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# Appeal Decision

Inquiry opened on 8 May 2013

by **C Thorby MRTPI IHBC**

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

Decision date: 16 September 2013

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**Appeal Ref: APP/L3245/A/12/2187514**  
**Flemmings Field, Acton Pigot, SY5 7HH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by J G Owen and Co against the decision of Shropshire Council.
  - The application Ref 11/03978, dated 23 June 2011, was refused by notice dated 31 May 2012.
  - The development proposed is the erection of four livestock units (poultry), ten feed bins and ancillary buildings; landscape scheme.
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## Decision

1. The appeal is dismissed.

## Application for costs

2. At the Inquiry an application for costs was made by J G Owen against Shropshire Council. This application is the subject of a separate Decision.

## Procedural Matters

3. The Inquiry sat on 8 – 10 and 14 – 16 May, and the 30 July – 1 August 2013. Accompanied visits were made on 8 and 16 May 2013. The Inquiry was closed in writing on 23 August 2013.

## Main Issues

4. The main issues in this case are:
  - i) The effect on the character and appearance of the area, having regard to the setting of listed buildings.
  - ii) The effect on highway safety.
  - iii) The effect on local residents' living conditions in terms of noise and disturbance.

## Reasons

### *Character and appearance*

5. The proposed buildings would be within a large arable field, situated around 500 metres (m) of the small hamlet of Acton Pigot, where the appellant's farmhouse and associated agricultural structures are located. The site is in a shallow valley set within farmland.

6. The small hamlet of Golding to the north west of the site contains an historic group of buildings. The principle building is Golding Hall, a Grade II\* listed house, largely unaltered and well preserved, with elements dating from the 17<sup>th</sup> and 18<sup>th</sup> Century. The historic interest of the house is increased by the presence of a number of associated, Grade II listed buildings, including a dovecote, stables, cruck barn, granary, cottage and terrace walls. The 'gentleman's garden' to the main house is of local interest. Although some of the outbuildings have been converted to residential use, their original association with the farmhouse can still be easily recognised and understood, and the historic and architectural value of both the group and the individual structures has not been diminished.
7. A feature of Golding Hall is its elevated location which is clearly designed to provide views over the valley and the wider farmland. The commanding position and prominence in the rural landscape is important as it reflects its status as a country house built for a notable 17<sup>th</sup> Century, Shropshire family. The key characteristics of the surrounding landscape (which includes Flemmings Field) are of open farmland with ordered fields and planned woodlands, interspersed with clustered settlements. The farmland has little historic value as land patterns have changed over time. However, it is the undeveloped nature of the land, the topography and primacy of Golding Hall that have a bearing on the significance of the group of listed buildings as a whole. These elements are of value as they contribute positively to an understanding of the history, including the clear intention for the notable Golding Hall to sit within a rural landscape. The combination of the highly significant farmhouse and associated listed structures, and its relationship with its farmland surroundings make the hamlet distinctive, and of great architectural and historic interest, both locally and nationally.
8. The proposed poultry farm, although designed for the production of food and generally regarded as an agricultural operation, would be industrial in scale. The four sheds would each be some 100m long and 25m wide. Although the buildings would be around 4.7m in height they would be interspersed with 10 feed bins around 7.5m high. A biomass/energy building some 22m x 12m with a ridge height of 7m would be located at the front of the site. The sheds would be relatively low; however, there is no doubt that the scale of buildings would make them significant built structures within the farmland landscape.
9. Earth works in the form of a bund (with planting) would provide some screening in views from the adjacent road and Golding hamlet. The bunds would be planted and maintained by coppicing, with the screening increasing in height and effectiveness as the years go by. However, the bunds would be up to 5 metres in height. They would be artificial landforms of a length, height and shape not expected in the countryside and not typical of the surrounding estate farmland. Even though there is an existing bund to a reservoir nearby, it is much smaller and has much less effect on the form of the land. In addition, I am not convinced that the planting, even if it appeared as planned woodland, would disguise the poultry farm as the feed bins and energy building would still be visible from parts of the Golding hamlet and, in part, from the entrance along the adjacent road, even after 10 years.
10. The appeal scheme would form an isolated development of industrial scale and appearance which, at least for the first few years, would be stark and severe. Set amongst open, farmed fields, it would have an immediate negative impact

in the landscape, which would only be partially reduced by a planted, artificial landform which itself would be uncharacteristic. Despite intervening trees, the poultry farm would detract from views from several points within Golding hamlet, including the edge of the garden and from within Golding Hall. It would also be seen through the gap for the access from where it would detract from the appearance of the area. The relationship between the undeveloped landscape and Golding would be diminished as would the attractive arrangement of the hamlet, sitting within open and attractive, rural farmland, both key elements of value to the significance of the listed buildings. For these reasons, the appeal scheme would fail to preserve the setting of the listed buildings at Golding. While, I appreciate that most of the views to and from the appeal site and Golding hamlet are private, the contribution that setting makes to the significance does not depend on there being public views or an ability for the public to experience the setting, particularly as these may change over time, and this would not reduce the harm that I have identified.

11. I have taken account of new and large scale development at Concord College where there are heritage assets of high significance. However, the new development differs from the appeal scheme as it is within a group of buildings and is not industrial in scale or appearance. The other poultry farms referred to differ in that they are either attached to a group of farm buildings, or due to differing topography and proximity, have a different relationship with heritage assets. The multi-purpose building is entirely different as it is clearly an agricultural structure sitting within a group of farm buildings. The other buildings referred to would not justify the appeal scheme.
12. Although the network of lanes in the area may be mediaeval in origin, the highway works would be relatively minor in scale. I am satisfied that the hedges could be relocated or that new planting would be successful. The highway would not appear over-engineered and the feel of a rural lane would not be lost. They would, therefore, not harm the setting of the heritage assets at Golding or elsewhere. There would be noise and traffic associated with the proposed poultry farm, but Golding would be a sufficient distance away to ensure that it would not intrude on the rural character of the hamlet and there would be no harm to the setting of Golding in this respect.
13. The setting of the heritage assets along the route, including listed buildings/structures at Acton Pigot, Acton Burnell, Pitchford and Cantlop Bridge is one of a rural landscape interspersed with roads where traffic would be expected. Although this matter is addressed separately with regard to residents' living conditions, I see no reason why use of an existing route for traffic which is its purpose, would alter this setting whether during the day or at night. Vibration causing harm to heritage assets has not been convincingly demonstrated and this would not add to my concerns about the appeal scheme. However, these matters would not outweigh my findings on the setting of Golding Hall and associated listed buildings as set out above.
14. Although I would define the harm to the setting as significant it would be less than substantial. In these circumstances, the National Planning Policy Framework (NPPF) indicates that it is appropriate to weigh the public benefit against the harm. The number of jobs created (one full time and one part time job, plus peripatetic workers to depopulate the sheds and construction jobs) would make a small contribution to rural employment opportunities. This would also be a small benefit to society as one job would be for a young

person, keeping them in an area where there is an ageing population. There would be a knock on effect on other associated business including those servicing the poultry unit, looking after the poultry, haulage and distribution. The poultry manure could be used on the farm, and the feed delivery vehicles could be used to transport crops out of the farm thereby reducing movements. Although difficult to quantify, there would be some benefit in this respect to the local and wider economy. A major gain would be in assisting in food production and security, which is important socially and economically to Shropshire and the country as a whole. There would also be some benefits to the appellant, assisting with maintaining the farm as a successful family business for the future. Although the NPPF mentions the optimum viable use, I accept the appellant's view that the site is the most appropriate location available for the poultry farm. In this instance, the benefits should not be disregarded just because they could apply if the site was located elsewhere.

15. However, one of the core planning principles in the NPPF is to conserve heritage assets in a manner appropriate to their significance so they can be enjoyed for their contribution to the quality of life. The assets in this case are of high historic and architectural interest, influencing the character and distinctiveness of the area and as such are of high national value. While the public benefit is considerable, it would not outweigh the significant harm to the setting of the heritage assets at Golding which would detract from the environment and the contribution the listed buildings make to society for this and future generations.
16. As there would be an adverse environmental impact, the appeal scheme would fail to comply with the aim of CS policy CS5 which seeks, among other things, to protect the character of the countryside. It would also fail to comply with CS policies CS6 and CS17 which seek to protect local character.

#### *Highway safety*

17. A route for vehicles has been put forward by the appellant, managed by means of a legal agreement. I am satisfied that, either with or without the disputed penalty clauses in the legal agreement, the trips to and from the appeal site would be managed and vehicles would not be likely to stray from the route.
18. There is no doubt that there is capacity on the proposed route to take the traffic generated by the proposed scheme. It is also clear that the proposed route (parts A and B) could be used by tractors and trailers, farming equipment and heavy goods vehicles (HGVs) associated with existing crop production, some of which may cause damage to the verges and block the narrow lanes. The appeal site could be farmed at any time for crops requiring numerous trips in a variety of vehicles.
19. The Council and appellant's figures put forward changed throughout the Inquiry. However, it seems to me that the number of trips, and the vehicle types and weights associated with the proposed poultry farm would not be dissimilar to the range of vehicles used historically in other farming operations or farming that could be undertaken at the site and in the surrounding fields.
20. Moreover, the use of lanes by vehicles associated with farming would be expected by drivers, walkers, cyclists and riders in the area. Highway users would proceed with caution knowing that they could meet an agricultural vehicle blocking their path and would have to find a suitable place to pass.

Notwithstanding this, the part of the route marked B is particularly narrow. To assist with road safety, the appellant's scheme includes several passing places along the route which would allow a HGV and a smaller vehicle to pass and a revised access has been submitted. I accept that the passing places could be achieved even if further minor alterations had to take place. I am satisfied that this could be dealt with by condition.

21. Part B of the route would be used by 2 HGVs per hour during depopulation and if these vehicles met on the narrow lane they would not be able to pass each other. Reversing would be extremely inconvenient for the drivers and hazardous to other users of the lanes. However, the management of the vehicles at the appeal site would ensure that during depopulation one vehicle would wait at the site until the other arrived, thereby ensuring that the risk of HGVs meeting would be highly unlikely. Other large vehicles would visit the site; however, the appellant's farming operations are very well managed, he knows when large vehicles are coming and going to his land and it is not in his interests to allow large farm vehicles or HGVs to meet on the nearby lanes.
22. I have had regard to the Shropshire Local Transport Plan which indicates that many country lanes are not well suited to heavy traffic. However, farmland generates traffic and it is a necessary prerequisite to allow farming to continue. I am satisfied that with the level of traffic associated with the proposed poultry farm there would be no increased risk to highway safety. Construction traffic is temporary in nature and the appeal would not fail on this point. I conclude that there would be no significant adverse impacts on highway safety and the scheme would comply with CS policies CS5 and CS6 in this regard.

#### *Living conditions*

23. During depopulation there would be 2 HGV movements per hour along the proposed route between the hours of 0200 and 0700. The vehicles would pass through/by Acton Pigot, Acton Burnell and Pitchford. There is no dispute that existing night time noise levels are very low, as would be expected in rural villages at night, and that HGVs travelling along the route would generate noise.
24. Figures are put forward for average noise levels; however for short noise events such as the passing of an HGV, the World Health Organisation (WHO) guidelines provide useful advice. Even using the appellant's pass-by HGV noise survey, which cannot be wholly relied upon as it is a single pass-by figure with no corroborating survey figures to confirm that is typical of HGVs, it is clear that the predicted noise level per movement would exceed 45dB(A) experienced by dwellings close to the road (such as the converted barns at Top Farmhouse, Pitchford Farmhouse and North and South Lodge in Pitchford) which the WHO guidance indicates should be avoided.
25. Moreover, according to the appellant's figures the maximum noise event would exceed 60dB LAmax externally and with an open window would exceed 45dB LAmax for any property within 20 metres of the road. As there would be 10 movements during this night time period the maximum individual noise events would be above the levels indicated for a good sleep by the WHO guidelines study (albeit at the bottom end of the scale)
26. Figures given for existing night time HGV traffic show very little to no movements between 0200 – 0400 with a small number of movements

occurring to 0700 and it seems to me that it would be reasonable to expect peace and quiet during these hours. The occupiers might close their windows which would reduce the noise and depopulation only occurs over 2 nights in a 48 day cycle. Nevertheless, the intermittent character of the passing vehicles and their regular movements throughout the period 0200-0700 would give rise to individual noise events that would be likely to cause sleep disturbance. During these periods the HGVs would detract from the living conditions of occupiers of properties along the route. As the depopulation cycle occurs at intervals, I am not convinced that residents would become accustomed to the sound which could reduce its impact on living conditions.

27. The noise emanating from the fixed plant could be controlled satisfactorily by a condition and it may be possible to ensure, by condition, that reverse sounders at the site could be disabled during the night. Nevertheless, I conclude that there would be harm to the living conditions of local residents who live along the traffic route. As this would be which would be an adverse environmental impact, it would conflict with the aims of CS policy CS5, and this adds to the harm identified earlier.

#### *Other Matters*

28. Odour, dust and contamination would be satisfactorily dealt with under other legislation. There is no evidence that flies and vermin would be a problem and the scheme would not fail on these matters. In the light of my decision, I have not considered the Section 106 agreement any further.

#### *Overall conclusion and balance*

29. The NPPF promotes economic development indicating that significant weight should be placed on the need to support economic growth through the planning system. However, it sets this within the presumption in favour of sustainable development, seeking economic, social and environmental gains, and indicating that they are mutually dependant. I have already concluded that there would be social and economic gains. However, these would be at the expense of the environment as the appeal scheme would fail to conserve heritage assets in a manner appropriate to their significance and it would lead to a deterioration of the living conditions of local residents. The appeal scheme would not, therefore, comply with the overarching aims of the NPPF and it would not constitute sustainable development. For these reasons, the appeal is dismissed.

*Christine Thorby*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT:

Ms D Sharples

She called

Mr J G Owen

Mr M Kitching

Mr J Healey

Mr A Moss

Mr S Timms

Mr G Maxfield

Appellant

SK Transport Planning

WSP

Allan Moss Ltd

Mike Griffiths and Associates

Roger Parry and Partners

### FOR THE LOCAL PLANNING AUTHORITY:

Mr A Gill

He called

Ms M King

Mr A F McDonald

Dr N Cogger

Mr P Walker

Conservation Officer

AF McDonald and Partners

Noise Consultant on behalf of the Council

Planning Officer

### INTERESTED PERSONS:

Mr C Gallaher

Mr G Pearce

Councillor C Wilde

Mr Hartley

Mr M Taylor

Dr H Hunter-Cope

Mr Townsend

Mr Trant

Shropshire Parks and Gardens Trust

Villages Action Group

Local resident

Local resident

Local resident

Local resident

Resident Great Ness

Poultry farmer in support of the appellant

## **DOCUMENTS**

### *Documents submitted by the Council*

- 1 Designated heritage asset judgement
- 2 Photographs of Golding
- 3 Comparison map
- 4 Design and Access for grain store
- 5 TA guidelines
- 6 TA46/47
- 7 Calorific values for fuels
- 8 TRICS good practice
- 9 TRICS check figures
- 10 Guidelines on Transport appendix B
- 11 Extracts from Shropshire Historic Landscape Character Assessment – location of appeal site/ woodland opportunities
- 12 Spotlight on Shropshire Economy
- 13 Addendum to noise issues
- 14 Design Manual for Roads and Bridges

15 Swept path analysis

16 List of conditions

*Documents submitted by the appellant*

17 Amendments to Mr Kitching's appendix N

18 Copy of planning obligation - Little Ness

19 Wheat prices

20 Potato crop and sugar beet harvest figures

21 Section through new building

22 Location of planned woodlands

23 Extract of comments of pollution control officer 30 April 2012

24 BS 5228 Table C.4

25 Designing for Deliveries

26 Swept path analysis

27 The Road Vehicles (Construction and Use) Regulations 1986 – extract

28 Outline costs application

*Documents submitted by interested parties*

29 Statement of Mr C Gallaher, Shropshire Parks and Gardens Trust

30 Statement of Councillor C Wild – local resident

31 Statement of Mr M Taylor - local resident

32 Statement and landscape review of Mr R Hartley – local resident

33 Statement of Dr H Hunter-Cope – local resident

*Other Documents*

34 Attendance sheets

35 Site notices



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