

**Erection of agricultural building and chicken coop and installation of track and hardstanding**

**Report Item No  
A2**

**Land East Side Of Austrey Lane Appleby Parva Derby DE12 7AR**

**Application Reference  
20/00707/FUL**

**Grid Reference (E) 430901  
Grid Reference (N) 308717**

**Date Registered:  
25 June 2020**

**Applicant:  
Geoffrey Clark**

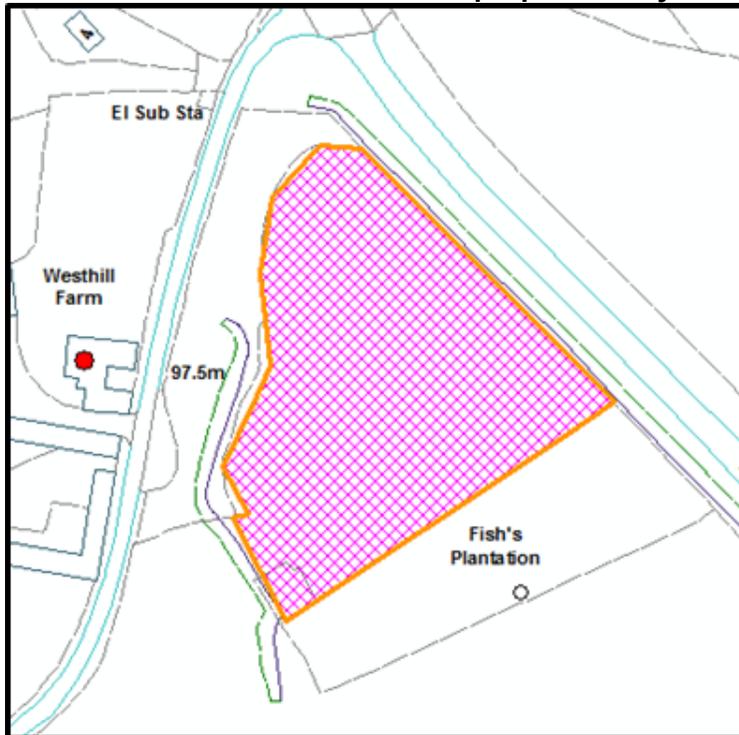
**Consultation Expiry:  
2 October 2020**

**Case Officer:  
Sarah Booth**

**8 Week Date:  
20 August 2020  
Extension of Time:  
None Agreed**

**Recommendation:  
PERMIT**

**Site Location - Plan for indicative purposes only**



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## **Executive Summary of Proposals and Recommendation**

### **Call In**

The application is brought to the Planning Committee at the request of Councillor Blunt due to public concern.

### **Proposal**

Full planning permission is sought for the erection of an agricultural storage building, chicken coop, electricity cabinet, track and hardstanding on land to the east of Austrey Lane in Appleby Parva. The site is located outside the Limits to Development as per Policy S3 of the adopted Local Plan.

### **Consultations**

12 neighbour objections have been received to the proposal. No objections have been received from statutory consultees who have responded during the consultation process.

### **Planning Policy**

It is considered that the development would be compliant with all relevant paragraphs of the National Planning Policy Framework (NPPF) as well as the relevant policies of the adopted Local Plan and other guidance.

### **Conclusion**

In conclusion, the site is situated outside the Limits to Development, however the building proposed is considered to be reasonably necessary for the purposes of agriculture and would therefore be compliant with Policy S3 of the adopted Local Plan and Paragraph 83 of the NPPF.

The scheme is not likely to give rise to any harmful impacts upon the occupiers of neighbouring dwellings, visual amenity and the character of the area, heritage assets, highway safety, ecology, flooding or trees. The proposal would not be detrimental to the River Mease SAC. Accordingly the application is recommended for planning permission, subject to the imposition of planning conditions.

**RECOMMENDATION - PERMIT, subject to conditions.**

**Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies, the Officer's assessment and recommendations, and Members are advised that this summary should be read in conjunction with the detailed report.**

## MAIN REPORT

### 1. Proposals and Background

Full planning permission is sought for the erection of an agricultural storage building, a chicken coop, electricity cabinet, an access track and hardstanding on land to the east of Austrey Lane in Appleby Parva. The applicant proposes to use the building for storage of a small tractor, equipment for maintenance of the site and some animal feed. The applicant proposes to keep sheep, goats and chickens on the land and the development is proposed to assist with this.

The application site is a field measuring approximately 0.7 hectares (1.73 acres). The site is located outside Limits to Development, as defined by the adopted Local Plan.

There have been a few previous planning applications on this site for similar proposals to the current application. An initial planning application (15/00775/FUL) raised some concerns including its impact on trees and ecology and therefore this application was withdrawn. A subsequent planning application (15/01071/FUL) was refused due to the scale of the proposed building and its impact on the countryside. A third planning application (16/00568/FUL) proposed a smaller scale building and received an officer recommendation for approval but was refused by planning committee in 2016 on the basis of the development's impact on the Countryside and highway safety impacts.

The current application proposes a building that is the same size and has the same location as application 16/00568/FUL. The footprint of the building measures 4.57 metres x 6.1 metres and has a maximum height of 5.3 metres. This application also includes additional features such as a timber 2.5 metre x 2.5 metre chicken coop and an electricity cabinet to provide a power supply to the building.

Amended plans have been received during the course of the application to amend the design and materials so that the building would have a more typically agricultural appearance. The materials have been altered from being completely brick with a tiled roof to having brick and timber elevations with a tin roof.

#### Recent planning history:

16/00568/FUL - Agricultural storage building and driveway (Refused 16.09.2016).

15/00775/FUL - Erection of agricultural building and construction of access track (Withdrawn 22 October 2015).

15/01071/FUL - Erection of agricultural building and construction of access track (Refused 28 April 2016).

### 2. Publicity

11 Neighbours have been notified.

Site Notice displayed 3 July 2020.

Press Notice published Burton Mail 8 July 2020.

### 3. Summary of Consultations and Representations Received

**Council's Environmental Protection Section** - has no environmental observations.

**Leicestershire County Ecologist** - has no objections subject to a suitable note to applicant.

**Leicestershire County Highways** - No objections, recommends conditions.

**No response received from:-**

Appleby Magna Parish Council  
Severn Trent Water

**Third Party Representations**

A total of 12 letters of neighbour representation have been received, some neighbours have submitted more than one letter. The objections raised are summarised as follows:

- An access was not previously formed in this location.
- Planning permission is required for the access.
- Highway safety / access is unsafe / Intensification of use of the access.
- No change in this application and the application that was refused in 2016.
- The field is poorly maintained.
- Weeds growing which are hazardous and poisonous to animals.
- Enforcement matters / Site used for building business not agriculture.
- Fires regularly take place in the field / Toxic smoke.
- The site has been used for motorbike racing.
- Site used for storage / disposal of commercial waste.
- The building is not justified or essential for the small size of the field and the small number of livestock.
- Vehicles drag mud on to the road.
- Proposal would result in flooding and drainage issues.
- Problems with the culvert.
- Concern over the actual intention of the future use of the site.
- Impacts on residential amenity.
- Damage to existing services / infrastructure - verge, water, electricity and telephone connections.
- No need for a substation.
- The scale of the building is too big.
- The building would be highly visible and too large for the site.
- Loss of privacy.
- Noise and smell impacts.
- Applicants behaviour.
- The applicant has a friend at the Council.
- Building should be re-sited.
- Impact upon heritage assets.

**4. Relevant Planning Policy**

**National Planning Policy Framework (2019)**

The following sections of the NPPF are considered relevant to the determination of this application:

Paragraphs 7, 8, 9 and 10 (Achieving sustainable development);  
Paragraph 11 (Presumption in favour of sustainable development);  
Paragraphs 54, 55 and 56 (Decision-making);  
Paragraph 83 (Building a Strong Competitive economy);  
Paragraphs 102, 103, 108, 109 and 110 (Promoting sustainable transport);  
Paragraphs 124, 127, 128 and 130 (Achieving well-designed places);  
Paragraphs 148, 150, 153, 155 and 163 (Meeting the challenge of climate change, flooding and

coastal change);

Paragraphs 170, 177, 178, 179, 180 and 181 (Conserving and enhancing the natural environment);

Paragraphs 189, 190, 192, 193, 196 and 198 (Conserving and enhancing the historic environment).

### **Adopted North West Leicestershire Local Plan (2017)**

The North West Leicestershire Local Plan forms part of the development plan and the following policies of the Local Plan are relevant to the determination of the application:

Policy S2 - Settlement Hierarchy;

Policy S3 - Countryside;

Policy D1 - Design of New Development;

Policy D2 - Amenity;

Policy IF4 - Transport Infrastructure and New Development;

Policy IF7 - Parking Provision and New Development;

Policy En1 - Nature Conservation;

Policy En2 - River Mease Special Area of Conservation;

Policy Cc3 - Sustainable Drainage Systems;

Policy He1 - Conservation and enhancement of North West Leicestershire's historic environment.

### **Other Policies and Guidance**

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

National Planning Practice Guidance - March 2014.

Leicestershire Highways Design Guidance (Leicestershire County Council).

Good Design for North West Leicestershire SPD - April 2017.

The Habitats Regulations (The Conservation of Habitats and Species Regulations 2017).

Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System.

River Mease Water Quality Management Plan - August 2011.

## **5. Assessment**

### **Principle of Development**

This application seeks full planning permission for the erection of an agricultural storage building, a chicken coop, electricity cabinet and an access track and hardstanding on land to the east of Austrey Lane in Appleby Parva. The applicant proposes to use the building for storage of maintenance vehicles such as a small tractor and equipment as well as for the storage of animal feed. The applicant advises that they intend to keep animals on the land and the proposed development is required to assist with this use.

The application site is a field measuring approximately 0.7 hectares (1.73 acres). The site is located outside Limits to Development, as defined by the adopted Local Plan.

There have been a few previous planning applications on this site for similar proposals to the current application. An initial planning application (15/00775/FUL) raised some concerns including its impact on trees and ecology and therefore this application was withdrawn. A subsequent planning application (15/01071/FUL) was refused due to the scale of the proposed building and its impact on the countryside. A third planning application (16/00568/FUL) proposed a smaller scale building and received an officer recommendation for approval but was refused by planning committee in 2016 on the basis of the development's impact on the

Countryside and highway safety impacts.

The current application proposes a building that is the same size and has the same location as application 16/00568/FUL. The footprint of the building measures 4.57 metres x 6.1 metres and has a maximum height of 5.3 metres. This application also includes additional features such as a timber 2.5 metre x 2.5 metre chicken coop and an electricity cabinet to provide a power supply to the building.

The overarching principle of the NPPF is to protect the countryside but to allow sustainable development where appropriate. The site is located in the countryside on land outside Limits to Development where uses specified within (a) to (s) of Policy S3 of the adopted Local Plan are supported in principle. The proposed development is for the purposes of agriculture which is listed an acceptable use in principle as per category (a) of Policy S3.

Paragraph 83 of the NPPF states that planning decisions should enable, amongst other things, the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings and the development and diversification of agricultural and other land-based rural businesses.

The applicant has submitted additional information to support their proposal and they have advised that they intend to keep sheep, goats and chickens on the land. Neighbours have raised concerns that they do not think this would be the ultimate intention for the use of the site or the proposed buildings. Neighbours have also referred to recent enforcement matters on the site where the land has not been used for agricultural purposes. Neighbours have mentioned that the site has been used in association with a builders business, for storage / disposal of waste materials and burning of materials. They have also alleged that the site has also been used for motorcycle racing. The proposal in this application is for agricultural purposes only and therefore that is all that can be considered. If the site is used for alternative unauthorised purposes in the future then this can be reported to the Council's enforcement team for them to investigate.

Neighbours also have concerns that the development is not essential for the keeping of animals on the site. The Council's agricultural advisor was consulted on application 16/00568/FUL to assess whether the building would be necessary for the purposes proposed. As this proposal would be the same size and have the same location as application 16/00568/FUL it is considered that the same advice is applicable to the current application. The advice received as part of application 16/00568/FUL states the following:

*"Your Local Plan Policy at Policy S3 of the Adopted North West Leicestershire Local Plan states 'That the proposed development can be shown to be essential for the efficient long-term operation of agriculture and forestry.' As I stated in my previous letter dated 4th February, 2016 - agricultural buildings are also required to be on agricultural land, which means land in use for agriculture for the purposes of a trade or business. I still consider a unit with approximately 0.4 of a hectare or 1 acre of land with 3-5 sheep and approximately 10 head of poultry could not be classed as a trade or business but would effectively be a hobby or an interest.*

*I consider the size of the proposed building would be of a size capable of storing the tractor and miscellaneous items which the applicant proposes to use on the land.*

*In conclusion, I advise that the now proposed building is more in keeping with the size of the unit, and although not essential for the efficient long-term operation of agriculture and forestry may now be acceptable to the Local Planning Authority in planning terms, as it may partially*

*comply with Policy S3 of the Adopted North West Leicestershire Local Plan, as it could now be classed as reasonably necessary for the purposes of agriculture within the unit."*

In view of this advice it is considered that the development would be reasonably necessary for the purposes of agriculture.

A condition is recommended to ensure that the building is used only for the purposes specified in the application.

In conclusion, having regard to all of the above, the principle of the development is considered to be acceptable but it is still necessary to consider other material planning considerations including in respect of highway safety, design and amenity criteria.

### **Siting, Scale and Design and Impact upon the Countryside**

The need for good design in new residential development is outlined not only in adopted Local Plan Policy D1 and the Council's Good Design Supplementary Planning Document (SPD) but also paragraphs 127 and 130 of the NPPF.

Amended plans have been received during the course of the application to amend the design and materials so that the building would have a more typically agricultural appearance. The materials have been altered from being completely brick and with a tiled roof to having brick and timber elevations with a tin sheet roof.

The footprint of the building measures 4.57 metres x 6.1 metres and has a maximum height of 5.3 metres. This application also includes additional features such as a timber 2.5 metre x 2.5 metre chicken coop and an electricity cabinet to provide a power supply to the building. The cabinet would consist of a 1 metre x 1.3 metre cabinet attached to a new small wall which would be located towards the entrance of the site.

The proposed materials are likely to have the appearance of a typical agricultural barn and would therefore not be out of keeping with the countryside location. Conditions could be attached to any planning permission requiring the precise materials and colours to be agreed prior to the building being erected on the site.

Neighbours have raised concerns that the building would be highly visible and too large for the site. There are boundary trees and hedgerows which form a dense screen and would help to screen the barn from public vantage points. The minor size of the building would also ensure that it does not become an unduly dominant feature in the surrounding area.

The application includes a small electricity cabinet to allow an electrical supply to the building. This consists of a small brick wall with a utility box attached. Given the small scale of the structure and that it would be fairly well screened by boundary vegetation it is not considered that this would be harmful to the character of the area. Some neighbours have raised concerns with the need for the electrical supply, however it is not considered unreasonable for the building to require an electricity connection to assist with the general undertaking of the site.

If the application is approved it is recommended that a landscaping scheme should be secured in order to maintain the soft landscaping that screens the site. This would ensure the development is compliant with the aims of Policy En1 of the adopted Local Plan. In the absence of landscaping details being provided with this application, this could be dealt with by condition.

Overall, the design, appearance and scale of this proposal is acceptable and would not look out

of keeping with the character and appearance of the surrounding area and is considered to be compliant with the advice in the NPPF and Policies D1 and En1 of the adopted Local Plan.

### **Impact upon Residential Amenity**

Several objections have been received regarding this development which includes the use of the site. Residents have raised concerns that the building would not be used for agricultural uses as it may be used for residential or business purposes. This application can only consider the proposal as submitted, which is for an agricultural building. Any alternative uses proposed would require permission through a further planning application and this is therefore not considered further in this report. If the development was deemed to be acceptable it would be recommended that the building should be conditioned to be used as per that which has been applied for.

Neighbours also have concerns relating to privacy impacts from the development. The nearest property to the development would be in excess of 50 metres away and at this distance it is not considered that the development would have an overbearing, overlooking or overshadowing impact on neighbouring residential properties.

In respect of matters raised relating to protection of neighbour's views from their properties, this is not a material planning consideration and cannot be taken into account in the determination of this application.

Neighbours have objected on the grounds of noise and smells from the proposed development. The agricultural use of the field already exists and the nature of this use can sometimes result in some noise and smell implications but it is not considered that the proposed development would result in detrimental impacts resulting from noise or smells. Furthermore the Council's Environmental Protection team have been consulted on this application and have not raised any objections.

For the reasons set out above, it is not considered that there would be any significant loss of amenities by means of overbearing, overshadowing, overlooking impacts or noise and disturbance impacts. The proposal therefore complies with the provisions of Policy D2 of the adopted Local Plan.

### **Impact to Heritage Assets**

Neighbours have raised concerns relating to the development's impact on the setting of nearby listed buildings. The site lies to the south-west of a grade II listed building which is on the northern side of the A444 and to the north-east of Westhill Farm, a grade II listed building. As such in determining any application special attention shall be paid to the desirability of preserving listed buildings, their settings or any features of special architectural interest which it possesses as set out in Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Paragraph 192 of the NPPF 2019 states that planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. It further indicates (at paragraph 193) that when considering the impact of a development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

The Council's Conservation Officer has referred to his previous advice on this application. The conservation officer has no objection in principle to the erection of an agricultural building and is pleased that the development would be partly constructed in red brick so that it would be more

sympathetic to the character of buildings at the nearby listed building at Westhill Farm. It is also noted that the parcel of land is separate to the listed buildings and is well landscaped.

Although the proposal is not of entirely traditional materials or design, the conservation officer advises that the proposed building is agricultural in character which is another prevailing character of the area. As the building is set on a separate parcel of land which is well landscaped, and is offset to the north of the farm, it is considered that the setting of the listed buildings would not be harmed. This therefore complies with Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Overall it is considered that the proposals would not harm the setting of the listed buildings and would preserve the character and appearance of the area. The proposal is considered to be in accordance with Policies D1 and He1 of the adopted Local Plan, the Council's Good Design SPD and the advice contained in the NPPF. Taking the above into account, it is considered that the scheme is appropriate and would comply with the NPPF.

### **Highway Considerations**

It is noted that several neighbour objections have been raised regarding the access to the site, highway safety concerns and the intensification of this road junction.

Access for this development would be from Austrey Lane near to the junction with Atherstone Road. It is anticipated that there would be additional vehicles on site during the construction phase and in association with the agricultural use. However, it is not considered that this development would significantly intensify vehicular movements to the site directly in the long term given the agricultural nature of the site and because the proposed use would be agricultural. Furthermore the County Highways Authority (CHA) does not consider that any potential increase in vehicular movements, given the nature and scale of the development, would have a detrimental impact on Austrey Lane, a class C road, or A444.

Neighbours state that this access has not been used previously due to the steep incline of the access from this part of the site and the levels have been altered prior to the submission of a planning application. The neighbours also have concerns regarding the visibility at the access. The neighbours' concerns have been raised with the (CHA) during this application and the previous applications, however the CHA have raised no objections regarding this development.

The CHA have advised that there have been two recorded personal injury collisions (PICs) within 500m of the site within the last five years and current year to date. Both incidents occurred on the A444 and resulted in 'slight' injury; one involving a right turning vehicle and one involving a loss of control around a bend. There have been no recorded PICs at the site access or the junction of Austrey Lane/A444 within this period.

Based on the above, the CHA is therefore satisfied that there is no evidence to suggest that the development proposal would result in an unacceptable risk to highway safety.

Correspondence has been received from a neighbour showing communications with the CHA, a Ward Councillor and a neighbour of the site. The correspondence is from the Leicestershire CHA and states that planning permission is required for the access to the site. This is contrary to the formal consultation responses received in this application and the previous applications for this site. This matter has been raised with the Leicestershire County Council Highways Team and they have confirmed that the access does not require planning permission.

The CHA have advised that the access should be formalised as vehicular trips arising as a

result of the development proposal would have an impact on the highway verge immediately adjacent to the gate, which is County Highways land. In addition to this, it is noted that there are service covers present within this area of the highway verge which residents and the CHA have concerns over. The CHA advise that the access needs to be of suitable construction to withstand the vehicular movements that would arise as a result of the application being permitted. Notwithstanding this, the land within the grass verge is not included as part of this application. It is considered that the CHA could secure these improvements to the verge as the land owner and therefore this could be dealt with outside of the planning application.

Residents' concerns have also been raised regarding mud being deposited in the road owing to driving over the grass verge at the front of the site. This land is owned by Leicestershire County Council and if the use of the application site is resulting in damage to the verge and leading to mud in the highway then this will be a matter for Leicestershire County Highways to resolve outside of the planning process.

Leicestershire County Highways have requested that conditions should be attached if permission is granted to secure improvements to the access such as an increased width, gradient, hard bound surfacing. It is considered that the surfacing and gradient could be secured by condition however it would be unreasonable to condition alterations to the access when this element does not require planning permission and the development would not significantly intensify the use of the site. Therefore the recommended access condition would not meet the six tests of planning conditions as per Paragraph 55 of the NPPF.

In view of the above it is considered that the proposal accords with the intentions of Paragraphs 108 and 109 of the NPPF, Policies IF4 and IF7 of the adopted Local Plan and the County Highways Design Guidance.

#### **River Mease Special Area of Conservation/SSSI - Habitat Regulations Assessment**

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC). Discharge from the sewage treatment works within the SAC catchment area is a major contributor to the phosphate levels in the river.

In this case it is considered that the proposal could result in an impact on the SAC, which may undermine its conservation objectives, as it could result in an increase in foul and surface water drainage discharge. Therefore an appropriate assessment of the proposal and its impacts on the SAC is required.

The scheme would result in an additional area of hardstanding as well as the new building, chicken coop and the access track. It is considered that a sustainable surface water drainage system such as a soakaway could be utilised given the small surface areas proposed and the size of the field. It is recommended that if permission is granted then a condition should be secured to ensure an adequate sustainable method of surface water drainage is provided.

The scheme does not propose to increase any foul water discharge and is not connected to the foul water system. Accordingly a request under the River Mease DCS cannot be justified nor requested.

On this basis, it is considered that the integrity of the River Mease SAC would be preserved and the development would accord with Policy En2 (River Mease Special Area of Conservation) and Cc3 (Water - Sustainable Drainage Systems) of the adopted Local Plan.

Therefore it can be ascertained that the proposal would, either alone or in combination with

other plans or projects, have no adverse effect on the integrity of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI, and would comply with the Habitat Regulations 2017, the NPPF and adopted Policies S2, En1 and En2.

### **Flood Risk**

Many residents have objected on the grounds of the development's impact on flooding in the area. It has been stated by neighbour's that there is a culvert on site which, if affected, could lead to flooding on neighbouring sites. Neighbours have also stated that there has been flooding in the area recently.

The site falls within Flood Zone 1, which is the area at lowest risk of flooding. Notwithstanding this, the site is located within an area identified as being at risk of surface water flooding.

The development has been relocated from its position in the originally submitted application (15/00775/FUL) and is now further from the culvert thereby reducing the overall impact. Issues regarding the culvert have previously been raised with Natural England and they advised that they have no objections to the development.

It is recommended that if the application is approved then a condition could be included to secure an adequate and sustainable surface water drainage scheme so that the development would not adversely impact on surface water drainage in the area.

Residents have also raised concerns with the impact of additional vehicles driving over existing underground services (e.g. water and electricity connections), which are located at the site entrance. Neighbour's consider that damage is being caused to water pipes which is resulting in flooding. This would not be a material planning consideration as it would be a civil matter between the water service provider and the applicant for them to resolve.

Subject to the above recommended condition it is considered that the development would not adversely impact on flood risk and would comply with Policy Cc3 of the Adopted Local Plan.

### **Ecology**

The County Ecologist is satisfied with the current application and have advised that they do not object. They also advise that it would be unreasonable to request any protected species surveys given the minor scale of the development; they therefore have requested that a note to applicant be included to advise about badgers.

### **Other**

Neighbours have alleged that the applicant is friends with someone at the Council which may affect the outcome of their application. Officers involved with the assessment of this application do not know the applicant personally and the application has been determined objectively on the basis of planning judgement.

Other objections have been raised by neighbours. Those which have not been covered by the above sections are not material planning considerations and have therefore not been considered.

### **Conclusion**

In conclusion, the site is situated outside the Limits to Development, however the building proposed is considered to be reasonably necessary for the purposes of agriculture and would therefore be compliant with Policy S3 of the adopted Local Plan and Paragraph 83 of the NPPF.

The scheme is not likely to give rise to any harmful impacts upon the occupiers of neighbouring dwellings, visual amenity and the character of the area, heritage assets, highway safety, ecology, flooding or trees. The proposal would not be detrimental to the River Mease SAC. Accordingly the application is recommended for planning permission, subject to the imposition of planning conditions.

**RECOMMENDATION - PERMIT, subject to the following conditions;**

- 1 Time limit.
- 2 Approved Plans.
- 3 Materials.
- 4 Landscaping
- 5 Surface water drainage scheme
- 6 Agricultural use only
- 7 Hard surface finish
- 8 Gradient
- 9 No external lighting unless agreed