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## Appeal Decision

Site visit made on 19 November 2015

**by Joanne Jones BSc(Hons) MA MRTPI**

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

**Decision date: 24 December 2015**

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**Appeal Ref: APP/W1850/W/15/3129896**  
**Bage Court, Dorstone, Hereford HR3 5SU**

- 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 Mr John Morgan against the decision of Herefordshire Council.
  - The application Ref 143343, dated 7 November 2014, was refused by notice dated 12 June 2015.
  - The development proposed is the erection of 2No broiler rearing unit with associated feed bins, hard standing and attenuation pond.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. On the 16 October 2015 Herefordshire Council adopted the Herefordshire Core Strategy (HCS). This replaces the previous local plan, the Herefordshire Unitary Development Plan (UDP). Accordingly the UDP Policies referred to by the Council in its reasons for refusal are no longer extant and I have determined this case in the light of the recently adopted HCS

### Main Issues

3. The main issues in this case are:
  - The effect of the proposed development on the character and appearance of the area;
  - The effect of the proposed development on highway safety;
  - The effect of the proposed development on protected species; and
  - Whether any benefits of the proposed development exist which would outweigh any identified harm.

### *The proposal*

4. The appellant operates an established agricultural business from Bage Court Farm, Dorstone. The farm extends to some 250 acres of owner occupied land together with a further 150 acres of rented land. The land holding is split between arable cropping and beef rearing and finishing. The poultry sheds would be erected to the south east of the existing farm buildings at Bage Court, on a large field, boarded by mature hedgerows. The poultry sheds would have

a capacity of 80,000 broiler chickens per crop cycle: there would be a maximum of 8 crop cycles each year with clear-out periods of about six days between cycles.

5. The poultry sheds would be about 91.435m in length and about 21.335m wide, with a modest control and boiler room building attached at the west end. Each of the poultry buildings would have a ridge height of 5.64m and eaves heights of 2.8m. A feed room (ridge height approximately 3.4m), and 3 feed bins (approximately 7.4m in height) are located between the two poultry sheds. The buildings would be of steel portal frame construction, with the walls being precast concrete and steel sheeting above. The roof would also consist of metal sheeting, to include 14 ridge mounted fans.
6. A 20m wide concrete hard standing would be provided to the front of the poultry sheds, with an attenuation pond constructed in the southern corner of the field. Additional hedge and tree planting is also proposed elsewhere on land within the appellant's control. The access would be taken from the B4348 road, utilizing the existing access track.

### *Planning policies*

7. The Development Plan comprises the adopted HCS. The Council refer to a number of HCS Policies, however the most relevant to this proposal are Policies: SS4, SS5, SS6, MT1, LD1, LD2, LD4, SD1, SD3, SD4 and RA6, which, amongst other matters, support the continuing development of traditional employment sectors such as farming where: proposals are of a scale commensurate with its location and setting; would not cause unacceptable adverse impacts to the amenity of local residents, including flood risk; conserve and enhance biodiversity; preserve and where possible enhance heritage assets; would not generate traffic movements that cannot be safely accommodated within the local road network; and help to address climate change through measures such as supporting affordable, local food production.
8. Additionally, as a statement of intent, HCS Policy SS1 establishes that when considering development proposals the Council will take a positive approach that reflects the 'presumption in favour of sustainable development' as set out in the National Planning Policy Framework (the Framework).
9. Policies E1 and LD3 are to my mind not relevant to this scheme, as this proposal does not propose to create additional employment or green infrastructure.

### **Reasons**

#### *Character and appearance*

10. The appeal site lies within Natural England National Character Area (NCA) 99 – the Black Mountains and Golden Valley. This is described as one of the most tranquil areas of England, with few settlements and relatively little new development or transport infrastructure. The NCA says of the Golden Valley that: "*The Golden Valley has very fertile, high-grade agricultural soils, has been intensively cultivated for centuries and is still very important for commercial agricultural. Here there are extensive areas of arable land, with many low hedgerows where the hedgerow tree cover is relatively poor.*"

11. Further detail is provided in the Herefordshire Council Landscape Character Assessment (LCA) updated 2009. This describes the area in the vicinity of the appeal site as 'Principal Settled Farmlands' – a rolling, lowland area of central Herefordshire. These are described as "*settled agricultural landscapes of dispersed scattered farms, relic commons and small villages and hamlets*".
12. A landscape and visual assessment (LVIA) was included as part of the appellant's environmental statement. The Council's Landscape Officer provided further details of the Council's concerns within its Appeal Statement. The Golden Valley Action Group has also provided a 'Review of Landscape and Visual Issues (dated April 2015). I have found the exercises undertaken by all parties of assistance in considering the effect of the proposal on landscape character and appearance.
13. The proposed broiler units, although designed for the production of food and generally regarded as an agricultural operation, would be industrial in scale. The sheds would be lower than the adjacent open sided cattle sheds; however, there is no doubt that the scale of buildings would make them significant built structures within the farmland landscape.
14. Whilst the appellant's LVIA states that the development would have a medium adverse scale of effect on the character of the local landscape, I find that it pays insufficient regard to the scale of the appeal scheme and the differences in landscape character to the north, west and south west. Indeed, the appeal site marks a transition between two markedly different landscapes. Whereas cultivated fields and farmsteads play a significant role in vistas to the east, the area to the north west and south west marks the first upwellings of the black mountains.
15. To my mind the development would appear isolated in this landscape and given the timescale it would take for any planting to screen the units, at least for the first few years, would be stark and severe. Set amongst flat, open farmed fields, it would have an immediate negative impact in the landscape, which would only be partially reduced by any existing and proposed landscaping. I also have concerns that the 'juniper green' cladding would fail to integrate into the landscape, particularly given the palette of colours/materials on surrounding rural buildings, adding further weight to my concerns.
16. Whilst the units would be screened to a certain degree in views from the north west by the existing cattle sheds, it would be far more exposed from other directions, and particularly from the steeply sloped valley sides, broadly in accordance with the zone of theoretical visibility identified in the LVIA. The poultry units would detract from views from several points along surrounding Rights of Way and from the highway network. As I saw on my site visit views of the appeal site could be gained from Spoon Lane, The Scar/Scar Lane and Arthur's Stone Lane, where it would considerably detract from the appearance of the area.
17. Other visual detractors, such as wind turbines, roads and traffic, would be visible from some of the same viewpoints. Nonetheless, the various buildings and structures now proposed would still draw the eye as a particular focal point within the wider landscape by reason of their scale and utilitarian design, reading as an isolated, obtrusive and incongruous complex of industrial appearance rather than an agricultural facility characteristic of, and visually complementary to, the countryside.

18. I have taken account of other agricultural buildings at Bage Court and the large scale agricultural development to the east of Dorstone. However, the existing buildings nearby differ from the appeal scheme as they appear as a group of buildings around a farmstead and are not industrial in scale or appearance. The other new large agricultural buildings are in differing topography and proximity, and have a different relationship with the surrounding landscape. The other buildings referred to would not, therefore, justify the appeal scheme.
19. I conclude that the adverse visual and landscape impacts of the appeal proposal would be much greater than the appellant's assessment suggests. It is clear to me that the scheme would cause very substantial harm to the character and appearance of the countryside. This would be contrary to HCS Policies SS6, LD1, RA6 and SD1, and the relevant provisions of the Framework.

#### *Highway safety*

20. The majority of traffic visiting the proposed broiler units would travel through the village of Dorstone, along the B4348. This road through the village is of varying widths between 4.4m and 6.8m with significant 90 degree bends. There are few passing places along this stretch of road and little in the way of pedestrian footways or street lighting.
21. The appellant's traffic figures indicate that during each flocking cycle of 45 days the development would generate a total of 22 HGV loads (44 two-way movements). However, of these 7 (14 two-way movements) of the total HGV loads would be concentrated in 1 day of the cycle.
22. With the increase in the number of HGVs using the B4348 through Dorstone on these days it is inevitable that the safe and free flow of traffic along the road would be severely affected. In particular it is likely, given the narrowness of the road and the lack of footways and lighting, that there would be conflict between the additional HGVs generated and other road users, including other farm vehicles, car drivers, buses, pedestrians, cyclists and horse-riders. As a result conditions would be created in which accidents could occur.
23. Although the appellant has stated that the majority of the HGV movements could be taken during the night, resulting in less chance of a conflict, the additional noise and disturbance generated at this time would be likely to have a significant and detrimental impact on the living conditions of those residing along the B4348. Whilst I acknowledge the findings of the Appellant's 'Noise Impact Assessment' in this regard, I am concerned that the intermittent character of the passing vehicles and their regular movements throughout the period 1000-0600 would give rise to individual noise events that would be likely to cause sleep disturbance. As the depopulation cycle occurs at intervals, I am not convinced that residents would become accustomed to the sound which could reduce its impact on living conditions.
24. The proposed HGV Management Plan may ensure that HGVs generated by the proposal do not meet within the village, and that drivers do not follow other routes. However it is inevitable, given the current usage of the B4348, that the HGVs going to and from the proposed enterprise would encounter other vehicles, including HGVs, and other road users. In addition to causing conflict this is likely to lead to damage to the edges of the carriageway, hedgerows and the verges as vehicles leave the metalled road surface to pass when no convenient passing place is available.

25. I conclude, therefore, on this issue that the proposal would be severely prejudicial to highway safety along the B4348, through Dorstone on particular days of the year. This brings the scheme into conflict with HCS Policies MT1 and RA6, and the Framework which emphasises the need to prevent development that would have a severe impact on the highway network.

*Protected species*

26. Paragraphs 117 and 118 of the Framework require local planning authorities to promote the preservation, restoration and re-creation of priority habitats, ecological networks and the protection and recovery of priority species populations, and state that if significant harm resulting from a development cannot be avoided, adequately mitigated, or as a last resort, compensated for, then planning permission should be refused. In addition, the National Planning Practice Guidance (the Guidance) states that an ecological survey will be necessary in advance of a planning application if the type and location of development are such that the impact on biodiversity may be significant and existing information is lacking or inadequate, and if there is a reasonable likelihood of a protected species being present and affected by development.

27. The application was accompanied by a 'Baseline Ecological Site Audit' dated October 2014 and incorporated a Phase 1 habitat plan, walkover survey for protected and notable species and habitats. This concluded that, providing the recommendations are fully implemented and subject to the results of the required further work and satisfactory execution of any mitigation, there are no obvious ecological counter indications to the proposed project.

28. However, this survey was undertaken in October, which is a sub-optimal time of year for such work. I also acknowledge third party representations which state the types of fauna and flora to be present on the site, although no substantiated evidence on this matter has been provided. Nevertheless, on the basis of the available evidence there is a reasonable likelihood of species being present on the site that could be significantly harmed by the proposed use, and insufficient information has been provided to adequately assess the potential impact of the proposal. As such I cannot be certain that any impacts on protected species could be adequately avoided or mitigated. Given this degree of uncertainty, the use of a condition would not be reasonable in this case.

29. I therefore conclude on this issue that the proposed development would potentially cause material harm to biodiversity interests. This would be contrary to HCS Policy LD2 and the Framework.

*The benefits*

30. A major gain would be in assisting in food production and security, which is important socially and economically to Herefordshire and the country as a whole. There would also be some benefits to the appellant, assisting with maintaining the farm as a successful family business for the future.

31. It is apparent that the appeal proposal would diversify agricultural operations at Bage Court Farm and safeguard existing jobs, as well as supporting construction and other supply chain industries. However, there is nothing of substance before me to the effect that the same social and economic benefits could not be reaped from a similar facility erected elsewhere in the local area where it would not cause such a high degree of harm.

32. I conclude that the economic benefits of the proposal are substantial and that the endorsement of development that would secure them would accord with the economic principles endorsed by the development plan and the Framework. However, such considerations do not outweigh the harm to the character and appearance of the countryside, protected species and highway safety identified above.

*Other matters*

33. The appellant has suggested a number of other farm diversification options should this appeal fail, which he suggests would have similar or greater harm than this current proposal. However, I have no details of these options to enable me to conclude that there would be a reasonable possibility of any of them being implemented. In any event it does not provide a justification for the harm that I have identified.

34. Concerns regarding animal welfare are not for me to address and are more properly dealt with under other legislation. The appellant has demonstrated to the satisfaction of the relevant specialist consultees that, despite the misgivings of many local residents and their representatives, the proposal has no significant adverse implications for archaeological interests, heritage assets, air quality, odour, bio-security, drainage and flooding. I find no reason to disagree and am satisfied that the proposal complies with the development plan and national policy insofar as they apply to these matters. Nonetheless, I am mindful that these are, for the most part, passive, 'absence of harm' aspects of the proposal rather than positive attributes with the potential to counter or justify the harm I have identified.

35. Whilst I acknowledge the letters of support from some local residents and other farming organisations, such support does not mitigate the harm that the proposed scheme would cause.

**Overall conclusion**

36. The Framework promotes economic development indicating that significant weight should be placed on the need to support economic growth through the planning system. However, it sets this within the presumption in favour of sustainable development, seeking economic, social and environmental gains, and indicating that they are mutually dependant. I have already concluded that there would be some social and economic gains. However, these would be at the expense of the environment as the appeal scheme would detract from the landscape character of the area and biodiversity, and it would lead to deterioration in highway safety. The appeal scheme would not, therefore, comply with the overarching aims of the Framework and it would not constitute sustainable development.

37. Therefore, for the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*Joanne Jones*

INSPECTOR