
Appeal Decision

Hearing held on 15-16 February 2017

Site visit made on 16 February 2017

by Roger Catchpole DipHort BSc(hons) PhD MCIEEM

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 21 April 2017

Appeal Ref: APP/R3705/W/16/3158147

Land at Crown Stables, Nuneaton Road, Mancetter, North Warwickshire CV9 1RF

- 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 Crown Waste Management Ltd against the decision of North Warwickshire Borough Council.
 - The application Ref: PAP/2015/0348, dated 4 June 2015, was refused by notice dated 8 March 2016.
 - The development proposed is the erection of a 40,001 bird broiler building and associated control room, feed silos, LPG tank, heat exchanger, hard standing and attenuation pond.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a 40,001 bird broiler building and associated control room, feed silos, LPG tank, heat exchanger, hard standing and attenuation pond on land at Crown Stables, Nuneaton Road, Mancetter, North Warwickshire CV9 1RF in accordance with the terms of the application, Ref: PAP/2015/0348, dated 4 June 2015, subject to the conditions set out in the schedule at the end of this decision.

Preliminary Matters

2. The Council has modified the description of development in its decision notice and this is also the one used by the appellant on the appeal form. As it was agreed at the Hearing that this is the one that most accurately reflects the proposal, I have used it for the purposes of this appeal.
3. Mancetter has an emerging Neighbourhood Plan that is yet to be adopted. Consequently, this appeal will be determined in accordance with North Warwickshire Local Plan Core Strategy 2014 (CS) having regard to the emerging policies, insofar as they may be relevant, and the National Planning Policy Framework 2012 (the Framework).
4. I have considered the Written Ministerial Statement of 12 December 2016¹, wherein the Minister of State for Housing and Planning set out changes to government policy with regard to the circumstances under which relevant policies for the supply of housing within Neighbourhood Plans should be considered up-to-date. The relevant content of this policy has been considered but, given the facts of this case, it does not alter my conclusions.

¹ Neighbourhood Planning: Written Statement HC WS346

5. The validity of an Environmental Permit (Ref: EPR/TP3035EW) for the proposed development has been called into question. However, the control of processes or emissions that are subject to approval under pollution control regimes are not a planning matter. Consequently, whether or not one should have been issued is beyond the scope an appeal under section 78 of the Town and Country Planning Act 1990 (as amended). This is the basis upon which this appeal has been determined.

Application for Costs

6. At the Hearing an application for costs was made by Crown Waste Management Ltd against North Warwickshire Borough Council. An application for costs was also made by North Warwickshire Borough Council against Crown Waste Management Ltd. These applications are the subject of separate decisions.

Main Issue

7. As the Council withdrew its second reason for refusal prior to the Hearing, the main issue of this appeal is the effect of the proposal on the living conditions of the existing and future occupants of nearby dwellings with respect to odour.

Reasons

8. The appeal site is situated in open countryside to the south east of the village of Mancetter. It is on the southern side of the B4111 from which the vehicular access to the site is gained. The site itself comprises a corridor from the road and a broadly rectangular area of land that abuts the curtilage of a high railway embankment serving the West Coast Mainline. The appeal site is part of a larger pasture which has a number of outbuildings in its south-eastern corner. The land falls to the southeast towards a small stream, flanked by woody vegetation, which forms the easternmost boundary of the appeal site.
9. The proposal would lead to the erection of a large rectangular agricultural building and ancillary structures in close proximity to the railway embankment. The main building would be orientated parallel to the embankment and have a ridge height of approximately 5.9 m. High-velocity exhaust fans would extend above the ridge at regular intervals and rise to a height of approximately 7.1 m. The north-western end of the building would be cut into the rising ground to give a consistent, finished floor level.
10. The building would be used to rear chickens associated with a short cycle, broiler regime which typically comprises a growth cycle of 37-38 days with 7-11 days allowed for cleaning and restocking. The chickens would be reared on wood shavings which would be supplemented with new shavings on a regular basis. At the end of each cycle, the soiled shavings would be removed to another location, either for use in a biomass energy plant or for composting. Foul water would drain into an enclosed reception pit and this would also be emptied at the same time.
11. A single, full time worker would be employed who would visit the site twice daily during each growth cycle. This individual would be responsible for stock husbandry and the control of any pests or diseases. A specialist catching and cleaning crew would also be present on site between each cycle. This would comprise approximately six people over 2-3 days. Heavy Goods Vehicles would access the site to deliver chicken feed on a weekly basis and occasionally to remove the chickens and soiled shavings at the end of each growth cycle.

Overall, it is estimated that there would be approximately 1,000 vehicular movements per year at the site.

12. The Council refused permission for the development, against the recommendation of its officer, on the basis that there would be a risk of unacceptable odour emissions that would have a detrimental impact on the occupants of a nearby residential property, Brooklands Cottage. This dwelling is situated approximately 110 m to the north east of the proposed building. It was accepted at the Hearing that a number of additional sensitive receptors are present. The nearest residential receptors being Brooklands Farm, which lies approximately 120 m to the north and Mancetter Spring Farm, which lies approximately 110 m to the south west, on the other side of the railway embankment. The nearest, albeit less sensitive, recreational receptors comprise two footpaths, one of which lies along the River Anker to the north east of the appeal site and the A100 which lies in closer proximity to the east. The Council has suggested that a 400 m buffer indicates the presence of a greater number of receptors. However, this carries no weight because it is based on outdated, generic guidance associated with a different local planning authority.
13. The measurement of odour is standardised² and quantified as the number of Standard European Odour Units in a cubic metre of air (ou_E/m^3). Potential impacts are evaluated at a given location in terms of 98th percentile of a 1-hour mean ($C_{98,1hour}$) which represents an hourly, average odour concentration. In practical terms this means that individuals would not experience an odour concentration in excess of a specified level for 98% of the time. However, it does mean that the specified level could be exceeded for 2% of the time. Assuming that emissions are continuous and occur over 365 days, this would equate to approximately 175 hours per annum. Whilst I accept that predictive modelling based on $C_{98,1hour}$ does not guarantee an odour-free environment, it nevertheless indicates that odour concentrations from a particular source would not exceed a given threshold for the majority of the time.
14. Environment Agency (EA) guidance³ defines an appropriate benchmark threshold of $C_{98,1hour}$ 3.0 ou_E/m^3 for moderately offensive odours typically associated with intensive livestock rearing. Evidence submitted by the appellant on a study relating to nine water treatment works suggests that complaints relating to offensive odours may be relatively rare at thresholds below $C_{98,1hour}$ 5.0 ou_E/m^3 . Nonetheless, the EA guidance goes on to suggest that the benchmark threshold should be further reduced to $C_{98,1hour}$ 2.5 ou_E/m^3 where a local population has become sensitised to odour. In this instance I am satisfied that this more stringent threshold is justified given the presence of existing odour sources that have been drawn to my attention, namely the Sarval animal rendering plant on Mancetter Road, the Severn Trent Water treatment works on Woodford Lane and the Tarmac stone quarry on Quarry Lane.
15. The appellant has relied upon a predictive odour dispersion model that has quantified the $C_{98,1hour}$ odour concentrations at 23 discrete receptors across a wide geographic area. This includes the sensitive receptors and footpaths that I have already identified as well as part of Mancetter village and residential properties to the southeast of the appeal site, in close proximity to Dobbies

² BS EN 13725 Air Quality - Determination of Odour (2003) British Standards Institute

³ Additional Guidance for H4 Odour Management (2011) Environment Agency

Garden Centre. Consequently, I am satisfied that the geographic scope of the model is sufficient and encompasses all the locations likely to experience negative impacts.

16. The results clearly show that the more stringent $C_{98, 1\text{hour}} 2.5 \text{ ou}_E/\text{m}^3$ would not be exceeded for 98% of the time and that this would remain the case for 99.5% of the time at all but the three closest receptors, namely Brooklands Cottage, Brooklands Farm and Mancetter Spring Farm. Assuming the stated crop cycle of 38 days and a total of 8 crops, the potential exceedance at the majority of receptors would be no more than around 36 hours per annum. I accept that it would be higher at the three closest receptors, with an exceedance of around 146 hours per annum, however, I do not find this unreasonable in a rural area where some degree of tolerance of agricultural odour is to be expected.
17. Given the above, I find that the model clearly indicates that there would be no significant loss of amenity despite the presence of existing background odours and a sensitised local population. Moreover, I have no quantitative evidence before me to suggest that the proposal would lead to cumulative odour impacts above the established benchmark threshold for the majority of the time.
18. The Council has questioned the values that were used to parameterise the appellant's predictive model and have drawn my attention to a number of studies⁴. Whilst one of them has been used to derive odour concentration and ventilation rates for the model, the other two are clearly only of limited relevance. This is because the buildings were either not of modern construction, had underfloor heating, higher initial stock densities or differed significantly in the type of ventilation system. I am therefore satisfied that the use of odour concentration and ventilation rates from the Robertson study is justified given that this is the most similar comparator to the proposal. Whilst a single documentary source, it is nevertheless a peer-reviewed paper and I therefore consider it to represent a robust assessment. Furthermore, the use of alternative variables from considerably more divergent studies lacks any sound, scientific justification.
19. The Council has also questioned the justification for the reduced night time emission rates and whether or not peak emissions have been adequately considered. I note that ventilation rates were varied in the model according to crop age with a higher daytime emission rate assumed from the empirical observation of established units. Whilst not derived from peer-reviewed evidence it nevertheless has an empirical basis and one that the Council were unable to counter with any substantiated evidence to the contrary. Moreover, I find a lower night time emission rate entirely plausible given diurnal temperature differences and the greater activity of birds during the day that would result from a worker moving through the flock, as well as the increased activity arising from their own, innate circadian rhythms.
20. Turning to peak emissions, it is clear that this has been included in the model at the end of each growth cycle from Figure 2 of the appellant's dispersion modelling report. This shows emissions likely to peak at three times the

⁴ Hayes, E.T. *et al.* (2006) Odour and ammonia emissions from intensive poultry units in Ireland. *Bioresource Technology*, 97(7): 933-939. Pullen, J. & Sparks, A. (2012) Odour Assessment of an Intensive Livestock Facility. Environment Agency Report. Robertson, A.P. *et al.* (2002) Commercial-scale studies of the effect of broiler-protein intake on aerial pollutant emissions. *Biosystems Engineering*, 82(2): 217-225.

standard emission rate of a mature crop when the shed is being cleaned. As I have no substantiated, empirical evidence before me to the contrary, I am satisfied that the predicted $C_{98, 1\text{hour}}$ odour concentrations consequently reflect a realistic emission scenario when peaks of this magnitude are included. I also accept that these values were not significantly altered when the model was run with different restocking rates of 7 and 11 days.

21. The Council has suggested that localised downwash from the railway embankment was not considered and that plume grounding may occur under unstable weather conditions. However, it was established that a 'roughness length' parameter was used to account for any turbulent flow that might result from this feature and that the high fan speed would ensure a 30 m plume under stable conditions. Whilst this would be reduced under unstable weather conditions I am satisfied that the greater mixing of air caused by the turbulence would, if anything, lead to more rapid dilution and the consequent dispersion of odour. I also note that the prevailing wind direction is such that any potential downwash effect would be to the southwest of the proposed building. Mancetter Spring Farm would therefore not be directly in its path given that the prevailing wind passes to the south of this property. I accept that plume grounding would be a possibility but note that this would be a transient phenomenon and unlikely to lead to any complaints given that the model indicates that this would not exceed $C_{98, 1\text{hour}} 3.0 \text{ ou}_E/\text{m}^3$.
22. Although the Council did not attempt to quantify any odour impact, the results of an alternative predictive model (SCAIL) were submitted by an interested person which indicated higher odour concentrations at key receptors. However, it became clear during the course of the Hearing that this model lacks sophistication and can only be used as scoping tool to indicate when a more detailed, robust, site specific model is necessary. This is because it relies upon the use of meteorological data from remote sites and assumes an undifferentiated modelling surface. Consequently, it not only fails to use weather data that is representative of a given site but also fails to account for topography. Both of these factors will have a profound effect on the realism of the model and thus its predictive value. Furthermore, it was established that the context of the weather station at Coleshill differed from the appeal site. The more sheltered nature of this site and its consequently unrepresentative weather data is further compounded by the fact that such stations typically over-estimate calm periods because low wind speeds are not recorded. Overall, I am not satisfied that the use of such a model is fit for purpose in this particular instance either for the quantification of odour or ammonia. Given the above, the results from the SCAIL model carry little weight in the balance of this appeal.
23. I acknowledge the significant concerns expressed by interested parties with regard to the potential impact of the proposal on health outcomes and the above average incidence of respiratory disease in the Hartshill Ward. These relate to the emission of particulate matter of a diameter of $10 \mu\text{m}$ (PM_{10}) and ammonia. As was the case for odour, I have no robust empirical evidence before me to suggest that the proposal would lead to any significant, cumulative impact that would endanger public health nor do I have any epidemiological evidence linking broiler units with respiratory disease clusters in the Hartshill Ward. Furthermore, I find a potential increase in PM_{10} particles

highly unlikely given a study⁵ that indicates that most particles outside intensive livestock units, including chicken broiler units, are less than 1.0 µm (PM₁) in size. I acknowledge the selective document extracts concerning ammonia emissions but note that these are of a generalised nature and that no attempt has been made to establish their relevance to the proposed development in terms of the design of the building, husbandry system, number of chickens, growth cycle or ventilation system.

24. In the absence of any robust evidence to the contrary and bearing in mind the predictive model results and unproven health impacts, I am satisfied that the proposed development would meet acceptable emission standards appropriate to its rural location and that the use of the land for the stated purpose is therefore appropriate. Given the above, I conclude that the proposal would not cause significant harm to the living conditions of existing and future occupants of nearby dwellings with respect to odour thus satisfying the requirements of paragraphs 17, 109, 120 and 122 of the Framework and policy NW10 of the CS. They seek, among other things, to ensure a good standard of amenity, prevent adverse impacts on air or unacceptable risks from pollution, ensure an acceptable use of land and avoid unacceptable impacts on neighbouring amenities through fumes or other pollution. Consequently, the proposal would be in accordance with the development plan.

Other Matters

25. Even though the Council withdrew its second reason for refusal, several concerns were nevertheless raised regarding potential heritage impacts. In particular harm to the setting of two Scheduled Ancient Monuments (SAMs) to the north of the appeal site as well as archaeological remains within the site itself. It was also suggested that the proposal would be detrimental to non-designated heritage assets that are deemed to be of national importance. These comprise an alleged final battlefield of Boudicca on the site itself and a wider Romano-British industrial area associated with the Mancetter/Hartshill kiln complex. Additionally, it was also suggested that the proposal would adversely affect the development of Mancetter's archaeological tourism potential.
26. Paragraph 132 of the Framework advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. It goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets or development within their setting. The Planning Practice Guidance 2014 (as amended) advises that non-designated heritage assets that are demonstrably of equivalent significance to scheduled monuments should be considered subject to the same policies as those for designated heritage assets. It goes on to advise that this includes those that are yet to be formally assessed for designation.
27. The largest of the two monuments is the Manduessedum Roman Villa and Settlement with Associated Industrial Complex. It is located some 500 m to the north of the appeal site. It comprises buried and projecting earthwork remains associated with a Roman villa, settlement and industrial complex on the eastern valley side of the River Anker. The archaeology is characterised by

⁵ Lai, H.T.L. *et al.* (2014) Size distribution of airborne particles in animal houses. *Agricultural Engineering International: CIGR Journal*, 16(3):28-42.

a large number of Roman features that include, among other things, a defended settlement, pottery kilns, drying sheds, a number of Roman roads, a port or ferry settlement, early field systems and human burials. It not only preserves evidence of a specialised regional industry but also the daily lives of its inhabitants and their relationship with the occupants of the villa and nearby fortresses immediately to the west.

28. The monument to the west is the Roman Camp and comprises three distinct areas that include a succession of Roman vexillation fortresses and other camps. It is located a greater distance away from the appeal site, to the northwest, on the western valley side of the River Anker. The fortresses and camps survive as entirely buried structures. The archaeology is characterised by a number of remains that include, among other things, timber barrack blocks and granaries along with a kiln or furnace and latrines. Some of the military areas have subsequently been incorporated into a medieval manorial complex which adds to its historical layering.
29. Given the above, I find that the setting of these two monuments is characterised by their intervisibility and functional relationship with the river valley. This is related to the military control of the valley as well as the need for water for industrial and domestic purposes. Whilst Manduessedum retains a rural context, this has been significantly eroded around the fortresses which are now set against a modern, urban backdrop. This has also reduced the intervisibility of the two monuments within a wider landscape context. However, as both monuments are represented by buried remains with limited earthworks, the wider experience of these assets is clearly limited. Bearing this in mind, as well as the separation distances from the proposed development, limited topographic relief of the river valley and the extensive rural views to the east of Manduessedum, I am satisfied that the proposal would not cause significant harm to the setting of these heritage assets.
30. I accept that documentary evidence suggests that at least one of the fortresses may have been connected with Boudicca's last battle in 60 AD. However, whether or not the appeal site was the specific location of any such battle is highly speculative and lacking any robust, substantiated evidence. I also note that even the placement of the battlefield in the Mancetter area is one of only a number of 'reasonable guesses' according to at least one authority⁶. I accept that there is a significant body of work that establishes the importance of the Mancetter/Hartshill Roman kilns. However, the archeologically significant extent of this industrial feature is yet to be determined. Consequently, there is no substantiated evidence before me to suggest that the proposal would be detrimental to any clearly defined, cohesive site. Given the above, I find the potential harm to these non-designated heritage assets and their settings to be equivocal and lacking evidential weight.
31. Turning to potential archaeological remains on the site itself, I note that direct investigation failed to reveal deposits or finds of any archaeological interest in the nine trenches that were dug on the appeal site. I am satisfied that the siting of the trenches provided comprehensive coverage of the ground that would be disturbed by the proposal. Furthermore, it was established at the Hearing that none of the pottery shards in the local museum were attributable to the appeal site. Consequently, I am satisfied that there is no substantiated

⁶ Frere, S. (1987) *Britannia: A History of Roman Britain*. 3rd Edition, pp 73. London: Routledge & Kegan Paul.

- evidence to suggest any direct archaeological impact would arise from the proposal or that a condition to catalogue and protect co-incidental finds would be ineffectual.
32. Turning to future tourism potential, I acknowledge the genuine desire to develop the archaeological resources of the local area. However, the likelihood of a visitor centre being constructed and the specific ways in which the proposal would undermine such a proposal were not substantiated in the evidence before me or at the Hearing. Furthermore, I note that the development of the site for residential housing was considered acceptable in the emerging Mancetter Neighbourhood Plan. Whilst subject to a number of criteria, this nevertheless suggests that the site can accommodate prominent development without significantly harming future archaeological tourism potential.
33. A landscape character assessment⁷ places the appeal site in the Anker Valley Character Area. The assessment stresses the need to retain the scattered properties and farmsteads of the valley and to locate new agricultural buildings in appropriate locations where they blend with the surrounding landscape. It has been suggested that the massing of the proposed building would lead to a dominant feature in the landscape and disrupt views from an adjoining character area. I observe from the plans and my site visit, which included distant views from the ridge to the southwest of the site, that the railway embankment would provide significant mitigation of any such visual impact.
34. This is because only the upper part of the roof and projecting ridge vents would be visible from the southern side of the railway line. When viewed from the northern side, the building would largely be set against the industrialised backdrop of the railway embankment. Its industrial character arises from the palisade steel fencing at the bottom of the embankment and prominent electrification gantries at the top. This is further reinforced by the regular and highly conspicuous transit of the high-speed trains of the West Coast Mainline. Additionally, a number of modern steel portal frame agricultural buildings were clearly visible in the wider landscape. Whilst not of the same scale and of no architectural merit, I nevertheless find such buildings intrinsic to the agricultural character of a modern, working landscape and established features in this instance.
35. I acknowledge the concerns that were raised over the control of flies and the expert evidence that has been submitted in relation to the fly management plan. However, condition 3.6.1 of the Environmental Permit clearly states that the activities shall not give rise to pests that are likely to cause annoyance outside the boundary of the site. Whilst condition 3.6.2 requires the submission of a management plan, a mechanism is clearly present that would trigger remedial, regulatory action if the submitted measures were ineffective. I accept that it would also be in the operator's best interest to avoid any such regulatory action and adapt any failing management measures given the economic uncertainty that this would introduce to the production cycle. The concerns raised over the potential release of pesticides into the food chain and the wider environment resulting from the treatment of fly infestations is controlled by other legislation and are not planning matters.

⁷ North Warwickshire Landscape Character Assessment Final Report, August 2010.

36. I acknowledge the considerable local interest shown in the proposal and have had full regard to the representations made at the application and appeal stages. The level of local opposition is not, in itself, a reasonable ground for resisting development. To carry significant weight, opposition should be founded on valid planning reasons, which are supported by substantiated evidence. Having taken account of all the evidence before me, I am not persuaded that any of the objections raised, taken individually or together, outweigh my findings in relation to the main issue or any of the other matters that were raised.

Conclusion and Conditions

37. For the above reasons and having regard to all other matters raised I conclude that, subject to appropriate conditions, the appeal should be allowed.

38. I have considered both the wording and grounds for the conditions suggested by the Council in accordance with the tests set out in paragraph 206 of the Framework.

39. In addition to the standard time limit condition, a condition requiring the development to be carried out in accordance with the plans is necessary to ensure that it is implemented as approved [1-2].

40. A number of conditions are necessary to ensure that any visual impact of the development is minimised in the interests of maintaining the character and appearance of the open countryside [3-8].

41. Two conditions are necessary to ensure that any changes to the way in which the site is used are subject to appropriate scrutiny in the interests of protecting the living conditions of nearby residents [9-10].

42. A condition requiring an exclusion area along the nearby railway embankment is necessary in the interests of preserving the safe operation and maintenance of the rail network [11].

43. Two conditions requiring the construction of a floodplain compensation area and the approval of a surface water drainage scheme are necessary to control the risk of flooding, protect the aquatic environment, enhance biodiversity and ensure the creation of sustainable drainage structures [12-13].

44. Two conditions to control the movement of vehicles likely to cause disturbance, as well as a further condition to control any tannoy system, are necessary in the interests of protecting the living conditions of nearby residents [5, 14-15].

45. Three conditions are necessary to ensure that the access, manoeuvring and parking areas are suitably constructed and established before the building is brought into use in order to ensure the safe and efficient operation of the highway [16-18].

46. A condition requiring the preservation and recording of any archaeological deposits or finds is necessary in order to preserve non-designated heritage assets [19].

47. A final condition is necessary to ensure that any Great Crested Newts are excluded from the site in the interests of preserving biodiversity [20].

48. I find a condition requiring the drainage of contaminated water unnecessary because it duplicates a control that is already set out in Schedule 1 of the Environmental Permit (Ref: PO1).

CONDITIONS

- 1) The development hereby permitted shall begin no later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: RAC/6004/2 Rev C; RAC/6004/3 Rev B and Site Drainage Plan Rev B received by the local planning authority on 5 November 2015 and the Location Plan and Broiler Unit Elevation Plan received by the local planning authority on 4 June 2015.
- 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no extensions or alterations to the unit, including the fixing of solar panels, shall be permitted at any time.
- 4) No development shall commence until details of the materials to be used in the construction of the external surfaces of the all of the buildings and structures 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) Details of any floodlighting or tannoy systems shall be submitted to and approved in writing by the local planning authority before the use hereby permitted first takes place. Development shall be carried out in accordance with the approved details.
- 6) No development shall commence until a scheme of landscaping has been submitted to and approved in writing by the local planning authority. The scheme shall include indications of all existing trees and hedgerows, identify those to be retained and set out measures for their protection throughout the course of development. Protection measures shall be in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837:2012 and shall be retained until the construction phase of the development is complete. The scheme shall be carried out as approved and all planting shall occur within six calendar months of when the use hereby permitted first takes place.
- 7) If within a period of five years from the date of the planting of any tree or shrub, that plant or any replacement, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree or shrub of the same species and size, as originally planted, shall be planted in the same place, unless the local planning authority gives written approval for any variation.
- 8) Before the use hereby permitted first takes place, an existing stable block shown on the site drainage plan (Ref: RAC/6004/7 Rev B) shall be removed along with any associated hard standing and all associated foundations. The final, consolidated ground level shall match that of the adjacent land.
- 9) Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 and the Town and Country Planning (General Permitted Development) Order 2015 as amended or in any statutory instrument revoking and re-enacting those Orders with or without modification, the development hereby permitted shall only be used as a

- facility for the rearing of chickens for meat. No chickens over the age of 40 days shall be permitted on the site unless their removal is legally prohibited.
- 10) The development hereby permitted shall not be operated other than in accordance with the Environmental Permit (Ref: EPR/TP3035EW) issued under the Environmental Permitting (England and Wales) Regulations 2010 and shall not exceed a capacity of 40,001 chickens at any time.
- 11) No part of the development hereby approved shall be situated within 4 m of the boundary of the railway embankment.
- 12) A 250 m³ floodplain compensation area shall be provided in accordance with the site drainage plan (Ref: RAC/6004/7 Rev B) prior to excavation of any foundations of the development hereby permitted. This area shall be maintained for this purpose thereafter for the lifetime of the development.
- 13) No development shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority in consultation with the LLFA. The scheme shall be implemented in accordance with the approved details before the use hereby permitted first takes place. The scheme to be submitted shall:
- Undertake infiltration testing in accordance with the BRE 365 guidance to clarify whether or not an infiltration type drainage strategy is an appropriate means of managing the surface water runoff from the site;
 - Demonstrate that the surface water drainage system is designed in accordance with 'The SuDS Manual,' CIRIA Report C753 as well as CIRIA C697, C687 and the National SuDS Standards;
 - Limit the discharge rate generated by all rainfall events up to and including the 100 year plus an appropriate allowance for climate change critical rain storms to the equivalent 'greenfield' runoff rates for the site;
 - Demonstrate the provisions of surface water run-off attenuation storage in accordance with the requirements specified in 'Science Report SC030219 Rainfall Management for Developments';
 - Demonstrate detailed design (plans, network details and calculations) in support of any surface water drainage scheme, including details of any attenuation system and outfall arrangements. Calculations should demonstrate the performance of the designed system for a range of return periods and storm durations inclusive of the 1 in 1 year, 1 in 2 year, 1 in 30 year, 1 in 100 year and 1 in 100 year plus climate change return periods; and
 - Confirm how the on-site surface water drainage systems will be adopted and maintained in perpetuity to ensure its long term operation at the designed parameters.
- 14) Heavy Goods Vehicles (HGVs) shall only access or egress the site between 0900 and 1900 Mondays to Fridays and 0900 and 1200 on Saturdays. There shall be no HGV movements outside of these hours

- and no movements on Sundays or on Bank or Public Holidays. A scheme to control the movement of HGVs during deliveries shall be submitted to and approved in writing by the local planning authority. This scheme shall be implemented before the use hereby permitted first takes place and retained thereafter for the lifetime of the development.
- 15) Chickens shall not be caught for removal between 0900 and 1900 Mondays to Fridays and 0900 and 1300 on Saturdays. No chickens shall be caught on Sundays or on Bank or Public Holidays.
 - 16) Access to the site for vehicles shall only be from the position shown on the approved drawing (Ref: RAC/6004/8). This shall provide a bell-mouth with radii of 6 m and an access width of not less than 6 m for a distance of 20 m. This shall be measured from the near edge of the carriageway of the public highway. The gates hung within this access shall not open within 20 m of the near edge of the carriageway of the public highway. This access shall not be constructed in such a manner as to reduce the effective capacity of any drain or ditch within the limits of the public highway.
 - 17) Notwithstanding the plans submitted, the access to the site for vehicles shall not be used unless it has been laid out and constructed within the public highway in accordance with the standard specification of the Highway Authority and surfaced with a bound material for a distance of 20 m, as measured from the near edge of the carriageway of the public highway.
 - 18) No development shall commence until full details of the provision of the access, car parking, manoeuvring and service areas, including surfacing, drainage and levels have been submitted to and approved in writing by the local planning authority. The areas shall be laid out in accordance with the approved details before the use hereby permitted first takes place. Such areas shall be permanently retained thereafter for the purpose of parking and the manoeuvring of vehicles.
 - 19) Any historic or archaeological features not previously identified which are revealed when carrying out the development hereby permitted shall be retained in-situ and reported to the local planning authority in writing within 5 working days of their being revealed. Works shall be immediately halted in the area/part of the building affected until provision shall have been made for the retention and/or recording in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.
 - 20) Before development commences the area of the site identified as containing Great Crested Newts in the Great Crested Newt Survey Report June 2015 shall be fenced off and the great crested newts shall be captured and relocated by an appropriately licensed individual to a habitat created, enhanced and set aside for their long term protection and management in accordance with the 2001 Natural England Great Crested Newt Mitigation Guidelines.

APPEARANCES

For the Council

Ms D Sharples	Solicitor
Mr S Pierson	Agricultural Consultant

For the Appellant

Mr A Madden	Solicitor
Mr J Corbet Burcher	Barrister
Mr A Smith	Data Modelling Consultant
Mr A Lawrence	Agricultural Consultant

Interested Persons

Dr I Holdaway	Resident
Cllr M Bell	Hartshill
Cllr D Clews	Athestone South and Mancetter
Rt Hon C Tracey MP	North Warwickshire and Bedford
Cllr BA Henney	Hartshill
Mr T Hopkins	Mancetter Parish Council
Ms J Vero	Athestone Civic Society
Ms M Hughes	Athestone Civic Society
Mr J Arrowsmith	Resident
Ms D Arp	Resident
Mr S Law	Resident
Rev S Tooby	St Peter's Church, Mancetter
Ms E Higgins	Mancetter Parish Council
Mr S Davy	Resident
Mr K Irons	Resident

Documents Received

S1	Costs Application Rebuttal Statement (Appellant)
S2	Costs Application (Council)
S3	Planning Appeal Decision (APP/D2510/A/06/2016169) (Council)

- S4 Heyes, E.T. et al. (2005) Odour and ammonia emissions from intensive poultry units in Ireland. *Bioresource Technology*, 97(7): 933-939. (Council)
- S5 Pullen, J. & Spinks, A. (2012) Odour Assessment of an Intensive Livestock Facility. Environment Agency, Bristol. (Council)
- S6 Robertson, A.P. et al. (2002) Commercial-scale studies of the effect of broiler-protein intake on aerial pollutant emissions. *Biosystems Engineering*, 82(2): 217-225. (Council)
- S7 Revised deposition model receptor location map. (Appellant)
- S8 Gateshead Metropolitan Borough Council v SoS for the Environment and Northumbrian Water Group Plc [1994] Env LR 11 (QB). (Council)
- S9 Costs Application Rebuttal Statement (Council)