

Town and Country Planning Act 1990

Section 78 appeal

**Local Planning Authority Statement of
Case**

TALWRN FARM, TALWRN ROAD, LEGACY, WREXHAM, LL14 4ER

**PINS Refs: APP/H6955/A/18/3216674
LPA Planning Refs: P/2018/0724**

1.0 INTRODUCTION

- 1.1 This document constitutes the local planning authority's statement of case in relation to the aforementioned appeal.

2.0 PROPOSAL

- 2.1 The appeal relates to a proposal to vary a condition imposed under the original planning permission for the site which restricts the timings for deliveries and collections from the poultry rearing and egg production operation.
- 2.2 Planning permission was granted on appeal in 2015 for the erection of a barn egg laying unit with associated feed bins, hardstandings, access track and upgraded highway access. Appeal reference APP/H6955/A/14/2228984 refers and is found at Appendix 1. Later in 2017 planning permission was granted for an extension to the building to allow for an extended operation (increased bird accommodation and egg production capacity). Planning permission P/2017/0053 refers and is found at Appendix 2.

3.0 LOCAL PLANNING CONTEXT

- 3.1 The relevant development plan for this appeal is the Wrexham Unitary Development Plan (UDP) as adopted by the Council in 2005. The relevant policies have been identified in the Council's questionnaire which has been submitted in advance of this statement.

4.0 THE COUNCIL'S CASE

- 4.1 The Council considers that to allow the variation of the planning condition to allow birds to be removed from the site would have a detrimental impact upon the amenity of the surrounding residential occupiers of the site. On allowing the appeal, the Inspector saw fit to impose the planning condition which restricted delivery and collection operations at the site to outside night hours. The Inspector permitted the development on this basis and there is no justification as to why allowing such operations during the night would be acceptable.
- 4.2 The site is surrounded by residential occupiers. To allow the operations to occur as proposed would result in disturbance to those occupiers in the middle of the night from the movement of heavy HGVs, the glare from their headlights shining in to the properties as well as the noise disturbance from the movement on this site during to the loading and unloading of the vehicles.
- 4.3 The Council considers that if this appeal were permitted it would result in a free for all of movements of heavy goods vehicles to and from the site.

5.0 SUGGESTED CONDITIONS

- 5.1 Should the Inspector be minded to allow this appeal, the Council wishes that consideration be given to the following suggested conditions. These conditions are based on those imposed under the original planning permission and have been amended accordingly to reflect the fact that this appeal relates to the Section 73 application.

CONDITIONS

1. The approved plans consist of the details shown on the approved drawing(s) numbered IP/PM/01 - Location Plan, IP/PM/02 - Site Plan A1 and IP/PM/03 - Elevations A1 and contained within the application documentation.
2. The building shall only be faced and refaced using materials matching those used on the existing building.
3. Visibility splays of 2.4 metres x 43 metres in both directions measured to the nearside edge of the adjoining highway shall be maintained at the point of access onto Talwrn Road. Within these splays there shall be no obstruction in excess of 1 metre in height above the level of the nearside edge of the adjoining highway.
4. The development hereby permitted shall only be used as a barn egg laying unit, as described in the application documentation.
5. 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.

6. The rating level of any noise generated by air handling plant associated with the development shall not exceed the pre-existing background levels by more than 5dB(A) at any time. The noise levels shall be determined at nearby noise sensitive premises, and measurements and assessment shall be made in accordance with

BS4142:2014 Methods for Rating and Assessing Industrial & Commercial Sound.

7. No further external lighting shall be erected until details have first been submitted to and approved in writing by the local planning authority. External lighting at the site shall thereafter only be provided in accordance with the approved scheme.
8. Within one month of the date of this permission a scheme detailing the protection of existing planting to be retained and the provision of new tree and shrub planting shall be submitted to and approved in writing by the local planning authority. The scheme shall include details of species, number, size of plants at the time of planting of all trees and shrubs to be planted in connection with the development and details for its management.
9. The development shall be carried out in accordance with the recommendations set out in the approved Construction and Operational Traffic Management Plan Ian Pick Associates dated 28 August 2018.
10. The planting scheme to be approved in connection with condition 8 shall be fully implemented within the first planting season following the approval of the scheme, and the scheme shall be retained permanently in association with the management plan. If within a period of two years from the date of the planting of any tree or shrub, that tree and shrub or any tree or shrub planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes in the opinion of the local planning authority, seriously damaged or defective, another tree of the same species and size as that originally planted shall be planted at the same place, unless the local planning authority gives its written approval to any variation.

REASONS

1. To define the scope of the planning permission
2. To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area.
3. To ensure that adequate visibility is provided at the proposed point of access to the highway.
4. In the interests of defining the terms of the planning permission and amenity of the neighbouring occupiers of the site.
5. To protect the amenities of the occupiers of nearby properties.
6. To protect the amenities of the occupiers of nearby properties.
7. To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area.
8. To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area.
9. In the interests of highway safety.

10. To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area.

6.0 CONCLUSION

- 6.1 The Council considers that the proposal would represent an inappropriate alteration to the development that has previously been permitted. There would be an adverse impact upon the amenity of the neighbouring occupiers by way of increased noise throughout the night from the unloading and loading operations as well as the movement of vehicles on and off the site. The Council respectfully requests that this appeal is dismissed.

APPENDIX 1

Penderfyniad ar yr Apêl

Gwrandawriad a gynhaliwyd ar 29/04/15
Ymweliad â safle a wnaed ar 29/04/15

**gan Kay Sheffield BA(Hons) DipTP
MRTPI**

Arolygydd a benodir gan Weinidogion Cymru
Dyddiad: 11/06/15

Appeal Decision

Hearing held on 29/04/15
Site visit made on 29/04/15

by Kay Sheffield BA(Hons) DipTP MRTPI

an Inspector appointed by the Welsh Ministers
Date: 11/06/15

Appeal Ref: APP/H6955/A/14/2228984

Site address: Talwrn Farm, Talwrn Road, Legacy, Wrexham, LL14 4ER

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.
- The appeal is made by D and PJ Molloy against the decision of Wrexham County Borough Council.
- The application Ref P/2014/0372, dated 23/04/2014, was refused by notice dated 01/09/2014.
- The development proposed is the erection of a barn egg laying unit with associated feed bins, hardstandings, access track and upgraded highway access.

Decision

1. The appeal is allowed and planning permission is granted for the erection of a barn egg laying unit with associated feed bins, hardstandings, access track and upgraded highway access at Talwrn Farm, Talwrn Road, Legacy, Wrexham, LL14 4ER in accordance with the terms of the application, Ref P/2014/0372, dated 23/04/2014, and the plans submitted with it, subject to the conditions set out in the Annex to the decision.

Application for costs

2. At the hearing an application for costs was made by the appellants against the Council. This application is the subject of a separate Decision.

Procedural matter

3. As part of the appeal the appellants submitted a landscape and impact report; a review of the previously submitted odour report; a noise assessment; and a highways report. The Council confirmed that it had no objection to these documents being taken into consideration in the determination of the appeal.

Main Issues

4. The main issues are the effect of the development on the character of the Special Landscape Area; its visual effect with regard to its scale and siting in relation to the existing farm complex; the effect on highway safety; and the effect on the living conditions of local residents with regard to noise, odour and traffic movements.

Reasons

Background to the site, its surroundings and the proposal

5. The appeal site is identified in the Wrexham Unitary Development Plan, 2005 (UDP) as being in open countryside and within the Special Landscape Area. Whilst the site lies outside The Clwydian Range and Dee Valley Area of Outstanding Natural Beauty (AONB), Ruabon Mountain lies to the west and at its nearest the boundary of the AONB is less than a kilometre away. The site forms part of Talwrn Farm, a small holding consisting of approximately 26 acres of which approximately 3 acres is rented.
6. The appeal site is adjoined on most of its boundaries by agricultural land with the exception of the Scottish Power to the south west. There is a variety of residential properties scattered across the local area, the nearest being a line of dwellings on the opposite side of Talwrn Road and a further cluster to the north of the junction of Talwrn Road with Smithy Lane. On Bronwylfa Road, to the north of the site, there is a further line of dwellings together with the large and imposing Legacy Water Tower and the infrastructure of the power station.
7. The appeal site comprises a grass field to the north west of the main farm complex and the access track to it from Talwrn Road. It is proposed that the existing access to Talwrn Farm would be altered to improve visibility and the access track would follow the edge of the field which lies between the site of the proposed building and the road. The field in which the building would be sited is bounded by mature trees and hedgerows with a significant belt of younger tree planting on its southern and western edges. Despite several gaps in the existing planting on the northern and eastern boundaries, the site is well enclosed with limited views from within the field of the surrounding landscape.
8. The proposed egg laying unit would comprise of 16,000 laying hens and 1,200 cockerels producing fertile eggs for hatching with a flock cycle of 60 weeks. This would include 4 weeks for cleaning the building and preparing it for the next flock. A previous application¹ for a similar development was refused planning permission by the Council. The only change from that scheme and the one subject of the appeal is that access is now proposed from Talwrn Road rather than via the adjoining Scottish Power land. This has led to a change in the layout of the building although its siting remains largely unchanged.

Effect on the Special Landscape Area

9. In the Council's Landscape Character Area Supplementary Planning Guidance, (SPG) the appeal site falls within Landscape Character Area 7c (LCA) which includes Ruabon Mountain. The visual character of the lower slopes of Ruabon Mountain are described in the SPG as consisting of undulating farmland with residential and industrial development and in terms of the cultural character of the LCA it states that farming is under pressure, with part time holdings and an increase in "horsiculture".

¹ Application ref: P/2013/0283 refused planning permission on 29 July 2013

10. The proposed building would be located approximately 155 metres from the existing farm buildings and approximately 55m from those on the Scottish Power site. It would measure approximately 25m by 85m by 6.2m high and the height of the two feed silos would be below the ridge height of the building. The concrete hardstanding at the eastern end of the building would allow vehicles to turn within the site. This area would also house the dirty water containment tank.
11. Existing vegetation would screen views of the building from the west and south and to a lesser extent from the north and east. Although from these latter directions receptors may gain glimpsed views of the building when travelling along Talwrn Road and Bronwylfa Road these would be limited and dependent on the time of year.
12. The building would be seen from the garden of Talwrn Lodge situated in the cluster of dwellings around the junction of Talwrn Road and Smithy Lane. Other properties in this cluster and the line of dwellings to the north of the access would also have views towards the site, but in most instances these would be broken by existing vegetation. I noted that in having living accommodation at first floor level the occupants of Yr Hen Gronfa would have elevated views towards the building which would not necessarily be screened by the boundary hedge to the property. In addition the recent lopping of the hedges in relation to the overhead lines gave clear views of the site from Belmont.
13. Views of the building from the majority of the properties on Bronwylfa Road would be broken by the existing vegetation both to the site boundary and other vegetation between the site and the properties. Although the building would be seen from the dwelling at the eastern end of the line on Bronwylfa Road, the views are facilitated by an existing gap in the vegetation to the field boundary which would be closed by new planting. I also viewed the site from the front of the properties on the junction of Talwrn Road and Llwyneinion Road and although I accept that some of the properties are set higher than the road I consider that the local topography would restrict views of the building from this direction.
14. It was agreed that the route of the access track shown on the drawings would require the removal of a short length of hedging. Although this would increase the potential for views of the building from Talwrn Road and the properties to the east, it would only be in the short term until the proposed planting to strengthen the planting along the northern and eastern boundaries became established. In time this planting, together with recent tree planting outside but close to the eastern boundary of the site would increase the level of screening provided by the vegetation.
15. The effect of the development on the AONB was not cited by the Council in its refusal of the application but has been raised as part of the appeal. A photograph taken from a viewpoint within the AONB was submitted to the Hearing but as it was taken using a zoom lens it does not give an accurate representation of the view of the site from that particular vantage point. Although I am satisfied from my own observations that the site can be seen from within the AONB, I consider that the building would be well screened by natural vegetation. Moreover, the use of an appropriate colour and finish to the building, particularly its roof, would help assimilate it into the wider landscape. This would minimise the visual impact of the building from both nearby and distant viewpoints and would not cause harm to the special qualities of the AONB.

16. Although the building would be larger than most others in the locality, overall I am satisfied that in the majority of views, the building would be effectively screened by the existing vegetation to the boundaries of the field. The effectiveness of this screening would increase over time as the existing younger planting and proposed additional planting matures. I accept that when there is no foliage on the trees there is the potential that the building would be glimpsed through the planting. However, the finish of the building would help assimilate it into its surroundings. On balance I therefore consider that the proposed development would have no adverse visual impact on the SLA and would not harm the special qualities of the AONB, in accord with Policy EC5 of the UDP and paragraph 5.3.6 of Planning Policy Wales.

Visual effect in relation to the existing farm complex

17. The building would be some distance from the farm complex and therefore would be seen as divorced from rather than in association with the main buildings. Whilst this would not accord with the requirement of Policy EC3 of the UDP that new agricultural buildings should form part of an existing farm complex, it would be located on land adjoining built development on the site of the Scottish Power depot. Although local residents claimed that the depot was to be redeveloped, this has not been confirmed. Furthermore, there is no evidence that the land would be returned to open countryside and therefore the appeal proposal would not be seen in isolation but in the context of built development, albeit not part of the farm.
18. A further requirement of the policy is that advantage should be taken of topography and other landscape features for screening of the development. As already described above the site is well screened by existing vegetation which would be strengthened by the proposal. Moreover, the development would take advantage of the fall in levels across the site, and the building would be set down rather than raised to take account of the change in ground levels.
19. Isolated buildings are permitted by Policy EC3 but only in exceptional circumstances where there is an essential agricultural need and no reasonable alternative location for the development. In discussing possible alternative sites, it became clear at the hearing that possible alternatives were either not owned by the appellants or would bring the building closer to residential properties and in locations which would not be as well screened as the proposed site.
20. The appellants have indicated that at present they produce hay from the land but given the size of the holding the income generated is not sufficient to support a full time worker. The SPG recognises that farming in the area is under pressure from part time holdings, which from the evidence is what Talwrn Farm appears to be. The aim of the appellants is to make the small holding a viable concern but given the limited land available there is a need to consider intensive farming methods. The appellants contend that the proposed unit would enable the business to support two employees. Whilst I have not seen any figures regarding the contribution the proposed egg laying unit would make, I have no reason to conclude that the operation would not help ensure the future viability of the small holding.

21. Some interested parties alleged that the land has not been farmed for a long time. However, during my site visit I observed farming equipment and hay bales consistent with the appellants' evidence. Other residents contended that the proposal does not constitute an agricultural use but one which would be more appropriate on an industrial estate. The rearing of hens is considered to be an agricultural use appropriate in the open countryside and whilst I accept that the building would be large, its design is reflective of many modern agricultural buildings.
22. I am satisfied that whilst the proposed building would be set apart from the existing farm buildings it would not appear isolated from built development in the wider landscape. The proposed location takes advantage of existing landscape features for screening the building, minimising the effect it would have on the character of the area and would be preferable to available alternative sites in terms of the effect it would have on visual and residential amenity. Moreover, the development would help secure the financial future of the small holding. On balance I conclude that the siting and scale of the building would not represent a visual intrusion into the landscape and would accord with Policy EC3 of the UDP.

Effect on highway safety

23. The main concern identified by the Council in respect of highway safety was from heavy goods vehicles (HGVs). Whilst the Council considered that there are three possible routes to the site, the Transport Report identified a preferred route from the A483. The Council did not object to this route and considered it could be required to be followed as part of a Traffic Management Plan.
24. The route has a speed limit of 30 mph although it was accepted that this is not adhered to by all drivers at all times. HGVs already use the route in accessing a local haulage yard and Coppi Industrial Estate as well as by others travelling through the area. It is also well used by drivers of cars and other vehicles as well as by cyclists and pedestrians. A significant part of the route is without a footway and particular concerns regarding pedestrian safety were raised in respect of the school bus stop, located almost immediately opposite the entrance into the site from Talwrn Road, and Bersham Cricket Club.
25. There was no dispute between the parties that the local road network is below current design standards and not ideal for use by HGVs. I saw evidence of vehicle tracks on the verge to the highway in several places and damage to the area beyond the kerb line at the school bus stop. The recognised width of a carriageway to allow two HGVs to pass simultaneously is 5.5m. Although this width allows a tolerance of 0.5m and therefore less than 5.5m may be required in some circumstances to allow HGVs to pass, I am basing my consideration of the appeal on the required standard of 5.5m. The Transport Report confirmed that there are three points along the route where the width of the carriageway failed to meet the required 5.5m width. The alignment of the route may also result in vehicles crossing the centre line of the carriageway.

26. The traffic associated with the use of the site as an egg laying unit would include two six wheel rigid base lorries each week the birds are on site for the collection of the eggs; and a further vehicle of this size approximately every ten days to deliver feed. It was indicated at the hearing that the size of vehicle collecting the eggs could be smaller with no increase in the number of collections. Once during the cycle a vehicle would be required to empty the dirty water contamination tank. In terms of HGVs, two would visit the site at the beginning and end of the sixty week cycle to deliver and collect the birds; and a maximum of twenty would remove the manure. The removal of the manure could be done in one day and in as little as four hours. Whilst the operation could be spread over two days, the appellants stated that it was preferable not to because of odour. During the hearing a poultry farmer running a similar enterprise to that proposed confirmed that in his experience the volume of manure from a building of the size proposed could be removed in nine or ten HGVs but that it would take twenty tractors and trailers.
27. Although the proposed route is substandard, it is already used by HGVs and there are numerous other areas of the network where a similar situation exists. Whilst there are sections of the route where two HGVs approaching at the same time would need to take measures to be able to pass, the probability of this situation occurring would be restricted to three days during the whole sixty week cycle, namely the days on which the birds are delivered, when they are collected and when the manure is removed from site. It is the latter operation which would generate the maximum amount of traffic and I have no substantive evidence that the highway network would be unable to support this increase.
28. Several interested parties expressed concern that drivers in approaching from the south would, at the top of the incline, encounter vehicles entering or leaving the site or others waiting in the carriageway for such a manoeuvre to be completed. However, the upgrading of the access forms part of the proposal and having established on site that the required visibility splays can be achieved I have no reason to conclude that the design of the access would be detrimental to highway safety.
29. I have noted the accident records submitted by the parties and also the various incidents I was made aware of during the discussion at the hearing. The records produced by the appellants indicate that over a five year period none of the reported accidents involved an HGV. Whilst reference was made to a fatality, which had occurred more than five years ago, no substantive details of that event were produced and neither was it confirmed that it involved an HGV.
30. It is generally accepted that the local highway network is sub-standard and although the proposed route to the site from the A483 is used by HGV's, it is recognised that it is not ideal for these types of vehicles. Whilst the proposed development would increase the number of HGVs on the identified route, I do not consider that the number of HGVs or the frequency they would be on the road would significantly affect the flow of traffic on the local highway network. On this basis I conclude that the development would not be detrimental to highway safety and would accord with Policy GPD 1(d) of the UDP.

Effect on living conditions of local residents

31. The Council in refusing planning permission raised concerns regarding the effect of the development on the living conditions of local residents by reason of odour, noise and traffic movements. The development would be within 400m of residential dwellings and therefore as required by paragraph 6.6.3 of Technical Advice Note 6: Planning for Sustainable Rural Communities particular care needs to be taken in considering the proposal in order to minimise the potential for future conflict between neighbouring land uses.
32. A review of the original odour report was submitted as part of the appeal. Both reports concluded that there would be no nuisance from odour from within the building. The appellants fully recognised that there would be odour from the manure when it was removed from the building and that this operation would need to be managed efficiently to ensure it would take place over a very short time. Although I acknowledge the concerns of local residents regarding odour from the building, I have no definitive evidence that there would be any noticeable smell from the development apart from the one day within the 60 week cycle that the manure would be removed from site. I have noted that the Council's Environmental Health Officer has raised no objection having visited a similar operation. Moreover, given the site is in open countryside where odours of a similar nature could arise from other routine agricultural practices I do not consider this infrequent occurrence would be unacceptable.
33. The noise report submitted as part of the appeal confirms that the insulation of the building and the vents along the ridge line would ensure that the noise generated within the building would not be transmitted outside. I have noted that the Council's Environmental Health Officer has raised no objection having assessed the situation at a similar operation. Although I am aware of the concerns of local residents regarding the potential disturbance the birds could make, this is not borne out by the evidence.
34. The movement of vehicles in entering and leaving the site as well as manoeuvring within it would have the potential to disturb local residents. For all but four weeks of the sixty week flock cycle the development would generate a maximum of three vehicles per week. The times these vehicles would be on site would vary during the working day, but I am satisfied that this level of traffic would not cause an unacceptable level of disturbance to local residents.
35. The delivery and collection of the birds would occur within a four week period at the end of one cycle and the start of another and within this period the removal of the manure would also take place. The timing of the delivery and collection of the flock is governed by the need to protect the welfare of the birds and the appellants confirmed that for loading or unloading to start at 07:00 hours vehicles would need to be on site from 06:30 hours. I accept that vehicle movements within the site at this time have the potential to disturb local residents. However it would only involve the movement of two HGVs on two mornings in every sixty weeks. Similarly any disturbance from vehicles removing the manure from the site would only be on one day in every sixty weeks and could be controlled to ensure it took place within the normal working day. I do not consider that the noise from the volume of traffic generated by the proposal would be sufficient to cause an unacceptable level of disturbance to local residents.

36. On the evidence before me I am satisfied that most aspects of the development would not cause nuisance to local residents. I acknowledge that there is the potential for harm from odour and traffic movements associated with the removal of the manure from the site. However, due to the infrequent nature of this activity, the limited time over which it would be experienced and the controls which would be put in place, I do not consider that the proposed development would have an unacceptable impact on the living conditions of local residents. I therefore conclude that the development would not result in an unacceptable increase in noise, odour or traffic movements and would not adversely affect the living conditions of local residents and would accord with Policy GDP1(f) of the UDP.

Other material considerations

37. Local residents raised concerns regarding dust and the potential effect this would have on health. From the discussion during the hearing I ascertained that the ventilation system expelled any dust into the atmosphere to a sufficient height to ensure there would be no concentration in the atmosphere in the vicinity of the site. Moreover, the poultry farmer present at the hearing confirmed that in his experience dust was not a problem, the Council has raised no objection in respect of this matter and I have no definitive evidence that the development would cause an unacceptable amount of dust or that this would have an effect on the health of local residents.
38. Incidents of flooding on Talwrn Road to the south of the access into the site were reported by residents and concerns were expressed that the development would exacerbate the problem. It transpired that the flooding occurred after heavy rainfall when surface water ran off the adjoining fields. However, the development would include the provision of surface water attenuation ponds and the formation of the access would need to ensure there would be no surface water from the site onto the road. I therefore have no reason to conclude that the development would exacerbate the existing flooding on Talwrn Road.
39. External illumination of the building would not be needed during all hours of darkness but only when access to the building is required. It is also possible in modern lighting schemes to ensure there would be no light spillage from the site. Subject to a suitable scheme which can be controlled by condition I have no reason to conclude that external lighting of the site would have an adverse effect on the living conditions of local residents, the habitats of local wildlife or on the visual amenity of the area.
40. Whilst the Phase 1 Habitats Survey submitted as part of the planning application addressed the matter of protected species, the habitat of the site is conducive to Great Crested Newts and the survey was not conclusive regarding their presence. However, it was considered by the parties that it would be reasonable to accept the presence of Great Crested Newts and provide reasonable avoidance measures. I am satisfied that the mitigation detailed in the submitted survey would satisfactorily address the matter and that the works could be required to be carried out by a suitably worded condition.

Conditions

41. I have considered the list of suggested conditions put forward by the Council in the light of Welsh Government Circular 016/2014 *The Use of Conditions for Development Management* and the discussion at the hearing. Whilst the proposed colour of the building is stated in the application, the colours of the feed silos and doors to the building have not been specified. It is important, particularly in views from the AONB, that the colour and finish ensure the assimilation of the development into the landscape. A condition to cover these matters has been imposed.
42. In the interest of the local environment and the living conditions of local residents I have controlled the use of the building, noise levels within it and odour. A condition requiring the removal of the manure in one day was put forward for consideration. However, this is the intention of the appellants and the Odour Mitigation scheme requires the process to be completed in as little time as possible having regard to weather conditions. A separate condition is therefore not required.
43. I have restricted the times within which vehicles may make deliveries associated with the egg laying unit and I have specified separately the time for the delivery and collection of the birds. I have considered the request that no vehicles should be allowed to enter the site before 08:00 hours. However, I consider such a condition would be unreasonable given that the agricultural working day is known to start early and in any event many people would be awake by the time most vehicles would be allowed to enter the site. Although external lighting will only be required for access purposes, I nevertheless consider the Council should have control over the details for the reasons I have outlined above.
44. I have specified the dimensions of the proposed visibility splay and set out other requirements in order to ensure the provision of a safe access into the site. Although works have been carried out to the access, I do not consider it necessary for the access details to be submitted within three months, as suggested by the Council. I do, however, consider it necessary for the access to be completed prior to the development being brought into use. The distance from the highway within which gates are not to be erected has been increased to take account of the length of the HGVs which would enter the site to ensure they are clear of the highway. Also in the interests of highway safety I have required a Transport Management Plan which will confirm the route to the site from the A483 and the management and timing of deliveries to and from the site.
45. In order to protect the site from pollution and ensure it is drained satisfactorily I have required the submission of a surface water drainage scheme and the approval of details of the dirty water containment tank. With a view to protecting existing landscape features and enhancing the biodiversity of the site I have required the approval of details of any earthworks, overhead and underground services, landscaping and the implementation of the scheme of Reasonable Avoidance Measures as detailed in the submitted Phase 1 Habitats Survey.

46. At the hearing a request was made for conditions to be imposed requiring the improvement of approximately 200m of an existing footway, the provision of a significant length of new footway 1.5m wide, and the widening of three sections of the carriageway. The sections of the route referred to were shown in sketch form on a plan. It was unknown if the land required to facilitate such improvements fell within the highway. I inspected the sections of the route as part of my site visit. The lack of footways and occasional pinch points are to be expected given the rural location of the site and its surroundings and whilst some localised road improvements would benefit users of the network, I consider that the request for this scale of improvements does not fairly and reasonably relate to the proposal and would be onerous given the scale of the development proposed. On this basis a condition requiring such improvements would fail to meet the tests in the Circular.

Conclusions

47. I have concluded that the development would preserve the character of the SLA, would not harm the special qualities of the AONB and the visual effect of the development on the landscape would be acceptable. I have found that the proposal would not cause an unacceptable level of harm to highway safety or the living conditions of local residents. All these weigh in favour of the appeal and there are no material considerations sufficient to outweigh this balance in favour.
48. For the reasons given above, and having had regard to all other matters raised, the appeal is allowed.

Kay Sheffield

INSPECTOR

APPEARANCES

FOR THE APPELLANTS:

Mr I Pick	Of Ian Pick Associates, Agent for the Appellants
Mr J Hurlestone	Of The Hurlestone Partnership
Mr P Molloy	Appellants
Mr I Hocknell	Poultry Farmer

FOR THE LOCAL PLANNING AUTHORITY:

Mrs J Sudburry	Senior Planning Officer
Councillor P Pemberton	Local Ward Member

INTERESTED PERSONS:

Councillor M Pritchard	Member of Wrexham Council and Esclusham Community Council
Councillor Droog	Chair of Esclusham Community Council
Councillor K Hughes	Member of Wrexham Council
Mrs W Owens	Clerk to Rhos Community Council and local resident
Mrs H J Jones	Local resident
Mr A Alan	Local resident
Mr C Sharp	Local resident

DOCUMENTS

1. Council's letter dated 8 April 2015 notifying the arrangements for the Hearing.
2. Corrected extracts of the Council's statement.
3. Extract from the SPG of Landscape Character Area 7c.
4. Plan indicating the boundary of the Area of Outstanding Natural Beauty.
5. Plan indicating local public rights of way.
6. Set of ten aerial photographs of the site with the development superimposed.
7. Photograph taken from the Area of Outstanding Natural Beauty towards the site.
8. Set of 5 photographs of damage to roadside verge in the vicinity of the site.
9. Plan showing in sketch form the location of the improvements to the highway requested by Esclusham Community Council.

Annex – Schedule of Conditions

- 1) The development hereby permitted shall begin not later than five years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Numbers IP/PM/01A; IP/PM/02A; and IP/PM/03.
- 3) The building hereby permitted shall only be used as a barn egg laying unit, as described in the application documentation.
- 4) No part of the egg laying unit shall be commenced until samples of the materials to be used in the construction of the external surfaces of the building and the feed silos hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 5) No part of the egg laying unit shall be commenced until a detailed site layout plan of the access point onto Talwrn Road, including existing and proposed levels, has been submitted to and approved in writing by the local planning authority. The plan shall show the full extent of visibility splays measuring 2.4m x 43m in either direction of the access point. Within the splays shown on the plan, there shall be no obstruction in excess of 1m above the level of the nearside edge of the highway, and the splays shall thereafter be permanently retained clear of any such obstruction to visibility. In addition the access shall be surfaced with hard bound materials (e.g. bituminous macadam) for a minimum distance of 5m from the adjoining highway. The access shall be constructed in accordance with the approved details and shall be fully completed prior to the egg laying unit being brought into use.
- 6) There shall be no gates or other means of enclosure across the vehicular access as altered within 18m of the adjoining highway boundary with Talwrn Road.
- 7) No part of the new egg laying unit shall commence until a Construction and Operational Traffic Management Plan including provisions for contractor parking has been submitted to and approved in writing by the local planning authority. The plan as approved shall be fully implemented and maintained for the duration of the use hereby permitted.
- 8) 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.
- 9) The rating level of any noise generated by air handling plant associated with the development shall not exceed the pre-existing background levels by more than 5dB(A) at any time. The noise levels shall be determined at nearby noise sensitive premises, and measurements and assessment shall be made in accordance with BS4142:2014 Methods for Rating and Assessing Industrial & Commercial Sound.
- 10) The Odour Mitigation Options as contained in Appendix 1 of the submitted ADAS Odour Assessment Report dated 23.4.14 shall be fully implemented before any hens and cockerels first use the building and shall be fully maintained thereafter.

- 11) No part of the egg laying unit building shall commence until details to confirm the capacity of the dirty water contamination tank and the method of disposal of its contents have been submitted to and approved in writing by the local planning authority. The details as approved shall be fully implemented and all waste shall be transported off site in accordance with the approved scheme.
- 12) No part of the egg laying unit building 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. The building shall not be occupied until the drainage scheme has been completed and shall thereafter be managed and maintained in accordance with the agreed details.
- 13) Prior to the submission of the details required under condition 12, an assessment shall be carried out into the potential for disposing of surface water by means of Sustainable Urban Drainage Systems (SUDS) in accordance with the principles of sustainable drainage systems set out in Technical Advice Note 15: Development and Flood Risk, and the results of the assessment shall be submitted in writing to the local planning authority. Where a SUDS scheme is to be implemented, 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 of the management and maintenance plans 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.
- 14) No part of the egg laying unit building shall commence until details of all earthworks, excavation, and land regrading and retaining structures and ancillary walls, fences or bunding has been submitted to and approved in writing by the local planning authority. The details shall include existing and proposed levels and contours, cut and fill lines, existing vegetation and site features of the development. Details of soil stripping, storage and replacement shall be included where appropriate. The development shall be carried out in strict accordance with the approved details.
- 15) No part of the egg laying unit building shall commence until details of underground and overhead services have been submitted to and approved in writing by the local planning authority. The development shall be carried out in strict accordance with the details as approved.
- 16) No part of the egg laying unit building shall commence until a scheme detailing the protection of existing planting to be retained and the provision of new tree and shrub planting has been submitted to and approved in writing by the local planning authority. The scheme shall include details of species, number, size of plants at time of planting etc., of all trees and shrubs to be planted in connection with the development and details for its management.

- 17) The planting scheme to be approved in connection with condition 16 shall be fully implemented within the first planting season following the first use of the building hereby permitted, and the scheme shall be retained permanently in association with the management plan to be also submitted as part of condition 16. If within a period of two years from the date of the planting of any tree or shrub, that tree and shrub or any tree or shrub planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes in the opinion of the local planning authority, seriously damaged or defective, another tree of the same species and size as that originally planted shall be planted at the same place, unless the local planning authority gives its written approval to any variation.
- 18) Notwithstanding the requirements of Conditions 16 and 17, no part of the egg laying unit building shall commence until details of a new native hedgerow planting scheme for the road frontage of the site behind the visibility splays as required in connection with Condition 5 has been submitted to and approved in writing by the local planning authority. The planting scheme as approved shall be fully implemented within the first planting season following the decision, and it shall be permanently retained.
- 19) The submitted scheme of reasonable avoidance measures for amphibian mitigation, and the reptile method statement as contained in Section 7 of the ecology report from Wold Ecology Ltd dated July 2014 shall be strictly followed for the duration of the building works, and all the compensation measures for the loss of habitat and recommended pond enhancements as contained within the same section of the above report shall also be fully implemented before the building is first used.
- 20) No part of the egg laying unit building shall be used until an external lighting scheme has been implemented in accordance with details that have been first submitted to and approved in writing by the local planning authority. External lighting at the site shall thereafter only be provided in accordance with the approved scheme.

APPENDIX 2

In pursuance of its powers under the Acts and Orders referred to below, the County Borough Council as Local Planning Authority, hereby determines your application in accordance with the particulars and plans comprising the application



Applicant	MR PETER MOLLOY TALWRN FARMS LTD	Code Number	ESC P/2017/0053
Agent	IAN PICK ASSOCIATES LTD MR IAN PICK STATION FARM OFFICES WANSFORD ROAD NAFFERTON DRIFFIELD YO25 8NJ	Date Received	23/01/2017
		Decision Date	12/06/2017

Town and Country Planning Act, 1990

Location of application

TALWRN FARM, TALWRN ROAD, LEGACY, WREXHAM, LL14 4ER

Description of application

ERECTION OF ADDITIONAL AGRICULTURAL POULTRY BARN BUILDING FOR BARN EGG PRODUCTION (TO HOUSE 15,700 BIRDS) INCLUDING LINK TO EXISTING BUILDING AND 2 NO. FEED SILOS

In reaching this decision the Council has had regard to the relevant policies in the Wrexham Unitary Development Plan which are as follows:-

EC3	Agricultural Buildings
EC5	Special Landscape Areas
EC6	Biodiversity Conservation
GDP1	Development objectives
PS2	Development and the environment
T8	Parking

Revision	Date	Description of Decision
0	12/06/2017	Planning permission issued

Particulars of decision that permission be GRANTED

Subject to the following:-

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 IP/PM/01 - Location

Applicant	MR PETER MOLLOY TALWRN FARMS LTD	Code Number	ESC P/2017/0053
Agent	IAN PICK ASSOCIATES LTD MR IAN PICK STATION FARM OFFICES WANSFORD ROAD NAFFERTON DRIFFIELD YO25 8NJ	Date Received	23/01/2017
		Decision Date	12/06/2017

Plan, IP/PM/02 - Site Plan A1 and IP/PM/03 - Elevations A1 and contained within the application documentation.

3. No facing or roofing materials shall be used other than materials matching those used on the existing building.
4. No part of the development shall commence until a Construction Traffic Management Plan including provisions for contractor parking has been submitted to and approved in writing by the Local Planning Authority and the Plan as is approved has been fully implemented.
5. Prior to first use of the development hereby approved the vehicular access 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 in excess of 1 metre in height above the level of the nearside edge of the adjoining highway. The splays shall thereafter be permanently retained clear of any such obstruction to visibility.
6. The building hereby permitted shall only be used as a barn egg laying unit, as described in the application documentation.
7. 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.
8. The rating level of any noise generated by air handling plant associated with the development shall not exceed the pre-existing background levels by more than 5dB(A) at any time. The noise levels shall be determined at nearby noise sensitive premises, and measurements and assessment shall be made in accordance with BS4142:2014 Methods for Rating and Assessing Industrial & Commercial Sound.
9. No part of the egg laying unit building shall be used until an external lighting scheme has been implemented in accordance with details that have been first submitted to and approved in writing by the local planning authority. External lighting at the site shall thereafter only be provided in accordance with the approved scheme.

Applicant	MR PETER MOLLOY TALWRN FARMS LTD	Code Number	ESC P/2017/0053
Agent	IAN PICK ASSOCIATES LTD MR IAN PICK STATION FARM OFFICES WANSFORD ROAD NAFFERTON DRIFFIELD YO25 8NJ	Date Received	23/01/2017 12/06/2017
		Decision Date	

10. No part of the egg laying unit building shall commence until a scheme detailing the protection of existing planting to be retained and the provision of new tree and shrub planting has been submitted to and approved in writing by the local planning authority. The scheme shall include details of species, number, size of plants at time of planting etc., of all trees and shrubs to be planted in connection with the development and details for its management.

11. The planting scheme to be approved in connection with condition 10 shall be fully implemented within the first planting season following the first use of the building hereby permitted, and the scheme shall be retained permanently in association with the management plan to be also submitted as part of condition 16. If within a period of two years from the date of the planting of any tree or shrub, that tree and shrub or any tree or shrub planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes in the opinion of the local planning authority, seriously damaged or defective, another tree of the same species and size as that originally planted shall be planted at the same place, unless the local planning authority gives its written approval to any variation.

12. Prior to the first use 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 ensure that the development fully complies with the appropriate policies and standards.
3. To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area.
4. In the interests of highway safety.
5. To ensure that adequate visibility is provided at the proposed point of access to the highway.
6. In the interests of defining the terms of the planning permission and amenity of the neighbouring occupiers of the site.
7. To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area.

Applicant	MR PETER MOLLOY TALWRN FARMS LTD	Code Number	ESC P/2017/0053
Agent	IAN PICK ASSOCIATES LTD MR IAN PICK STATION FARM OFFICES WANSFORD ROAD NAFFERTON DRIFFIELD YO25 8NJ	Date Received	23/01/2017 12/06/2017
		Decision Date	

8. To protect the amenities of the occupiers of nearby properties.
9. To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area.
10. To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area.
11. To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area.
12. In the interests of highway safety.



**Officer Appointed for this purpose
Head of Environment and Planning**

Refer to Statement of Applicant's Rights and General Information on our planning web site at:-

http://www.wrexham.gov.uk/english/planning_portal/publications/info_sheets.htm