

PLANNING COMMITTEE – 1 DECEMBER 2020

Application No:	20/00054/FULM
Proposal:	Retrospective planning application for the retention of mobile poultry units and access drive
Location:	Bridgefield Farm, Wigsley Road, Thorney Moor, NG23 7DF
Applicant:	Mr MI. Jonson Ltd.
Agent:	Mr Nick Grace – Grace Machin Planning and Property
Registered:	10.03.2020 Target Date: 09.06.2020
	Extension of Time Agreed Until 04.12.2020
Website Link:	https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=Q43UHOLB04M00

This application is being presented to the Planning Committee in line with the Council’s Scheme of Delegation as Thorney Parish Council has objected to the application which differs to the professional officer recommendation. The application has also been referred to committee by Cllr Dales if Officers are minded to approve in line with the Parish Council concerns.

The Site

The application site relates to an approximately 4.4 hectare plot of land broadly rectangular in shape to the east of Wigsley Road between the settlements of Thorney to the north and Wigsley to the south. The site is mostly laid to grassland albeit there is a pond in the south east corner of the site of around 50m by 20m and around 1.5m deep. The pond is fenced off and surrounded by an area of rough grassland. There is also a large mature oak within the grassland to the south east of the pond. The boundaries of the site are largely comprised of hedgerows with a mix of young tree specimens. There is a vehicular access track which runs to the south of the site (accessed from Wigsley Road) but is outside of the red line boundary. Further southwards is a long length of dismantled railway line which is recognized as a site of local importance in nature conservation for its rich diversity of characteristic and notable herbs. The railway line is also stated as being an off road cycle route for the Dukeries Trail (albeit not formally recognized as a right of way).

Other neighbouring land uses include residential properties on the opposite side of Wigsley Road and immediately north of the site.

The site is within Flood Zone 3 according to Environment Agency maps.

Relevant Planning History

17/02261/FULM – Proposed erection of stables.

This application was approved under delegated powers in March 2018 but has not be

implemented.

The development falls outside of Schedule 1 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 but does represent more than 500m² of floor space for an intensive livestock installation and therefore has been assessed under Schedule 2 of the Regulations under separate reference 20/SCR/00002. The decision was that an EIA is not required to consider the application.

The Proposal

The proposal seeks retrospective planning permission for the retention of 9 mobile poultry units within the site. Each of the units measure approximately 9m by 15m with a curved ark design of a maximum height of approximately 3.6m and eaves height of 1.2m. The arks are mounted on skids and moved around the field after each crop (approximately 7 movements per year).

Each ark houses 1,500 birds making a total of free-range flock of 13,500 birds. The latest Odour Management Plan (OMP) submitted has however confirmed that the number of birds stocked during the months of December, January and February would be reduced to 9,000.

The use relies on an established field access.

The application has been considered on the basis of the following plans and documents:

- Covering Letter from Grace Machin Planning & Property dated 10th January 2020;
- Justification Report by Antony Oliphant Savills dated December 2019;
- Flood Risk Assessment by Grace Machin Planning & Property Revision A received by email dated 12th March 2020;
- Preliminary Ecological Appraisal by esl ecological services dated February 2020;
- Access Photographs dated 10/01/2020;
- Mobile Ark Photographs dated 10/01/2020;
- Site Location Plan – WR – 01 dated Jan 2020;
- HM Land Registry Site Ownership Plan NT 336364;
- Site Block Plan – 1510J/001 dated January 2020;
- Site Block Plans – Unit Orientation Sample Plans – 1510J/002 dated January 2020;
- Mobile Ark Eaves and Ridge Heights;
- Email dated 16th April 2020;
- Flood Risk Assessment by Roy Lobley Consulting – RLC/0561/FRA01 dated 28/04/20;
- Letter by esl ecological services – DH/JP/ES51 dated 29th April 2020;
- Odour Management Plan dated 18th November 2020;
- Additional letter by Roy Lobley Consulting dated 15th July 2020 – RLC/0561/LE01;
- Report to Grace Machin Odour Assessment around Bridge Field Farm 21 and 30 July 2020 by Silsoe Odours version 2 dated 24th August 2020;
- A Dispersion Modelling Study of the Impact of Odour from the Existing Free Range Broiler Chicken Unit at Thorney Moor, Thorney in Nottinghamshire prepared by Sally Howse AS Modelling & Dara Ltd dated 25th August 2020 (received 10th September 2020);
- A Report on the Modelling of the Dispersion and Deposition of Ammonia from the Existing Free Range Broiler Chicken Unit at Thorney Moor, Thorney in Nottinghamshire prepared by Sally Howse AS Modelling & Dara Ltd dated 13th July 2020 (received 14th August 2020);
- Replies to comments about Silsoe Odours Sniff Survey Report (received by email dated 17th

- September 2020);
- Email dated 20th October responding to latest Consultant comments;
 - Nitrate Vulnerable Zone Statement dated 5th November 2020.

Departure/Public Advertisement Procedure

Occupiers of 8 properties have been individually notified by letter. A site notice has also been displayed near to the site and an advert has been placed in the local press.

Planning Policy Framework

The Development Plan

Newark and Sherwood Amended Core Strategy DPD (adopted March 2019)

Spatial Policy 3 – Rural Areas
Spatial Policy 7 - Sustainable Transport
Core Policy 6 – Shaping our Employment Profile
Core Policy 9 -Sustainable Design
Core Policy 10 – Climate Change
Core Policy 12 – Biodiversity and Green Infrastructure
Core Policy 13 – Landscape Character

Allocations & Development Management DPD

DM5 – Design
DM7 – Biodiversity and Green Infrastructure
DM8 – Development in the Open Countryside
DM10 – Pollution and Hazardous Substances

Other Material Planning Considerations

- National Planning Policy Framework 2019
- Planning Practice Guidance (online resource)
- Guidance for development requiring planning permission and environmental permits dated October 2012
- “Protecting our Eater, Soil and Air” by DEFRA 2009
- “Code of Good Agricultural Practice for reducing ammonia emissions” by DEFRA 2018

Consultations

Thorney Parish Council – Holding objection due to the following summarised issues:

- Concerns regarding smell;
- Modelling data for airborne pollution appears to reflect a skewed area of receptors;
- The distance should be consistent from individual properties;
- The PC receive calls regarding the smell.

NSDC Environment Health – Detailed comments throughout the life of the application as discussed in the appraisal. The latest comments The Environmental Health team support this

proposal. The amendments to utilise an objective observer of odour at the site boundary as part of the monitoring regime will assist the operator to assess the extent of odours at the site boundary. The odour monitoring and controls proposed in this plan are appropriate to the type of operation. The continued maintenance of good housekeeping will ensure that odours are minimised during operation.

NCC Flood – No response specific to this application.

Environment Agency – Original comments requiring submission of further information which has been provided during the life of the application. Latest comments confirm no objection subject to condition.

NSDC Emergency Planner – Discussion incorporated into appraisal below but no objection.

Trent Valley Internal Drainage Board –The Board maintained Carr Wood Drain, an open watercourse, exists in close proximity of the site and to which BYELAWS and the LAND DRAINAGE ACT 1991 applies.

Natural England – No objection subject to condition.

NCC Highways – No objection subject to conditions.

Public Health England – Original comments raising concerns relating to the odour management plan in terms of dust and bioaerosols emissions. No comments have been received on the latest odour management plan.

23 letters of representation have been received, 15 of which offer support for the contribution to local food producers and the rural economy and two specifically offering no complaints to the existing use, the others raise the following concerns which can be summarized as follows:

- To avoid issues of smell and noise there should be a 40m gap between the poultry units and the field boundary adjacent to Wigsey Road;
- There should also be the same gap between poultry units and proposed boundary adjacent to Lodge Farm;
- There is clear medical evidence in Public Health documentation stating ‘Ammonia and chicken dander has a detrimental impact on the health of persons living within close proximity’;
- Medical studies show that constant exposure will have long and short term health effects;
- The existing development has already affected the health of neighbouring resident’s visitors leading to an exacerbation of symptoms;
- Ammonia and chicken dander particles travel on damp air;
- Neighbouring resident concern that windows cannot be open due to the odour;
- Concern for long term health impacts;
- Neighbouring residents have experienced health problems since the sheds were in place such as reoccurring sore throats, sore noses, burning itchy eyes, shortness in breath, headaches and nausea;
- The invisible mist of ammonia sweeps across neighbouring gardens;
- There is a strong odour making clothes and hair smell;
- A neighbouring resident has approval for an annexe for an elderly relative but is now concerned about using the annexe for elderly occupation;

- Medical studies show that ammonia in the air is associated with declining lung function in vulnerable adults, children and asthma sufferers;
- NSDC have a duty of care in promoting and protecting their public;
- The FRA states that the applicant has been seeking land for 2 to 3 years but in 2018 the applicant applied for stables, if this land was essential for the poultry business then why was the land not used immediately for the poultry sheds?
- Diary sheets have been provided to environmental health of the odour issues at the site but these have not been acknowledged;
- There was 4 months of old bedding left in place when the sheds were moved over the winter and no tractors could get on to the site due to flooding;
- Residents complain of feeling nauseous, sores in noses, sore burning throats and other symptoms;
- The applicant is still bringing chickens onto the site without the benefit of planning permission;
- Poultry dust is defined as a substance hazardous to health;
- 60m is not sufficient to protect neighbouring residents;
- DEFRA Code of practice says consideration should be given to providing the maximum possible distance between the proposed site and existing sites to improve bio security – there are at least 2 poultry farms within a 3km radius.
- The planning process has not mentioned the route to the south of the site which is a very popular route for walkers; cyclists and horse riders;
- There are dead chickens in neighbouring gardens;
- The Council's Landscape document gives an extensive list of sites of interest in nature conservation which should be taken into consideration;
- The document also mentions the disused railway line and drains which are vital features to the area;
- Run off water would cause pollution;
- The LCA confirms that a threat to the area is poultry farms;

Comments of Business Manager

Principle of Development

The site lies between, but outside of, the settlements of Thorney and Wigsley. Although there are residential properties nearby these are dispersed and do not form part of either settlements. The site is therefore within the open countryside.

The Settlement Hierarchy within the Core Strategy outlines the intended delivery for sustainable development within the District. Spatial Policy 3 confirms that, development away from the main built-up areas of villages, in the open countryside, will be strictly controlled and restricted to certain uses as outlined by Policy DM8.

Policy DM8 outlines a number of criteria whereby it may be appropriate to allow development in the open countryside including agricultural development requiring planning permission and employment uses amongst others. In respect of agricultural development it is stated that proposals will need to explain the need for the development, and its siting and scale in relation to the use it is intended to serve.

The application has been accompanied by a Justification Report which explains the process of the operation including in respect to the need to move the ark buildings to prevent disease which can be an issue within fixed buildings. This in itself is justification for why the development would be better suited to a countryside location noting the significant land take requirement for the buildings to be moved.

It is understood from the Report that the applicant has recently expanded operations to a degree that they now support several farm workers throughout Nottinghamshire and Lincolnshire across 5 free range sites. The site itself is stated as being well located to supply the market which though a local operation supplies national supermarket chains.

On the basis of the above, neither the need for a rural location or the contribution to the local rural economy is disputed. The development is therefore supported in principle subject to an assessment against the remainder of the Development Plan which in this case will relate primarily to the impact of the development on the environment and the landscape.

Impact on Flood Risk

The site is within Flood Zone 3 and thereby at a high probability of river flooding. The NPPG, at Table 2, categories flood risk vulnerability and explicitly identifies that land and buildings used for agriculture are considered to be less vulnerable in flood risk terms. Table 3 in turn confirms that less vulnerable uses are appropriate in Flood Zone 3.

However, Table 3 does not prevent the need to apply the Sequential Test in an attempt to direct development to areas at lower risk of flooding. The NPPG is clear that the Sequential Test should be applied first to guide development to Flood Zone 1 and then Flood Zone 2 (if no appropriate sites are available in Flood Zone 1).

The originally submitted Flood Risk Assessment (FRA) was silent on the application of the Sequential Test (and incorrectly identified agriculture development as being water compatible). This was raised as an issue with the agent during the life of the application and a revised FRA has been submitted.

The document confirms that the site has been selected for operational purposes being an expansion of a long established agricultural business. The site is referred to as a natural extension from the operations at Aubourn Farm (the applicant's residence in North Scarle circa 2 miles away from the site) particularly given the potential need for atypical working hours (e.g. shutting the birds in the arcs in summer months is likely to be later in the evening). The statement claims that no land at a lesser risk of flooding has been identified closer to the existing operations. In this instance, the limitation of the Sequential Test to land in close proximity to the existing operations / the applicant's place of residence is considered reasonable. In the absence of any evidence to dispute the claim that there is no land closer at a lesser risk of flooding, the sequential test has been passed.

The Environment Agency originally objected in the absence of an acceptable flood risk assessment (FRA). The comments detailed that the applicant had failed to appropriately assess the potential flood risks that could affect the site and advised that further detail should be sought from the Environment Agency.

The applicant has responded to these comments through the submission of a revised FRA during the life of the application. The revised comments of the EA accept this document and suggest that the mitigation measures outlined (i.e. the arks being fixed to the ground using anchors in a flood event) are secured by condition.

It is not the role of the EA to comment on the adequacy of flood emergency response procedures. The NPPG states that, in determining whether a development is safe, the ability of residents and users to safely access and exit a building needs to be considered. Clearly there should be an avoidance of allowing development where it may put additional pressure on emergency services during a flood event.

The FRA outlines mitigation comprising of the applicant / owner of the site signing up the EA flood warning service and the compilation of a flood emergency plan which would outline actions including removing the birds from the site and the tethering down of the arks as referred to above by 'ground anchors'.

The concern with these procedures would be that, at a time where a flood is likely (i.e. the EA have directed such through their warning system) the applicant / owner would be required to attend the site putting themselves at risk (and in turn potentially adding additional strain to the emergency services). The alternative would be to leave the birds on the site and the arks untethered which would clearly have other consequences in terms of economic damage to the livestock but also the potential for the movable arcs to be dislodged increasing the risk of damaging structures / creating blockages within watercourses.

Paragraph 159 of the NPPF details that the need to apply the exception test will depend on the potential vulnerability of the site and of the development proposed, in line with the Flood Risk Vulnerability Classification set out in the guidance. The exception test is not required for less vulnerable uses in Flood Zone 3a.

Notwithstanding that the end use is less vulnerable, the mitigation measures suggested by the FRA create their own level of vulnerability and risk to human life. The measures have been discussed with the Council's Emergency Planner and specifically additional details were requested to the actual procedures that would occur in a flood event. The applicant's consultant has confirmed by letter 15th July 2020 that, on receipt of a flood warning, the mitigation would be put in place which would be well in advance of the onset of any flooding. The two key elements; removing the birds from the site and tethering down the arcs, are estimated to take 4 hours and 90 minutes respectively. These details have been subject to review from the Council's Emergency Planner and no objection has been raised in principle. It is therefore not considered reasonable to resist the application on flood risk ground subject to the already referenced imposition of conditions if permission were to be forthcoming.

Impact on Landscape

Core Policy 9 requires a high standard of sustainable design that protects and enhances the natural environment and contributes to the distinctiveness of the locality and requires development that is appropriate in form and scale to the context. Core Policy 13 expects development proposals to positively address the implications of the Landscape Policy Zones in which the site lies and demonstrate that the development would contribute towards meeting Landscape Conservation and Enhancement Aims for the area. Policy DM5 requires the local

distinctiveness of the District's landscape and character of built form to be reflected in the scale, form, mass, layout, design, materials and detailing of proposals for new development.

The Newark and Sherwood Landscape Character Assessment identifies the site as being within the East Nottinghamshire Sandlands Policy Zone 02: Wigsley Village Farmlands with Plantations. The area is defined by a flat landscape with occasional undulating landform around the villages. The site is characteristic of the mixture of intensive arable fields with strongly trimmed hedges and some low intensity farming. The landscape condition is defined as moderate with a very low sensitivity. It is notable that one of the specific threats to the policy zone is the further intensification of commercial agriculture including chicken sheds.

In terms of the landscape actions for built features there is a requirement to conserve what remains of the rural landscape by concentrating new development around existing settlements. Whilst the site is separate from both Thorney and Wigsley it is still well related to them being immediately adjacent to the main vehicular route between the villages. I am also conscious of the dispersed residential built form in the area to a degree that the low level development proposed is not considered to significantly interrupt the rural landscape.

The development is retrospective and therefore the landscape impacts of the proposal can already be fully appreciated. Having visited the site, the ark buildings, whilst having a significant combined footprint of approximately 1,215m², do appear as relatively discrete in the landscape owing to their modest height and their material finish which blends well with the agricultural landscape. It is appreciated that the mobile nature of the buildings would mean there would be some movement within the site but even in the context of the buildings being closer to the road I do not consider that they would be overly imposing on the character of the area to a degree that would be harmful. The example block plans show a zoned siting area which avoids the positioning of the buildings close to the site boundaries. To secure the level of development proposed and the landscape impacts assessed I consider it would be reasonable to condition that there are no more than 9 of the arc buildings on the site at any one time.

Impact on Environment

The development relates to the use of the buildings for the housing of chickens which clearly has the potential to introduce environmental impacts such as unpleasant odours. It is notable that the environmental impacts of the development have been raised as a significant cause of concern during the consultation process as detailed by the summary of the comments above. This is particularly notable given that the development is retrospective and therefore the concerns raised are based on existing operations. The Environmental Health Officer has confirmed that there are ongoing odour complaints from the operations.

Each ark building (of which there are 9) houses 1,500 birds making a total of 13,500 birds on the site at any one time (with the exception of between the months of December to February when the number of birds would be reduced to 9,000). This falls significantly below the threshold for an environmental permit from the Environment Agency (40,000 poultry).

As is detailed by Planning Practise Guidance (NPPG), the 2008 Ambient Air Quality Directive sets legally binding limits for concentrations in outdoor air of major air pollutants that affect public health. The UK also has national emission reduction commitments for overall UK emissions of 5 damaging air pollutants which includes ammonia. It is important that the potential impact of new development on air quality is taken into account. The NPPG is clear that air quality can be relevant

to the development management process and that consideration will need to be had as to whether the proposed development could significantly change air quality and consider the consequences of this for public health and biodiversity.

Policy DM10 (Pollution and Hazardous Materials) of the Allocations and Development Management DPD is clear that development proposals involving the potential for pollution should take account of and address their potential impacts in terms of health, the natural environment and general amenity.

Ammonia in the air may exert direct effects on the vegetation, or indirectly affect the ecosystem through deposition which causes both hyper-eutrophication (excess nitrogen enrichment) and acidification of soils. Impacts of odour are relatively straightforward to appreciate with the livestock rearing generally being grouped into a moderate offensive category. The occupational health risks of livestock farming seem well reported, but there is very little research on the potential impact of poultry farms on the health of nearby residents.

The original application submission was supported by modelling reports for odour and ammonia. The odour report confirmed that the benchmarks are based on 2011 Environment Agency Odour Management guidance. Based on a moderately offensive odour the benchmark figure is 3.0 ouE/m³. Any modelled results that project exposures above these benchmark levels, after taking uncertainty into account, indicates the likelihood of unacceptable odour pollution.

The modelling was based on two scenarios, the first which modelled the arks at the furthest points they would be positioned to the north and south. The second which represented an alternative positioning of the arks used during wet weather with four arks to the north and five arks to the west.

The results showed that in all scenarios, the odour would fall below the benchmark figure. However, there were examples where the levels would only just be shy of the 3.0 ouE/m³ at up to 2.867 at maximum. Unsurprisingly these figures affect the closest residential receptors to the north and west of the units. This would corroborate the concerns already raised to Environmental Health that the poultry units do have a perceivable odour impact to neighbouring residents.

The comments of the Environmental Health Officer (EHO) (and indeed the comments of the Parish Council) queried why the ark positioning is restricted to 60m from the northern boundary of the field but no such restriction is made from the western boundary. It has been clarified that this takes account of the prevailing south westerly winds but also the presence of the highway; grass verges; and mature hedging between the properties to the west. This allows the distance to the west to be shorter at 40m. This has subsequently been accepted by Environment Health colleagues. However, as is detailed by the latest Odour Management Plan (discussed below) the position of the arks could be kept under review potentially increasing the distances from the boundaries if required to stay below the odour limits.

The comments of the EHO also made reference to the control of odours from pests such as flies if the development would not be controlled by EA permit (which as above it would not). The agent has responded to these concerns through their consultant by commenting that the arks are naturally well ventilated and the submitted modelling is based on odours escaping through such ventilation. It is further stated that flies are not anticipated to be an issue as they would be eaten by the chickens.

The results of the ammonia models conclude that the process contribution to ammonia concentrations at all sites considered are well below the Environment Agency lower thresholds of the Critical Level of $1.0 \mu\text{g-NH}_3/\text{m}^3$.

This is however based on the positioning of the arks in the aforementioned zoning area and therefore further compounds the need to carefully control the positioning of the buildings if permission is forthcoming.

The original ammonia report did not address potential impacts on human receptors which as detailed above is a significant cause of concern to local residents. The DEFRA document referred to above (“Code of Good Agricultural Practice for reducing ammonia emissions”) states that, whilst ammonia in low concentrations is not harmful to human health, when emissions combine with pollution from industry they form very fine particulate matter which can lead to cardiovascular and respiratory problems.

The comments received from neighbouring parties include extracts from studies on the matter showing that poultry farmers have a greater risk of respiratory problems than those not in an agricultural profession. A document from the British Medical Journal has also been referenced which details the risks associated with ammonia.

The concerns have been raised with the agent during the life of the application. A response has been received from the author of the ammonia report on this point stating the following:

Although a concern for ecological receptors, ammonia exposures from animal rearing does not get anywhere near levels that would be a concern to human health. Human Health Environmental Assessment Levels (EALs) are $180 \mu\text{g}/\text{m}^3$ for long term averaging periods and $2500 \mu\text{g}/\text{m}^3$ for short term averages and absolutely negligible in relation to occupational exposure limits of $18,000 \mu\text{g}/\text{m}^3$. Inspection of the contour plots in the ammonia report suggests gives a maximum annual mean concentration at the closest receptors of around $5 \mu\text{g}/\text{m}^3$ i.e. 3% of the long term EAL.

This is clearly a highly technical matter and, one which for the neighbouring residents is also highly emotive given the retrospective nature of the application. Although the detailed comments of Environmental Health colleagues are welcomed and appreciated, Officers have taken the view that in this case it is reasonable and necessary to seek an independent assessment to allow a robust decision to be made. This approach is validated by the original comments of Public Health England which stated that there “*is insufficient information contained within the planning application to be able to fully assess the impact of the installation on public health.*”

RSK ADAS Ltd. were commissioned to review the application in the context of all submitted documents and also the neighbouring concerns which have been received. Their original response, a letter dated 18th June 2020, concludes with a number of recommendations for the LPA in their assessment but essentially required further work should be undertaken. The recommendations included a request for clearer evidence of the predicted ammonia concentrations but also an explanation as to the level of inconsistency between odour modelling outputs, specifically given that the retrospective nature of the application allows for modelling to be augmented and validated with the local experience of odours.

A S Modelling & Data Ltd.; in their capacity as the applicant’s consultant, responded to the initial RSK ADAS Ltd. letter by a letter dated 19th June 2020. Their response formed a rebuttal to the comments rather than any additional data or research as suggested. Further exchanges have

occurred including Officers sharing the dates of the odour complaints received (without personal data) in an attempt to facilitate investigating whether or not there are correlations with the arcs being moved (albeit the varied spread of dates and lack of reference to movement on site in the diary detail suggests there to be no correlation).

In respect to ammonia impacts on human health, the LPA's consultant has offered the following comments:

The modelled levels reported by ASM&D were no more than 2.58% of the long term EAL of 180 µg/m³ at any residential receptor, and less than 10% of the 2500 µg/m³ EAL for short term averages. The EALs are already relatively precautionary, and therefore on the basis of the submitted information I can confirm that I see no reason or justification for any concern about the potential health effects of ammonia.

Despite the level of concern received during the life of the application (and indeed supplementary documentation in terms of reported studies), Officers consider that the evidence submitted to support the application is sufficient to conclude that the proposal would not (/ is not) imposing adverse impacts due to ammonia.

Moving then to odour impacts, the application has been supported by various iterations of an Odour Management Plan which have been subject to discussions ultimately in an attempt to ensure the document represents a robust basis on which to form a decision.

The latest document received is dated 18th November 2020. Unlike the previous versions of the document, this later version references dust emissions raised as a cause of concern from the initial response of Public Health England. The report covers a number of odour related issues outlining potential risks and problems and the required actions to prevent and minimize such risks. This includes provision for reducing flies which has been previously raised by Environmental Health Officers. The report then goes on to detail procedures for site monitoring, complaints and backstops.

Officers have liaised with colleagues in Environmental Health and it has been confirmed that the odour complaint investigations are ongoing and that it is not possible at this stage to conclude whether the concerns will amount to a nuisance or not. That being said, the complaints are being received, and for the relevant neighbouring parties are clearly causing distress which has now been ongoing in some form for almost 2 years (the application form confirms the development started on 30th December 2018 and was completed on 30th September 2019).

The LPA's appointed consultant has reviewed various earlier versions of the odour management plan suggesting revisions where appropriate. The latest document is based on the suggested revisions with the overall aim of ensuring that the document is robust enough for the LPA to be able to actively enforce in the event that odour complaints continue to be received.

The odour management plan states that it is to form a working document, intended to be used as a reference for operational staff on a day to day basis. It is stated that the document would be reviewed at least annually to improve its effectiveness.

Specific requirements include, but are not limited to, the following:

- The installation of a weather station towards the centre of the site;

- Maintaining a 60m distance from the northern boundary and 40m from the western boundary for the positioning of the arks;
- Reducing bird stock in winter months;
- Documentation of feed samples;
- Manual operation of sheet vents for ventilation;
- Ark / weather inspections two or three times a day as part of routine husbandry management;
- Daily collection of carcasses and removed off site;
- Daily check of water consumption;
- Rapid clean out and coverage of manure to minimize odour escape from the haulage process;
- Daily logging of bird numbers, age and position of arks.

It is also suggested that,

“The applicant will engage the services of a Parish Councillor or local professional person as an Observer to walk the boundaries at least once a week to assess any odours. The Observer will be independent and not connected to the business. The Observer will receive training as to the Silsoe Odours method of scoring of odours as in the appended Odour Assessment Report.”

The intentions of the odour management plan are commended and welcomed compared to the previous versions of the document which were not considered to form a robust basis for assessment. Some of the above requirements would be relatively straightforward to enforce through the planning regime (e.g. distance of arks to boundaries). However, other mitigation measures would be more difficult to control. In this context, Officers have worked with the applicant to secure the various versions of the submitted odour management plan in the interests of making sure the document is as robust as possible.

The latest version is much clearer in terms of how the complaint process would be navigated. Section 7 of the document explicitly outlines a community involvement procedure informing how local residents and others will be made aware of the site monitoring and complaints procedure. Following a complaint, backstop measures will be deployed if thresholds limits are found to be breached at sensitive receptors. Importantly, the latest odour management plan is clear that backstop measures will in any case be deployed in response to any accounts of validated complaint odours witnessed and reported by an Officer or Officers of the Council.

“The backstops in order of increasing mitigation will be assessed through further sniff testing and odour modelling as follows;

- a. Move arks to different patterns and positions in the field for future crops to provide greater separation and distance between arks, and/or larger minimum distance between the arks' closest point to receptors and/or a shorter fetch over the arks.*
- b. Reduce bird numbers to 9,000 in 6 arks with a further 25% reduction to 6,750 in the winter months December, January and February.*
- c. Reduce bird numbers to 6,750 and a further 25% reduction to 5,000F in the winter months December, January and February.”*

The odour management plan has been shared with colleagues in Environmental Health and planning enforcement colleagues with the specific intention of gaining clarity as to whether this document could form a robust basis to conditioning the development.

It is agreed that the updated plan is more robust and reflects what would be expected from an effective document of this nature. The EHO has specifically commented (on an earlier iteration of the document albeit still relevant):

Monitoring for odour and making associated observations / keeping associated records is a common approach in regulated pollution prevention and control. The OMP seems clear enough in that sense, though it will of course rely greatly on checks and records being completed accurately by appropriately trained individuals, and effective monitoring and supervision of those tasks. Enforcement therefore relies mainly on auditing of documentation to verify the OMP has been / is being implemented effectively when an issue / alleged issue has been identified.

Operating the site in accordance with a suitable and sufficient OMP will not of course guarantee the site will never generate any odours or complaints about odours - it will not be possible to prevent odours at all times. Therefore, occasional and localised odour events from the site might still reach existing residential property. That might result in complaints to the Local Authority, and that may or may not prompt detailed investigation under statutory nuisance. However, no action will be available under statutory nuisance where odour events are not considered to be of sufficient frequency, intensity, duration and offensiveness to constitute statutory nuisance.

There becomes a point where the enforcement of the odour management plan would go beyond the scope of planning legislation and fall to the environmental health regime as a potential statutory nuisance issue. However, as is agreed by the comments of the LPAs independent consultant, the latest submitted odour management plan is a robust document on which Officers can form a decision. Whilst it has been a slow process (and no doubt frustrating for the local residents), Officers are now content that the applicant has submitted appropriate supporting documentation to allow the application to be supported. The content of the document is proportionate to the scale of the development and in line with the robust measures outlined, will allow the Council to act if odour complaints from the development persist (albeit it is strongly hoped that once the measures within the odour management plan are employed in full, the odour emissions will in any case reduce to an acceptable level).

The latest supporting documents received also include a brief Nitrate Vulnerable Zone (NVZ) Statement (dated 5th November 2020) which has been requested through discussions with the LPA's appointed consultant. According to the document, under the regulations, farmers in a NVZ must produce and keep an up to date farm waste management plan. The statement includes calculations for nitrogen deposits concluding that the level would be below the thresholds permitted under the regulations. This document has been accepted as appropriate by the LPA's consultant.

Impact on Neighbouring Amenity

Notwithstanding the above assessment relating to the emission of odour, the development also poses other potential harmful amenity impacts such as an increase in noise and overall disturbance. Policy DM5 requires development to consider appropriate mitigation for any detrimental amenity impacts.

The application submission has not been accompanied by a specific noise survey and it has been carefully considered whether or not this should be insisted upon to assess the application. In reaching the judgement not to request one it is acknowledged that the operations of the use have

been well described such that the potential for noise disturbance can be anticipated (and indeed the application is retrospective so any noise impacts would already be being experienced).

The LPA have assessed many applications for large scale broiler units in the past. Ordinarily the developments include cooling and ventilation on the units and therefore fans which may lead to increased noise. It has been clarified with the agent during the life of the application that the modular ark buildings to which this application relate do not house such ventilation and therefore the most likely noise impacts would be from the chickens roaming outside the buildings.

Noting that the land is in agricultural use in the open countryside I do not consider that the outdoor rearing of the birds would be particularly discernible. It is understood that the birds are allowed to roam freely in and out of the buildings during the day and therefore it is unlikely that they will all be outside at the same time. Noting the distances between the buildings and the nearest residential receptors it is not considered that the noise of the use would amount to a detrimental impact on neighbouring amenity.

Vehicular movements are anticipated to be approximately 12 movements during the 6 week crop plus an additional 6 tractor and trailer movements in the three day period at the end of the crop. There would also be tractors required to move the arcs. Nevertheless, these levels of transport movements are not considered to lead to disturbance above what would be accepted through the established agricultural use. The buildings associated with the use are low level in height and therefore would not introduce overbearing impacts.

Impact on Highways Network

The original application submission was unclear in that it refers to the use of an existing gated access but also includes the access drive in the description of development. It has been confirmed that the works to the access include the hard surfacing of the access. The use of this access has been accepted by the previous planning application for the stables detailed above which remains extant (albeit the track has been extended beyond that 'conditioned' by NCC Highways on the previous application).

NCC Highways have assessed the application both in respect to the proposed access but also the associated vehicular movements (referenced in the above section) with the end use. These comments acknowledge that so long as the number of units is capped at 9, the associated vehicular movements would be low. They do however require improvements to the access which could be secured by suitably worded conditions.

Impact on Ecology

Core Policy 12 of the Core Strategy seeks to secure development that maximises the opportunities to conserve, enhance and restore biodiversity. Policy DM5 of the DPD states that natural features of importance within or adjacent to development sites should, wherever possible, be protected and enhanced.

The site is within the 'risk zone' for the Doddington Clay Woods SSSI (3km to the east). This is an ancient semi-natural woodlands which have developed on heavy clay soils. Natural England have commented on the proposal originally concluding that without appropriate mitigation the development would damage or destroy the interest features for which the SSSI has been notified.

Whilst the comments agree with the applicant that it would not be necessary to undertake a cumulative assessment, they do go on to identify that the SSSI is over its critical loads for ammonia, nitrogen and acid and the development will compound the existing stress that the site is under. The crux of the comments are that the application does not set out how waste generated by the houses will be dealt with. The comments set out a number of potential mitigation strategies which have been passed to the agent for review. The email response confirms that the farm is naturally ventilated and free-range so direct ammonia capture is not an option. It does however confirm that the applicant would be willing to undertake some tree planting which he would be amenable to agreeing through condition. The response has been passed to Natural England for review and the latest comments are agreeable to mitigation being secured through a suitably worded landscaping condition. Some indicative planting has been shown within the submitted odour management plan but these details would be insufficient to secure delivery and therefore a condition for further details would be reasonable and necessary.

Notwithstanding that the site is within the risk zone for the SSSI, the site itself is not subject to any national or local ecological designations. There is however, approximately 30m to the south of the site, a long length of dismantled railway line which is recognized as a site of local importance in nature conservation for its rich diversity of characteristic and notable herbs. Moreover, the site contains potential ecological habitats notably a pond in the south east corner of the site.

The application has been accompanied by a Preliminary Ecological Appraisal based on a habitat survey taken in January 2020. Whilst the survey confirms that no habitats of conservation are likely to be affected by the rearing of poultry, it does identify that the pond is suitable for use by great crested newts. On this basis it is recommended that an e-DNA sample is taken from the pond between 15th April and 30th June.

The results of the pond sample were received by an additional letter dated 29th April 2020. The letter (and associated report) confirms that the pond sample was negative for great crested newt DNA and therefore there is no evidence that they are present. No further mitigation is therefore required. The letter does make reference to the presence of pigmyweed (an invasive species) within the pond and suggests that it would be beneficial to eradicate this plant. However, given the pond is some distance from the proposed positioning of the arks it is considered reasonable to attach this advice as an information rather than impose it as a condition.

Other Matters

The comments of the EHO request a condition for the hours of delivery to the site. Given the largely sedentary nature of the site (i.e. minimal anticipated vehicular trips) I consider that this would be more reasonably attached as an informative if permission were to be otherwise forthcoming.

Neighbouring comments have made reference for the potential cumulative impact of the development noting that there are already a number of similar forms of development in the area. Reference has also been made to DEFRA guidance which refers to a 3km distance between new sites in relation to improving biosecurity and in any case would not prevent each planning application being considered on its own merits.

As is detailed by the relevant planning history section above, the application has been subject to screening to determine whether an environmental impact assessment (EIA) would be required. In undertaking the screening exercise, cumulative impacts were considered. It was concluded that

there would be a sufficient distance between this site and other poultry farms such that cumulative impacts would not occur. Officers are satisfied that this application can be considered on its own merits and that the presence of other poultry farms in the area (the nearest being approximately 1km away to the NE and intervened by dense areas of woodland) would not affect the judgement taken.

Overall Balance and Conclusion

The proposal relates to a retrospective poultry farm in the open countryside. Whilst the principal of development is not disputed, there are material considerations which must be considered in an application of this nature.

It is fully appreciated that the retrospective nature of the proposal has warranted concerns from some neighbouring residents in respect to the impacts of the proposal including in terms of unpleasant odours.

Owing to the level of concern received, but also the technical nature of the issues, the LPA has instructed an independent review of the application by a Principal Air Quality Consultant. This has led to numerous iterations to supporting documentation including the Odour Management Plan which has been submitted to accompany the application. The latest Plan, dated 18th November 2020 is now considered to represent a robust document that, in the event of continued neighbouring concerns, allows for the Council to take the necessary measures to ensure that the impacts of the development are appropriately mitigated.

The applicant has worked with Officers during the life of the application to also overcome other concerns, namely in respect to flooding and ecology.

On the basis of the evidence and supporting documents now submitted on which to assess the application, Officers have not identified any demonstrable harm which would prevent the grant of planning permission.

RECOMMENDATION

That full planning permission is approved subject to the conditions and reasons shown below.

Conditions

01

The development hereby permitted relates solely to the arks shown on the following details:

- Mobile Ark Photographs dated 10/01/2020;
- Mobile Ark Eaves and Ridge Heights.

Any alternative ark structures are not approved by this permission and must be considered through a separate planning application.

Reason: So as to define the permission.

02

The development hereby permitted shall be restricted to a maximum of 9 ark structures on site at any one time.

Reason: In the interests of neighbouring amenity and to ensure the development is carried out in accordance with the submitted details and accompanying reports.

03

No ark hereby approved shall be positioned within 60m of the northern boundary of the site or within 40m of the western boundary of the site at any time.

Reason: In the interests of neighbouring amenity and to ensure the development is carried out in accordance with the submitted details and accompanying reports.

04

Between the months of December to February inclusive, the maximum number of arks in use shall be no more than six and no ark within 110m of the northern boundary shall be in use.

Reason: In the interests of neighbouring amenity and to ensure the development is carried out in accordance with the submitted details and accompanying reports.

05

The development hereby approved shall be carried out in full accordance with the Odour Management Plan (OMP) dated 18th November 2020 (or any subsequent revision agreed in writing by the Local Planning Authority). This includes (but is not limited to) the following mitigation measures:

- The installation and operation of a weather station towards the centre of the site;
- Maintaining a 60m distance from the northern boundary and 40m from the western boundary for the positioning of the arks;
- Reducing bird stock in winter months;
- Documentation of feed samples;
- Manual operation of sheet vents for ventilation;
- Ark / weather inspections two or three times a day as part of routine husbandry management;
- Daily collection of carcuses and removal off site;
- Daily check of water consumption;
- Rapid clean out and coverage of manure to minimize odour escape from the haulage process;
- Daily logging of bird numbers, age and position of arks.

Where the OMP refers to measures not already present on site (e.g. the weather station and the display of contact details discussed within Section 7), then these shall be installed within one month of the date of the development hereby approved.

Where the OMP refers to specific parties / consultants, then the requirements of such parties can be carried out by any equivalent professional in the event that the specific party / consultant ceases to trade.

The OMP shall be updated annually and shall be provided to the Local Planning Authority/Council within one month of any request submitted in writing by the Local Planning Authority.

Reason: In the interests of neighbouring amenity and to ensure the development is carried out in accordance with the submitted details and accompanying reports.

06

In the event that the Operator, or any member of operational staff receives an odour complaint, or is notified by an Officer of the Council or the Independent Observer of receipt of an odour complaint in relation to with the development hereby approved, then the procedures outlined at 4.2 (Monitoring in Response to Complaints); 4.3 (Modelling in Response to Complaints) and 5 (Odour Complaints Procedure) of the Odour Management Plan dated 18th November 2020 shall be followed in full.

If following an investigation, thresholds limits are found to be breached at sensitive receptors, then the backstop measures at Section 6 of the document shall be implemented until the levels fall below the relevant thresholds (a maximum annual 98th percentile hourly mean concentration of 3.0 ouE/m³).

Reason: In the interests of neighbouring amenity and to ensure the development is carried out in accordance with the submitted details and accompanying reports.

07

Within three months of the date of the decision hereby approved, a flood warning and action plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall follow the principles of the submitted flood risk assessment (ref; Flood Risk Assessment, Agricultural Development, Bridgefield Farm, Wigsley Road, Thorney, April 2020, Roy Lobley Consulting, RLC/0561/FRA01, 0.1) including following mitigation measures it details at paragraph 5.9:

- The owner shall sign up to the Environment Agency's Flood Warning Service for early warning of potential flood events;
- The "Arks" are securely fixed to the ground using "ground anchors" during a flood event;
- The birds shall be removed from the site to other safe areas;
- Emergency contact information shall be provided.

The development shall thereafter be carried out in accordance with the approved plan with any permanent measures being retained for the lifetime of the development.

Reasons: Due to the mobility of the proposed development and being within the 1% Annual Exceedance Probability (AEP) River Trent Breach Flood Event plus 30% Climate Change, the "Arks" will need to be securely fixed to the ground. This will reduce the hazard of the "Arks" being dislodged which would increase the risk of damaging structures, blockages within watercourses and increasing the amount of debris within the flood water (Increasing the risk to life to any

member of the public who may be within the floodwater).

08

Within three months of the date of the development hereby approved, full details of soft landscape works shall be submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include:

- full details of every tree, shrub, hedge to be planted (including its proposed location, species, size and approximate date of planting) and details of tree planting pits including associated irrigation measures, tree staking and guards, and structural cells. The scheme shall be designed so as to enhance the nature conservation value of the site, including the use of locally native plant species;
- proposed finished ground levels or contours.

Reason: In the interests of visual amenity and biodiversity.

09

The approved soft landscaping shall be completed during the first planting season following the agreement of the approved landscaping details, or such longer period as may be agreed in writing by the Local Planning Authority. Any trees/shrubs which, within a period of five years of being planted die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless otherwise agreed in writing by the Local Planning Authority. All tree, shrub and hedge planting shall be carried out in accordance with BS 3936 -1992 Part 1-Nursery Stock-Specifications for Trees and Shrubs and Part 4 1984-Specifications for Forestry Trees ; BS4043-1989 Transplanting Root-balled Trees; BS4428-1989 Code of Practice for General Landscape Operations.

Reason: To ensure the work is carried out within a reasonable period and thereafter properly maintained, in the interests of visual amenity and biodiversity.

10

Within three months of the date of the development hereby approved, the access shall be surfaced in a bound material for a minimum distance of at least 5m from the highway boundary in accordance with details to be first submitted to and approved in writing by the Local Planning Authority.

Reason: - To reduce the possibility of deleterious material being deposited on the public highway (loose stones etc.).

11

Within three months of the date of the development hereby approved, a dropped vehicular crossing shall be made available for use and constructed in accordance with the Highway Authority specification to the satisfaction of the Local Planning Authority.

Reason: To protect the structural integrity of the highway and to allow for future maintenance.

12

Within three months of the date of the development hereby approved, the access driveway shall be constructed with provision to prevent the unregulated discharge of surface water from the driveway to the public highway in accordance with details first submitted to and approved in writing by the local planning authority. The provision to prevent the unregulated discharge of surface water to the public highway shall then be retained for the life of the development. The scheme shall be implemented in accordance with the approved details within 2 months of the date of its written approval.

Reason: - To ensure surface water from the site is not deposited on the public highway causing dangers to road users.

13

The gates at the access point shall open inwards only.

Reason: - To enable a vehicle to stand clear of the highway whilst the gates are opened/closed and to protect the free and safe passage of traffic, including pedestrians, in the public highway.

Notes to Applicant

01

The applicant is advised that all planning permissions granted on or after the 1st December 2011 may be subject to the Community Infrastructure Levy (CIL). Full details of CIL are available on the Council's website at www.newark-sherwooddc.gov.uk/cil/

The proposed development has been assessed and it is the Council's view that CIL is not payable on the development hereby approved as the development type proposed is zero rated in this location.

02

This application has been the subject of discussions during the application process to ensure that the proposal is acceptable. The District Planning Authority has accordingly worked positively and pro-actively, seeking solutions to problems arising in coming to its decision. This is fully in accordance with Town and Country Planning (Development Management Procedure) Order 2010 (as amended).

03

The Board maintained Carr Wood Drain, an open watercourse, exists in close proximity of the site and to which BYELAWS and the LAND DRAINAGE ACT 1991 applies.

The erection or alteration of any mill dam, weir or other like obstruction to the flow, or erection or alteration of any culvert, whether temporary or permanent, within the channel of a riparian watercourse will require the Board's prior written consent. The Board's Planning and Byelaw Policy, Advice Notes and Application form is available on the website – www.wmc-idbs.org.uk/TVIDB

The Board's consent is required for any works that increase the flow or volume of water to any watercourse or culvert within the Board's district (other than directly to a main river for which the consent of the Environment Agency will be required).

Surface water run-off rates to receiving watercourses must not be increased as a result of the development.

The design, operation and future maintenance of site drainage systems must be agreed with the Lead Local Flood Authority and Local Planning Authority.

- The development makes it necessary to /improve a vehicular crossing over a verge of the public highway. These works shall be constructed to the satisfaction of the Highway Authority. Works will be subject to a design check and site inspection for which a fee will apply. The application process can be found at [:http://www.nottinghamshire.gov.uk/transport/licences-permits/temporary-activities](http://www.nottinghamshire.gov.uk/transport/licences-permits/temporary-activities)
Email: licences@viaem.co.uk Tel. 0300 500 8080

04

Manure storage and spreading

Given that the site and surrounding area are located within a Nitrate Vulnerable Zone, the storage and spreading of litter/manure and wash water at the site or at a nearby farm, if exported, would need to be undertaken in accordance with the Nitrate Pollution Prevention Regulations 2008 (as amended) and appropriate records kept. It is recommended that the applicant has a contingency plan for alternative storage of manure/litter in case the third party is unable to import it for any reason.

05

No deliveries shall be received or dispatched from the site outside the hours of Monday to Friday 07:30 – 18:00, Saturday 08:00 – 13:00 nor at any time on Sundays, bank or public holidays.

06

The submitted ecological report identifies the presence of pigmyweed (an invasive species) within the pond and suggests that it would be beneficial to eradicate this plant.

07

The approval of the development does not prevent the Council from enforcing the Statutory Nuisance legislation in the event of nuisance odours being witnessed. Furthermore, failure to comply with the approved odour management plan could be seen as evidence the best practicable means were not being adopted to control off-site odours.

BACKGROUND PAPERS

Application case file.

For further information, please contact Laura Gardner on extension 5907.

All submission documents relating to this planning application can be found on the following website www.newark-sherwooddc.gov.uk.

Lisa Hughes
Business Manager – Planning Development

Committee Plan - 20/00054/FULM

