 72.
22. The scheme proposes to remove or reposition a roadside hedge that bounds an adjacent field, which would represent a marked improvement to the south-westward visibility splay for drivers emerging onto the public highway from the site. However, the main concerns of local residents relate to the junction of Pickhill Lane onto the

nearby A525. There are concerns over the speed and size of traffic that travel along the A road and the limited forward visibility, particular in relation to the several private accesses in close proximity to the junction. Residents explained that they had witnessed many road traffic accidents most which were not reported. The appellant points out there have only been 2 recorded accidents at the junction since 2006.

23. It is common ground that the geometry of the junction is deficient. In response, the appellant proposes a modest realignment of the northern radius to facilitate the turning movements of HGVs travelling from Cross Lanes entering Pickhill Lane. However, the greater concern is over the southern radius which is too tight to enable HGVs turning south from the lane onto the A road to do so within the confines of the nearside carriageway. The longest vehicles require virtually the full width of both carriageways to undertake their manoeuvre. Visibility splays at the junction meet the relevant standards set out in Technical Advice Note (TAN) 18: Transport which, despite references to other standards by an objector, is the appropriate standard in this case. This means that approaching drivers travelling at an appropriate speed along the A road would be able to respond safely to a lorry emerging from the junction. Even so there is no dispute that this is not a desirable situation, particularly given the gradient of the road and the proximity of several private accesses.
24. The appellant proposes to improve the road markings and signage around the junction and to supplement gateway features on the southern approach. I observed that the illumination on a warning sign was barely perceptible in daylight whilst high resistance surfacing road markings and the solid centre line marking had worn to such an extent as to be hardly discernible. I agree with the appellant and the Council's highways officer that these improvements would be likely to slow traffic and heighten their awareness as they approach this section of the road. I attach appreciable weight to this benefit given that, as the Council confirmed at the hearing, there is no information before me to suggest that the Council has any intentions to carry out such work itself.
25. I note the concerns of those residents and farmers that utilise existing private access points close to the Pickhill Lane junction, particularly in terms of restricted visibility. As it seems to me that it is the faster-moving through-traffic that it is the primary cause of their fears in this respect, the proposed measures to encourage drivers to reduce speed would serve to mitigate these concerns.
26. As local residents point out traffic in this locality has increased significantly in recent years. This is recorded by the traffic data submitted to support a planning application on the site in 2011 compared with that collated by the appellant in support of the current proposal and, more recently, on behalf of the Community Council. However, even allowing for the increase in predicted lorry movements which I have identified, the additional traffic generated would not exceed the capacity of the local highway network.
27. The appellant explained that the site's eastern accessway, which I observed has a substandard visibility splay, is a provision it has retained only for use by emergency service vehicles attending an incident at the premises. In response to concern raised by local residents that the scheme could lead to its use as secondary access, which might encourage more HGV movements eastwards on Pickhill Lane, I agree that it is reasonable to restrict the use of this access.
28. Whilst there are concerns over the routes that some divers might choose, and the impact of incidents when flooding or accidents close the A-roads causing displacement and temporary disruption on minor roads, the impact of the proposed scheme in these

respects would be minimal. In the interests of business efficiency the appellant confirmed that the majority of lorry movements to and from the site takes place outside the peak traffic flow times on the road network.

29. The scheme would increase the present use by large lorries of the junction of Pickhill Lane on to the A525. Notwithstanding the improvements proposed by the scheme, including to this junction, I consider that the sub-standard nature of the southern radius of this junction to accommodate these lorries means that it would be harmful to highway safety, and for that reason it would conflict with criterion (d) of Policy GDP1 of the Wrexham Unitary Development Plan (UDP).

Living Conditions

30. During the hearing the volume and pattern of HGV movements to and from the site was discussed. As already explained, this established that the number of lorries are higher than previously estimated. It also revealed that the proportion of movements that take place within off-peak day time hours had been overstated and the night-time movements understated.
31. 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.
32. Of the 5 houses that lie on the opposite site of the Pickhill Lane to the appeal premises, 3 are unconnected with the business. They are set back from the lane by front gardens. Residents have referred to the sleep disturbance caused by the night time lorry movements. At the hearing they raised the potential to these movements by imposing a new condition. The appellant confirmed that operational requirements, which require the birds to be caught in the hours of darkness, meant that night time movements of livestock lorries was necessary. At present there is no significant movement of lorries on Sundays, but it was established that a consequence of increased intensification of production would make this more likely. Although the business could not accommodate a restriction on Bank Holiday working, the appellant confirmed that, if necessary, it could operate with a Sunday restriction. I consider that such a condition would be justified in the interests of the living conditions of the nearest neighbours, thereby partly compensating for the increase in night-time traffic.
33. I have noted the concerns over existing impacts of odour and noise from on-site activities. The appellant explains that it experienced some initial teething problems, exacerbated by the unusually hot and dry period during the 2018 summer, but that these have now been addressed. It also explained that, on the advice of NRW it had changed its practises in relation to lorries transporting waste from the site, including disinfection of lorries and sealing their load, to minimise odours. It referred to the efforts it deploys to ensure the highest standards of operation, referring to its nomination by NRW for an European award as a top 10% performer in terms of environmental standards. I am satisfied that these matters can be adequately controlled by NRW through its Environmental Permitting regime.
34. The scheme would give rise to more night time lorry movements which would be harmful to the living conditions of the nearest neighbours. The setback of the dwellings from the lane and the slow-moving nature of the lorries entering and leaving the site leads me to find that any increase in disturbance, above that which is already

experienced, would be a relatively modest. Nonetheless it is harmful which means that the scheme conflicts with criterion (f) of UDP policy GDP1.

Economic Benefits

35. The expansion in productivity is estimated to create some 80 to 90 full-time jobs in addition to the 140 full-time and 10-15 agency staff presently employed on the site and to contribute an additional £101 million above the existing £67 million benefit to the local economy. The enterprise proposes to source most of its birds from existing and new broiler farms within a 50-mile radius of the site. Several local enterprises, including farms that supply birds, and firms that provide other goods and services, have emphasised the value of the enterprise to their business as well as the indirect benefits to the economy that would be derived from the proposed increase in production. Several farmers explained how this facility was encouraging investment in the broiler sector of the local farming industry with associated benefits to the wider agricultural community.
36. Other benefits include increased self-reliance on chicken production within the UK and the associated decrease in the need to import meat, giving rise to wider economic benefits as well as reducing the costs of transportation. Welsh Government's Senior Business Manager confirmed the importance of the appellant's proposed investment to the Welsh and UK economy, explaining that the company had so far met all the economic contribution expectations associated with the significant public funding that it has received. The Council's Business & Investment Lead officer has also expressed support for the scheme.
37. Taking into account the importance afforded by national planning policy¹ to economic development, specifically the rural economy, the significant direct and indirect economic benefits of the scheme is a weighty factor in its favour. Some local residents argue that the additional capacity would be better located on an industrial estate. The appellant explained that this had been explored prior to establishing the business on this site with particular consideration given to the nearby Wrexham Industrial Estate but no available plots of adequate size were available.
38. I note concerns raised by local residents that the intensification in the use of the site would harm the local tourism industry. Whilst I acknowledge the economic value of tourism to the area, there is no substantive evidence to suggest that it would be materially affected by the scheme.

Other Matters

39. The site's location means that most workers are likely to travel by car. Residents point to the sub-standard nature of the footways linking the site to the nearest bus stops and a recent decline in the bus service means that it is not a viable alternative means of transport for the workers. I agree with local residents that, in terms of promoting more sustainable means of transport, the site does not perform as well as a nearby industrial estate. However, I also note that the scheme would avoid the need to transport birds reared locally further for processing and, on a global basis, reduces the need to import the meat.
40. In the context of the Welsh Government's encouragement of active travel, local residents suggest that the footway along the A-road which links Cross Lanes to

¹ Planning Policy Wales, Edition 10, TAN6: Planning for Sustainable Rural Communities and TAN23: Economic Development.

Bangor-on-Dee provides a valuable pedestrian connection enabling access to services and for recreation. I understand that the narrowness of sections of the footway close to Pickhill Lane makes it unpleasant and, for some, difficult to use. However, the resultant additional lorry traffic caused by the scheme, which would be dispersed throughout the day, is not likely to materially affect the experience of walkers using the section of the footway close to the junction, particularly as those additional vehicles would be travelling much more slowly than the majority of the passing lorries.

41. The site lies close to the Afon Dyfrdwy (River Dee) Site of Special Scientific Interest. I have no reason to dispute that the significant infrastructure that has been provided provides adequate protection to address the pollution concerns that have been raised.
42. Local residents suggest that the site operators are seeking to expand the size of the operation in incremental stages and are fearful that a future application may follow to increase production to 2,000,000 or more. However, I must determine the scheme before me on its individual merits, although in doing so the existence of the present operation is a material consideration. Matters relating to animal welfare are controlled under other legislation and thus are not material to my decision.
43. The appellant draws parallels between this case and the findings of an Inspector in a recent appeal decision² on a site relatively nearby in Malpas. Whilst I have taken into account the findings that led to the appeal being allowed I have also been mindful of the differences between the schemes and their circumstances and have determined the appeal before me on its individual merits.

Overall Balance

44. I have found in relation to the first 2 main issues that the increased productivity would give rise to harm to highway safety and to the amenities of local residents. However, I have also identified measures that can be secured through planning conditions to partly mitigate or compensate for the harms identified, specifically the road improvements, the ability to control the future use of the secondary access, and the ability to prevent Sunday lorry movements. These benefits are ones that cannot be secured under the controls over the existing operation. Even so the extent of the harms that I have identified carry significant weight against the appeal proposal.
45. In favour of the scheme there are two main considerations. Firstly, is the benefit to the local economy. TAN23: Economic Development requires careful consideration of economic benefits where a development would cause environmental or social harm. On its own I do not find that the economic benefit is sufficient to outweigh the harm that I have identified. However, without the scheme there is a likelihood that the Lloyd Fraser site would be used intensively as a haulage depot, without controls over matters such as hours of operation and volume of traffic. The traffic flow which this would attract, in addition to the existing flows using the appeal site could result in appreciably more HGV traffic than would result from the appeal scheme. As this would result in potentially greater harm in terms of highway safety and living conditions, it is a matter which must attract significant weight. When taken with the identified economic benefits, it firmly outweighs the harms identified.

Conditions

46. A list of conditions agreed by the Council and the appellant was set out in their statement of common ground. I have considered these, and the changes to them and

² APP/H6955/A/18/3208119

the additional conditions that were discussed at the hearing, in the light of Circular 016/2014: The Use of Planning Conditions in Development Management.

47. The agreed statement from the main parties confirmed that if the appeals were allowed it would provide an opportunity to remove conditions that were no longer subsisting or were duplicating the controls that were more appropriately dealt with under other regimes. Consequently, although the suite of conditions which I shall attach appear to differ significantly from those previously imposed, in practice the differences are minimal other than in relation to the condition in dispute and those conditions directly associated with it. It was also agreed that imposing conditions on a new permission as an alternative to the change of use permission (ref: P/2014/0781, Appeal A) would provide adequate on-going controls over the operation of the site. This means that there is no longer any need to impose conditions on the permissions for buildings and other works on the site (Appeals B and C).
48. To realise the highway improvements that form part of the appeal scheme and which informed my weighing in the overall balance, I consider that conditions to secure their implementation are reasonable and necessary. The appellant indicated a clear willingness to provide such improvements even if I found them not to be necessary. For reasons already explained I consider it reasonable to prevent HGV traffic on Sundays and to restrict the use of the emergency access.
49. As the permission that permits the present operations on the site is subject to a condition requiring a travel plan to be agreed, which the Council confirmed at the hearing that it was presently considering, the main parties agreed that it was necessary to impose the condition on the new permission which is sought. Given its potential to reduce car movements to the site I concur. Other conditions are necessary for the reasons set out in the Schedule below.
50. Concern has been raised that some conditions have not been complied with. The Council has powers to enforce against any breaches where it considers it expedient.

Conclusion

51. I have found that the proposed increase in the scale of production would cause harm to highway safety and the living conditions of local residents. Given the scope to impose conditions to mitigate the extent of these harms, I find that they are outweighed by the considerable benefits of the scheme to the local economy when considered alongside the likely impact of the fallback position of the Lloyd Fraser site. Thus, and having taken into account all other matters raised in objection to the scheme, I find that the appeals should succeed.
52. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well Being of Future Generations (Wales) Act 2015. I have borne in mind, as requested, the well-being of local residents. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards the Welsh Ministers' well-being objectives of: supporting safe, cohesive and resilient communities; improving prosperity; and fostering conditions for sustainable economic development and employment.

Hywel Wyn Jones

INSPECTOR

Schedule of Conditions

- 1) The mechanism put in place for the management of surface water run-off in accordance with the details received on 26 July 2017 and approved on 24 August 2017 (under planning permission P/2017/0626) shall be retained and maintained in an operational condition.

Reason: To reduce the risk of on- or off-site flooding in compliance with policy GDP1(i) of the Wrexham Unitary Development Plan (UDP).

- 2) No more than 400,000 birds shall be processed each week at the site subject to this permission until planning permission P/2018/0591, which permits the use of an adjacent site for purposes ancillary to the site subject to this permission, has been implemented.

Reason: To protect highway safety and the amenities of the occupiers of nearby properties from noise and disturbance in compliance with UDP policy GDP1(d) and (f).

- 3) The vehicular parking and turning areas as shown on approved drawing No. 14-L37-PL002D shall thereafter be permanently retained and kept free of any obstruction and made available solely for the parking and turning of motor vehicles at all times.

Reason: To protect highway in compliance with UDP policy T8.

- 4) No more than 400,000 birds shall be processed each week at the site subject to this permission until the improvements to the junction and adjacent section of highway shown on drawing no. VN7085- D108 and referred to in paragraph 3.2 of the document Vectos Maelor Foods, Further WCBC Discussions – May 2018 has been implemented in full.

Reason: To protect highway safety in compliance with UDP policy GDP1(d).

- 5) No more than 400,000 birds shall be processed each week at the site subject to this permission until the main (south-western) vehicular access has been provided with visibility splays of 2.4 metres x 121 metres to the north-east and 2.4 metres x 110 metres to the south-west measured from the centreline of the access to the nearside edge of the adjoining highway.

Reason: To protect highway safety in compliance with UDP policy GDP1(d).

- 6) Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound should be at least equivalent to the capacity of the tank plus 10%. If there is more than one tank, the compound should be at least equivalent to the capacity of the largest tank, or the combined capacity of interconnected tanks, plus 10%. All filling points, vents gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata.

Reason: To prevent pollution of the River Dee in compliance with UDP policy GDP1(f).

- 7) No more than 1,000,000 birds shall be processed each week at the site subject to this permission.

Reason: To protect the amenities of the occupiers of nearby properties and highway safety in compliance with UDP policy GDP1(d) and (f).

- 8) The site owner(s)/operator(s) shall at all times maintain an up to date log of the number of birds processed each week from the date of this decision. The log shall be made available at all reasonable times for inspection by officers of the Local Planning Authority.

Reason: To protect the amenities of the occupiers of nearby properties and highway safety in compliance with UDP policy GDP1(d) and (f).

- 9) A scheme of replacement hedgerow planting associated with the works required by condition 5) shall be implemented in the first planting season after the commencement of those works in accordance with details that shall have first been submitted to and approved in writing by the Local Planning Authority. Thereafter any part of the hedgerow that becomes severely damaged or diseased within the first 5 years after planting shall be replaced during the next available planting season with a plant of the same species and height as the one originally planted.

Reason: In the interests of the character and appearance of the area in compliance with UDP policy GDP1(a).

- 10) The existing vehicular access located close to the north eastern corner of the site shall only be used under the direction of an officer of the emergency services attending an emergency incident on the site.

Reason: To ensure that a safe means of access is provided to/from the site and ensure compliance with UDP policy GDP1(d).

- 11) There shall be no movements of Heavy Goods Vehicles to or from the site on Sundays.

Reason: To protect the amenities of the occupiers of nearby properties in compliance with UDP policy GDP1(f).

- 12) Prior to the first weekly production exceeding 400,000 a Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. This plan shall include details of annual monitoring and shall be submitted to the Local Planning Authority for written approval following the first anniversary of the first increase in production hereby approved, and every year up to and including the fifth anniversary.

Reason: To support the Local Planning Authority's approved Integrated Transport Strategy and to reduce dependency on the motor vehicle in compliance with UDP policy GDP1(k).

APPEARANCES

FOR THE APPELLANT:

Mr S Andrews	Planner and lawyer, Eversheds Sutherland
Mr G Evans	Director, Cassidy and Ashton Group Ltd
Mr P Whitaker	Associate, Vectos (North) Ltd
Mr M Howard	Health and Safety Manager, Maelor Foods
Ms M Davies	Agricultural planning and farm liaison, Maelor Foods

FOR THE LOCAL PLANNING AUTHORITY:

Mr M Phillips	Planning Control Lead
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INTERESTED PARTIES:

Mrs H Rowland	Sesswick Community Council
Mr S Whitby	Local resident
Mrs J Whitby	Local resident
Mr J Bell	Local resident
Cllr J Pritchard	Local Member, Wrexham CBC
Mr Poynton	Local resident
Mr G Dutton	Local resident
Mrs J Roden	Local resident
Mr S Colman	Local resident
Mrs M Colman	Local resident
Mr S Richards	Local resident
Mr R Jones	Sesswick Community Council
Ms E Barlow	Campaign for the Protection of Rural Wales
Mr M Elliott	Local poultry producer
Mr D McCarthy	Regional Depot Manager, Lloyd Fraser (Bulk Liquids) Ltd
Mr K Spencer	Director, Lloyd Fraser (Bulk Liquids) Ltd
Mr S Thomson	Director, Lloyd's (Animal) Feeds Limited
Ms E Rees Jones	Poultry producer and Farm Diversification Advisor, Farming Connect

Mr D Jarrett	Livestock Policy Adviser, NFU Cymru
Mr J T Hay	NFU and broiler farmer
Mr M Hughson	Senior Business Manager, Welsh Government

Documents

- 1 Council's notification of the hearing and circulation list
- 2 List of prospective speakers, Mrs Heather Rowland
- 3 2 bundles of letters and photographs, local residents
- 4 Bundle of photographs, local residents
- 5 Note and video footage of vehicles on the highway, Mr Ray Jones
- 6 Letter from Mr John Bell
- 7 Letter from Mrs Rowland on behalf of local residents
- 8 Traffic analysis, Sesswick Community Council
- 9 Statement from Mr Ken Skates AM
- 10 Statement from Ms Susan Elan Jones MP
- 11 Speaking notes, Mr Elliott
- 12 Bundle of letters in support submitted by appellant
- 13 Lloyd Fraser site block plan, planning permission P/2018/0591
- 14 Planning policy overview, appellant
- 15 Derwent Holdings Ltd v Trafford Borough Council [2011] EWCA Civ 832