

Appeal for the non-determination by Ribble Valley Borough Council for a proposed poultry unit at Oakfield, Longsight Road, Clayton le Dale, Lancs, BB1 9EX.

Grid ref 366209,432928

LPA ref No 3/2013/0448

Appeal Statement

Introduction

Planning application no 13/00456/FUL was submitted to Ribble Valley Borough council on the 19 April, 2013. The application is for a proposed poultry unit for the production of eggs.

There then followed some changes to the plans before the LPA validated the application in its letter of the 23 May, 2013. Further amendments to plans took place after this date and the final versions are included with the appeal papers. The planning fee, accepted by the LPA, accords with the final plans

On the 6 June, 2013 the LPA sought further information and in view of this wrote to say that the application was being treated as invalid until such time as it was provided.

The list of extra information requested, leading to the invalidation of the application at that point in time was as follows:-

- Site specific Noise Impact Assessment
- Phase 1 Habitat Survey
- Arboricultural Survey
- Existing and Proposed Site Plans at a scale of 1:200
- Cross Sections through the site
- Visibility splays and the manoeuvring areas within the site

- Amended application form
- Amended elevations showing the ventilation fans
- Explanation of colour chart
- Planning Statement
- Plans annotated with drawing numbers

In response to this the extra information was obtained, collated and forwarded to the LPA on the 19 August, 2013 (Ecology report), and the 29 August, 2013 (odour and noise reports). The other requested amendments were also made and submitted.

On the 9 September, 2013, I wrote to the LPA seeking an update as follows:-

Further to my email and attachments of the 29 august I wonder if you have now all the information you require.

I have tried to phone you today but no luck

It is now some considerable time since the application was first submitted and I have not yet received notification that the application has been registered.

I'd appreciate an update

If it would be helpful I am sure that I can arrange for council officers to visit a similar business which is already in operation

On the 19 September the LPA responded by email as follows:-

The Head of Environmental Health, Mr James Russell, has now had the opportunity to look at the latest additions to the noise and odour reports submitted by yourself, and has confirmed that they do not meet the validation requirements of the Council as the reports do not provide site specific information which is necessary in assessing the impact of development on amenity. On this basis, and due to the other information outstanding, the LPA is still unable to treat this as valid application. I have attached the formal response from Mr Russell for your information.

Notwithstanding the above, given the Environmental Health department raise strong objections to the erection of a poultry unit in such close proximity to a large number of residential properties and considers the site to be "fundamentally inappropriate", the proposal would be refused by the LPA on this basis. Combined with this, I also

have concerns over the visual impact of the proposals, particularly the height of the proposed silos which would appear prominent within the landscape when viewed from the surrounding road network.

Due to the site being considered completely unsuitable due to the adverse effect the proposal would have on public health and the amenity of the local residents, I ask you to consider, on behalf of your client, whether this scheme is worth pursuing any further. As further surveys are required, I trust you will discuss this with your client before deciding whether to proceed or whether to withdraw the application.

We consider that sufficient information has been submitted as part of the application in order for the LPA to validate and determine the application. There seems to be no point in trying to resolve the matter with the LPA via article 10 of the Town and Country Planning (Development Management Procedure) (England) (Amendment) Order 2013. But in any case the period for the determination of the application by the LPA has now passed .

The appeal is therefore made for the non- validation and non-determination of the application.

The proposed development

The application is for a poultry unit for the production of eggs and to accommodate 10,000 birds in a production system known as an “enriched cage “process. The system has been introduced within the last few months consequent to the introduction of new European legislation; birds are kept in larger cages than was previously permitted.

The size of the proposed poultry unit is shown on the submitted plans and measures 76.3m by 8.2m plus an additional area for egg packing measuring 6m by 12m. the height to the eaves is 4.3m and to the ridge is 5.52m. The proposal also includes hard standing for servicing and 2 feed silos

The area is not in Green Belt

The applicant owns some 4 acres adjoining his dwelling at Oakfield.

Pre application advice

On the 25 September, 2012 a pre application submission was made to the LPA seeking its opinion with regard to a poultry unit for 19,000 birds on the same site and accessed from the same road. He proposed poultry unit on which advice was sought was 44m by 17m plus an egg packing room of 5m by 5m. the total area was thus 773m²

The above compares with the actual planning application for a building 76.3m by 8.2m plus an egg packing unit of 6m by 16m, giving a total area of 722m²)

The response from the LPA in it's letter of the 29 October, 2012 was as follows:-

I am writing in relation to your request for pre-application advice in relation to the above named proposal. From the information submitted with your enquiry, I see that you are seeking advice on the construction of poultry unit from which an egg production unit will operate. The single storey unit proposed would accommodate 19,000 hens with access via Showley Lane.

In considering your proposals. I am mindful of policies in the current adopted Districtwide Local Plan (DWLP). This plan sets out the planning policies for the Ribble Valley. Although the policies in this plan are soon to be superseded by policies in the Core Strategy (the emerging Development Plan for the Borough) at present, the DWLP remains the primary tool used in determining planning applications. . .

Under the DWLP your site is designated as Open Countryside (policy ENV3 and G5). This open countryside status of the site means that opportunities for development are somewhat restrictive. Development schemes in the open countryside will be required to be in keeping with the character of the landscape area and should reflect local vernacular style features and building materials. Proposals to conserve, renew and enhance landscape features will be permitted, providing regard has been given for the characteristic landscape features of the area. Policy ENV3 states that only development which has benefits to the area will be allowed.

I understand from our telephone conversation that this is a new venture and does not involve any such agricultural diversification. As a result, I can confirm that you will require

planning permission for the proposals. Whilst this is not strictly agricultural diversification, Policy EMP12 of the DWLP will be considered in determining any subsequent planning application which states that proposals will be approved providing that are appropriate in both scale and character to the rural areas of Ribble Valley and do not compromise its natural beauty. It is clear from my site visit that some earth moving has already taken place on the site and I should advise that no further works should be undertaken prior to receiving a planning consent for the scheme. This aside, whilst I do not have design details of the unit at this stage, I do not consider that the proposed scale of the unit outlined With the enquiry information is excessive and would be appropriate to the Ribble Valley and this specific locality.

In considering the proposals, it is also necessary to consult national planning policy. The National Planning Policy Framework (NPPF). Paragraph 17 of the NPPF, which sets out the core planning principles states that in making decisions on planning applications, Local planning Authorities should recognise the intrinsic character and beauty of the countryside and support thriving rural communities within it While the countryside is therefore a primary consideration, supporting local communities and enterprises is also key. This is further stated in paragraph 28 of NPPF, which states that the sustainable growth and expansion of business and enterprise in rural areas should be supported, and the development and diversification of agricultural and other land-based rural businesses promoted. It can therefore be argued that the principle of the business use in this location is acceptable, in terms of national policy.

You anticipate that egg collection will take place twice a week using two 7.5 tonne lorries and that feed will be delivered once every 8 weeks using one 8 wheeled lorry. Bird delivery and collection is only likely to take place every 14 months using 2 x8 wheeled lorries every 14 months.

In assessing the impact on this, I have consulted the Highways Engineers at Lancashire County Council who has stated that the existing access off Showley Road is a very basic muddy track and would need to be improved in terms of width, sight lines and surfacing. Also a hard surfaced parking and turning area for delivery lorries would need to be created within the field. That said, it is perfectly possible to provide satisfactory highway arrangements at the site so I would not object in principle at this stage.

In assessing your proposals I have also consulted the Council's Environmental Health

department as issues such as noise and smell will form part of any final consideration. I am still awaiting these comments and I will therefore forward these to you as soon as I receive them.

In relation to the design of the building it may be that at a formal application stage, the Council will seek the advice of Rural Estates to assess its need.

I would also be interested to learn more about the plans for the future management of the unit to ensure that the venture can be adequately operated and managed without a requirement for an on site residential unit

I therefore consider that your proposals, in principle, would be acceptable, based upon the level of detail provided at this stage. Please be mindful of the fact that the above advice has been given on the basis of the level of information submitted as part of the pre-planning enquiry, which provides guidance on the general principle of development on the site.

I trust that you find the above observations of use and stress that they represent officer opinions only, at the time of writing, given without prejudice to the final determination of any application submitted.

Appellant comments on pre application advice

The advice is positive and was sufficiently so as to encourage the appellant to proceed with a formal application – particularly as the actual proposal is for a lesser unit by floor area.

It is accepted that the advice represents officer opinion only and that it cannot be relied on completely; it must have some weight though otherwise the process would have no value.

The advice is completely at odds with the case officer's written opinion of the 19th September stating that the site is considered to be "*completely unsuitable due to the adverse effect the proposal would have on public health and the amenity of the local residents*" and asking if the (invalidated) application is to be withdrawn.

The principle of the development

The case officer for the pre application submission concluded that *“I therefore consider that your proposals, in principle, would be acceptable”* whereas the case officer in the same office when dealing with the subsequent application concludes that the site is considered to be *“completely unsuitable due to the adverse effect the proposal would have on public health and the amenity of the local residents”*

It is comparable to the saying that beauty is in the eye of the beholder.

This 4 acre site is in an area shown on the Local plan as countryside.

The relevant policies – both local and national – are included in the Design and access statement and are repeated here again for completeness. They are supportive of agricultural activities in the countryside. Moreover, the proposed poultry unit is to be located to the rear of the site ownership and away from the A59 along which there are dwellings. In fact the building will be set back from the main road by some 70m and with open land to the North, East and South.

Local plan policies	Applicant comments
POLICY ENV3 In the open countryside outside the AONB and areas immediately adjacent to it, development will be required to be in keeping with the character of the landscape area and should reflect local vernacular, scale, style, features and building materials. Proposals to conserve, renew and enhance landscape features, will be permitted, providing regard has been given for the characteristic landscape features of the area.	The LPA in its pre application advice considered that the <i>“proposals, in principle, would be acceptable, based upon the level of detail provided at this stage”</i> . The cladding materials, including the use of wooden boarding, are in keeping with the rural landscape and the style, with its pitched roof, is in keeping with the area. The LPA in its pre application advice considered that <i>“whilst I do not have design details of the unit at this stage, I do not consider that the proposed scale of the unit outlined with the enquiry information is excessive and would be appropriate to the Ribble Valley and this specific locality”</i> .
POLICY G5 Outside the main settlement boundaries and the village boundaries planning consent will only be granted for small-scale developments which are: i) essential to the local economy or the social well being of the area; or	

ii) needed for the purposes of agriculture or forestry; or iii) sites developed for local needs housing (subject to Policy H20 of this plan); or iv) small scale tourism developments and small scale recreational developments appropriate to a rural area subject to Policy RTI; or v) other small-scale uses appropriate to a rural area which conform to the policies of this plan.	The building is for agricultural purposes
POLICY EMP12 Proposals for agricultural diversifications will be approved, subject to other policies within the Local Plan and provided they are appropriate in both scale and character to the rural areas of Ribble Valley and do not compromise its natural beauty.	While this is a new venture and not an agricultural diversification the LPA, in its pre application advice, noted that <i>“Whilst this is not strictly agricultural diversification,</i> <i>Policy EMP12 of the DWLP will be considered in determining any subsequent planning application which states that proposals will be approved providing that are appropriate in both scale and character to the ‘rural areas of Ribble Valley and do not compromise its natural beauty’.</i> Please see comments above with regard to scale and character

National policy

NPPF	Applicant comments
Supporting a prosperous rural economy. Planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy, local and neighbourhood plans should: ●●support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings; ●●promote the development and diversification of agricultural and other land-based rural businesses; ●●support sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the	The proposed development will be a rural enterprise and it will help to diversify the local economy generally

character of the countryside. This should include supporting the provision and expansion of tourist and visitor facilities in appropriate locations where identified needs are not met by existing facilities in rural service centres; and ••promote the retention and development of local services and community facilities in villages, such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship.	
---	--

Visual amenities

1. The proposed building is set back from the main road along which some housing is located. The houses opposite are some 90m away from the building
2. So far as the silos are concerned these are to be located these are to be located at the SE end of the building, some 170m away from the houses on Longsight road. In any case the silos are a common feature in a rural environment and have a height of only 7.1m.
3. The proposed building is single storey only with a proposed ridge height of 5.52m. Its walls are to be clad in timber weather boarding which is typical for agricultural buildings in the countryside.
4. If necessary the appellant will accept a condition to intensify the height and width of the existing hedging to the main road or provide landscaping more closely sited around the building itself

Odour

The application is accompanied by a separate report dealing with potential odour which states as follows:-

The birds are contained at all times within the building and the manure is dry. There are no significant apertures in the building other than the entrance for staff and the extractor fans located only in the gable end facing Shorley Road (None in the gable facing the A59 and residences)

The extractor fans are temperature controlled and it is extremely rare for these to be operation in the winter.(See noise report). Even when the external temperature is 20

degrees it is likely that only one extractor fan will operate and then for only a short period. It is important that the birds are warm, though not overly hot. The extractor fans are really only there for the rare occasions of a heat-wave

The building will include an automated system for the removal of manure, twice weekly during the summer and once per week in the other months and thus there will be no build-up of manure which might otherwise give rise to odour problems. The manure will be disposed of in accordance with Environment agency requirements. The operation of the building will confirm to “The Code of Good Practice for the Protection of Air” 1998 as amended.

Manure will be stored directly on an enclosed trailer prior to its use on the adjoining land or sold to other farmers or disposed of in accordance with the above EA requirements.

Poultry units such as is proposed are quite common and provide opportunities to verify that they produce no odour problems even when located much nearer to residences than is the case in this instance

The following further information was provided to the council on the 29 august, 2013;-

This is in a countryside location where agricultural activities are to be expected.

The proposed poultry unit is in an enclosed building and the birds are not allowed out of it. As such and odours are likely to be from the removal of manure from the unit.

The building will include an automated system for the removal of manure, twice weekly during the summer and once per week in the other months and thus there will be no build-up of manure which might otherwise give rise to odour problems. The manure will be disposed of in accordance with Environment agency requirements. The operation of the building will confirm to “The Code of Good Practice for the Protection of Air” 1998 as amended.

Manure will be stored directly on an enclosed trailer prior to its use on the adjoining land or sold to other farmers or disposed of in accordance with the above EA requirements.

Poultry units such as is proposed are quite common and provide opportunities to verify that they produce no odour problems even when located much nearer to residences than is the case in this instance the LPA has approved several such units where it will be possible to test for odours. Similarly, other such units have been approved in surrounding LPAs.

It is suggested that the LPA might wish to compare the proposal with the unit currently in operation at Haggs Hall farm, Ramsgreave (approval No 3/2010/0660/P)

In September 2010 an outline application (with only landscaping reserved for subsequent approval) was submitted to Wigan MBC for a free range egg unit in Abram. The approved application was for a building larger than the application the subject of the appeal, measuring 85.47m by 15.544m for some 16,000 birds. That building was opposite a private dwelling unconnected to it (Cheetham House). Wigan MBC imposed the following conditions on the outline approval and the appellant in this case would be content with the same:-

5. Before the development hereby approved is commenced, a scheme for the extraction of fumes and odours shall be submitted to and approved in writing by the Local Planning Authority and all works which form part of the approved scheme shall be carried out and completed before the development is brought into use.

6. Prior to the commencement of the development hereby approved arrangements for the disposal of manure and details of washing down facilities shall be submitted to and approved in writing by the Local Planning Authority and shall be implemented in accordance with the approved scheme at all times from the commencement of use of the development.

Application was made subsequently for the discharge of the conditions in the following terms:-

The building will include an automated system for the removal of manure – twice weekly in summer and once in winter - and thus there will be no build up of manure which might otherwise give rise to odour problems. The manure will be disposed of using a tractor and trailer in accordance with Environment agency requirements. The

operation of the building will confirm to “The Code of Good Practice for the Protection of Air” 1998 as amended.

Wigan MBC discharged the conditions as follows:-

Condition 5 requests a scheme demonstrating the extraction of fumes and odours from the development. The Council are satisfied with the information submitted to the LPA which details the operation use of the fans, in order to discharge the scheme.

Condition 6 requests additional details for the disposal of manure and washing down facilities. The Council are satisfied with the information submitted and can discharge the condition. The scheme for the disposal shall be carried out in full accordance with the approved scheme.

The application for the poultry unit in Wigan was for a much larger unit than is proposed at the appeal site and is located much closer to residential property. Yet the MBC felt content to deal with the matter by way of conditions and to then discharge such conditions on the basis of the same operations as are proposed at the appeal site

Noise

The LPA has raised concerns concerning noise

Any such noise is likely to be associated with the fans (Not on the roof but sited on the SE elevation facing away from housing on the main road

It should be noted that the A59, Longsight Road, is a major distributor road, very busy and therefore noisy. Any noise from the fans on the building – which face away from dwellings – will be inconsequential and will not be heard above the traffic noise. A report detailing noise from fans and other associated machinery has been submitted with the application. The details are applicable to any building – such as the appeal building – where the fans and other machinery is used. It concludes that there will be no noise nuisance

The application is accompanied by a noise impact report which states as follows:-

The LPA has requested information with regard to potential noise from the proposed poultry unit so that any effects on residential amenities can be assessed.

The LPA is advised by the Land agents at the county council “who say that poultry houses of this size have ventilation fans which need to be on almost constantly when, in cases like this, the applicant has a limited acreage”

This is not the case and as the proposal is for an “enriched cage” unit where the birds are always kept inside the building the acreage in the ownership of the applicant has no bearing on ventilation requirements.

The means of ventilation is via 16 apertures per side each measuring 800mm by 500mm and all controlled by just one 1.75kw motor. The inlets will open to let fresh air into the building as required. As these are controlled by just one small motor the noise from it will be imperceptible

Extraction fans will be placed on the gable end of the building facing Showley Road (None in the gable facing the A59 and residences) They will include 4 no grills each with a diameter of 12.7cm (50”) plus 4 no with a diameter of 9.14cm(36”). The smaller fans are operated with a 1kw motor and the larger with a 1.1kw motor The extractor fans are temperature controlled and it is extremely rare for these to be operation

The 4 no 9.14 diameter fans will switch on when the internal temperature reaches set levels We would expect that at 21degrees on fan would become activated. At 23 degrees two would switch on, at 25 degrees 3 would operate and at 27 degrees all 4 would switch on.

Only in extreme temperatures would the larger 12.7 diameter fans switch on and only for a few minutes (15 minutes) They are there in case of extreme temperatures. In all of this the aim is to use fresh air via the inlets to keep temperatures comfortable and not to use the extractor fans at all.

It is important that the birds are warm, though not overly hot

The same request for noise information was recently made by Wigan MBC who were also advised by Lancashire CC in this matter. The information supplied to Wigan MBC satisfied both the LPA and the County council with regard to noise levels (Details of the Wigan application are included). In that particular case it was conceded that fans would not be left on for most of the time.

The Wigan approval relates to a poultry unit measuring 85.47m by 15.54m, giving a

floor area of 1328m². There are residences in the immediate vicinity.

The application at Oakfield is for a building measuring 76.3m by 8.2m plus a small packing unit of 18m by 6m. The overall floor area is thus 734m²

In addition the Wigan approval is for a free range egg unit where the sides of the building open to allow the birds out (and where noise can escape). The unit at Oakfield is for an “enriched cage” unit where the birds remain inside the building which is thus self - contained.

Noise report

Please find attached a report regarding noise levels relating to fans, the feeding hoppers and other matters. The report is based on data collected at the offices of the provider of the equipment (New Quip) in Northallerton and which has then been verified at 2 sites – one at Leens in the Lake District and one at Grange Farm in Northallerton

The building surveyed in the Lake District is somewhat larger than that at Oakfield being 94.5m by 18m with a ridge height of 6.7m. The attached report measured very low level background noise at Higher Sampool in the Lake District. The highest recorded night time noise level was 30dBA and the highest daytime recording was 42.8dBA. It is unlikely that the background noise levels at the Oakfield site will be any lower because of the presence of the A59.

In particular the following were recorded:-

- 1. Noise from 9 no fans at a 50m distance*
- 2. Noise from 1 fan at a 20m distance*
- 3. Noise from the feed auger (Operated for 5 mins, 4 times per day)*

The report concludes that at night only 1 fan will need to be operated and the noise level, at 20m, will be less than the background noise level

Feed blowers may exceed the background noise level but they will operate for very short periods and during the day

In the case of the Oakfield application vents are only proposed in the gable end of the building facing Shorley Road (None facing the A59 and residences) .

Even so, the applicant will be content with a condition that noise from the ventilation fans shall not exceed background noise levels when measured at the nearest noise sensitive property (being the nearest dwelling)

Other machinery

Plant and machinery will comprise the silos and the conveyor belt for the collection of eggs

- *The silos will be filled 2 times per month. They will be used to provide feed each day*
- *The conveyor belt is contained entirely within the building*

The feed augurs run for 5 to 10 minutes per day, 4 times per day only and when the birds are fed.

Each has a tiny 0.75kw or 1.1kw motor

The issue of noise was also raised in the case of the proposed poultry unit at Abram, Wigan (where there is no traffic noise) and where a noise condition was imposed. The same acoustic report was used in that case and was deemed to be sufficient for the LPA to be able to discharge the condition.

Ecology

An ecological report has been commissioned following the requirements of the LPA. It concludes that there will be no unacceptable harm caused by the proposal

Trees

An arboricultural report is included with the application (following which the siting of the proposed building was amended to take into account its conclusions). The report is based on a technique advised by the LPA itself when dealing with an application for a dwelling in Clayton le Dale off Longsight Road (former Women's Institute building. Planning approval 3/2012/0533 granted on the 23 August, 2012)

Access

The proposal is to use the existing gated access from Showley road.

The amount of traffic visiting the site is minimal as the following indicates:-

- Egg collection is by a 7.5 tonne lorry.

- Bird delivery and collection is by an 8 wheeled lorry
- Feed delivery is by an 8 wheeled lorry.

The resulting traffic generation is as follows

	Vehicle type	Frequency
Bird Delivery and collection	8 wheeled lorry	2 lorries every 14 months
Egg Collection	7.5 tonne lorry	2 per week
Feed Delivery	8 wheeled lorry	1 per 8 weeks
Manure removal	Tractor and trailer	Twice per week in summer and once per week in winter

The staff working in the poultry unit (which are run by 1 to 2 persons only) will be the appellant and his son living in the adjacent house at Oakfield.

Traffic volumes and speeds along Showley Road are low

Planning conditions

IN the event that the application is considered acceptable the appellants would be content with the following conditions:-

1. Condition relating to odour and fume control
2. Condition regarding noise control
3. Condition regarding sight lines
4. Condition regarding the approval of external materials
5. Condition referring to the protection of trees
6. Precautionary conditions as detailed in the conclusions to the ecology report



