

The erection of a detached agricultural building and chicken coop and the provision of a track and hardstanding

Report Item No
A1

Land East Side Of Austrey Lane Appleby Parva Leicestershire
DE12 7AR

Application Reference
21/02107/FUL

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

Date Registered:
5 November 2021
Consultation Expiry:
12 April 2022
8 Week Date:

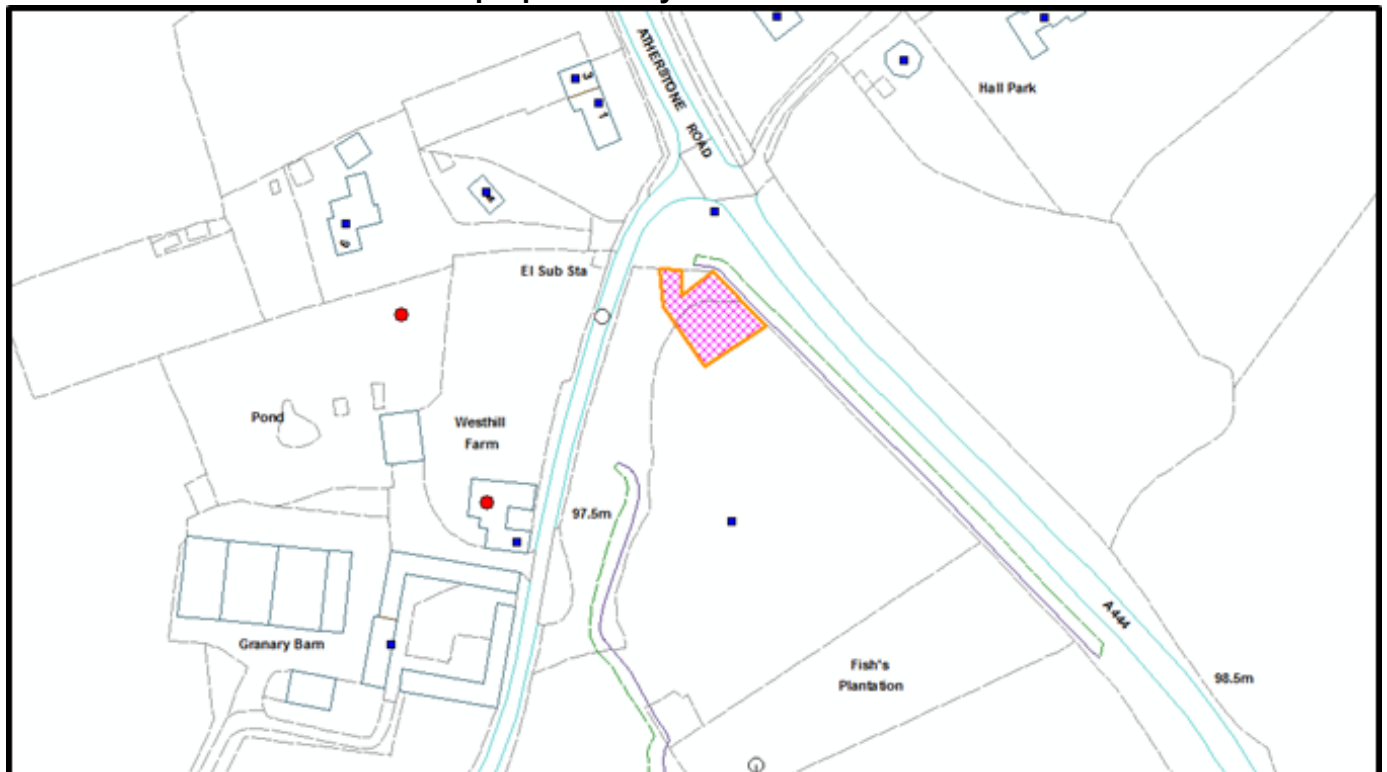
Applicant:
Mr Geoffrey Clarke

31 December 2021
Extension of Time:
None Agreed

Case Officer:
Sarah Booth

Recommendation:
REFUSE

Site Location - Plan for indicative purposes only



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Call In

The application is brought to Planning Committee at the request of Councillor Blunt due to visual and landscape impacts on the countryside.

Proposal

Full planning permission is sought for the erection of an agricultural storage building, chicken coop, 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

5 neighbour objections have been received to the proposal at the time of writing this report. Appleby Magna Parish Council have raised concerns with the vehicular access to the site. No other objections have been received from statutory consultees who have responded during the consultation process.

Planning Policy

The application has been assessed against paragraphs of the National Planning Policy Framework (NPPF) as well as the relevant policies of the adopted Local Plan and other guidance, particularly policy S3 of the Local Plan.

Conclusion

In conclusion, the site is situated outside the Limits to Development. The proposed building is considered to be reasonably necessary for the purposes of agriculture. The scheme is also not considered to give rise to any detrimental impacts upon the occupiers of neighbouring dwellings, heritage assets, highway safety, ecology, flooding or trees. The proposal would also not be detrimental to the River Mease SAC.

However, the proposed development would have a detrimental impact on the character of the open countryside. The adverse impacts of approving development in this case would significantly and demonstrably outweigh the benefits when assessed against the policies within the Framework taken as a whole. The scale of the building and the cumulative impact of the hard surfacing and track would also be to the overall detriment of the visual characteristics of the area and would not allow it to assimilate into the rural environment. This would be exacerbated by the elevated ground level of the application site when compared to the public Highway which would enhance the prominence of a building. Whilst some changes have been made to the proposal from previous application on this site, the amendments are minimal and would actually increase the footprint of the building from the previous application that was dismissed at appeal. This is not considered to overcome the concerns raised by the Planning Inspector in the recent appeal.

The proposal would therefore have a harmful visual impact on the character of the countryside and would not safeguard the appearance and character of the open landscape. The application would therefore not meet the requirements of the Council's Local Plan Policy S3 especially subparagraph (i) or the NPPF's core planning principles of preventing development that would be harmful to the intrinsic open character of the countryside.

RECOMMENDATION - REFUSE

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, an access track and hardstanding on land to the east of Austrey Lane in Appleby Parva. 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. The site history is detailed below:

Planning history

- 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).
- 16/00568/FUL - Agricultural storage building and driveway (Refused 16.09.2016).
- 20/00707/FUL - Erection of agricultural building and chicken coop and installation of track and hardstanding (Refused 09.10.2020).

Application 20/00707/FUL Background

The most recent application (20/00707/FUL) proposed a building that would have been the same size and location as application 16/00568/FUL. The 2020 application also included a structure to provide an electricity box, a chicken coop building, access track and hardstanding. This application was recommended for approval, however, it was refused at planning committee due to the unjustified need for the building in the countryside and the development's visual impact on the character of the countryside.

Application 20/00707/FUL was subsequently appealed by the applicant in 2021 (APP/G2435/W/21/3266391) and this was dismissed by the Planning Inspectorate.

Appeal Decision summary

To assist with the assessment of this report please find a copy of the Inspectors appeal decision for this site included in Appendix 1 of this committee report.

Please see the following summary of the inspector's conclusions from the appeal decision:

Need for the building

- The site would be used for hobby farming. The appellant provided a County Parish Holding Number (CPH) for the site issued by the Rural Payments Agency.
- The inspector applied "moderate weight" in their decision with regard to the agricultural consultant's response to a previous application for this site 16/00568/FUL. The agricultural consultant concluded that the size of the proposal was acceptable in these circumstances.
- The Inspector considered that Policy S3 of the adopted Local Plan accepts the principle of agricultural development as being acceptable on land within the countryside, regardless of it being used for large scale / commercial or small scale / hobby farming.
- Section 336 of the Town and Country Planning Act 1990 defines "agriculture" and this national

definition does not distinguish between business and hobbyist agricultural activity.

- Whilst there aren't any livestock on site at present, such activity could occur in the future.
- The proposal would not conflict with Policy S3 (a) of the Local Plan.

Impact on the character of the countryside

- The undeveloped nature of the area makes an important contribution to the character of this part of the countryside.

- The application site is raised from the road level of the Austrey Lane and Atherstone Road. The application site is also visible in the context of the wider rural landscape to the south.

- The materials would be acceptable however the design would appear disproportionately tall to the size of its footprint.

- The proposed development would result in the introduction of built development on a rural site where there is currently none. The proposal would unacceptably affect the contribution that the site makes to the character of this part of the countryside.

- The building would appear as an unusually tall and narrow structure in wider views of from the wider countryside to the south and east. Consequently the development would appear as a prominent, incongruous and isolated standalone feature that would erode the open character of this part of the countryside.

- The prominence of the building would be exacerbated by the elevated ground levels.

- The development would unacceptably introduce substantial built development into the open countryside that would fail to conserve the open rural character of this part of the landscape.

- The other development such as the chicken coop, electricity box and hard standing, when considered individually, would not cause unacceptable impacts on the character of the area due to its small scale nature and reduced height. However, when all the development is considered collectively they raise a concern of erosion of the open character of the site. "Consequently, when considered as a whole, the proposed development would cause harm to the character and appearance of the appeal site and the surrounding area."

- In conclusion the proposed development would harm the character and appearance of the surrounding area. Accordingly, the proposed development would not accord with sub-paragraph (i) of Policy S3 of the Local Plan.

Other matters

- Notwithstanding the support within the National Planning Policy framework for the rural economy this would not outweigh the harm caused to the character and appearance of the area.
- The proposal would preserve the setting of nearby listed buildings.
- No objections were raised with regard to Highway safety or drainage.

Conclusion

- The need for the building is considered to be justified and acceptable in accordance with Policy S3 of the adopted Local Plan.

- However, the application was dismissed due the visual impact on the character of the

countryside.

The current application - 21/02107/FUL

The current application seeks permission for the erection of an agricultural storage building, a chicken coop, an access track and hardstanding on land to the east of Austrey Lane in Appleby Parva.

The design and size of the building has been amended from the 2020 application. Additionally an electricity box structure was proposed under application 20/00707/FUL, however this has been removed from the current application.

The footprint of the previously proposed building measured 4.6 metres x 6.1 metres and had a maximum height of 5.3 metres. The current application proposes a building that would be 4.6 metres x 9.3 metres and a maximum of 4 metres in height. The current application would therefore be 1.3 metres lower in height and would be 3.2 metres wider.

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 goats, sheep and chickens on the land and the development is proposed to assist with this.

2. Publicity

11 Neighbours have been notified.
Site Notice displayed 4 March 2022.
Press Notice published Burton Mail 2 March 2022.

3. Summary of Consultations and Representations Received

Appleby Magna Parish Council - have raised concerns with the access to the site.

No objections from:
NWLDC Conservation Officer
NWLDC Tree Officer
NWLDC Environmental Protection

No objections subject to conditions / notes to applicant from:
Leicestershire County Highways
Leicestershire County Ecology

No response received from:-
Severn Trent Water

Third Party Representations

5 letters of neighbour representation have been received at the time of writing this report. The objections raised are summarised as follows:

- The last application was dismissed at appeal and this application is no different.
- Impacts on the open countryside.
- There is no "need" for the proposed development.
- The agricultural use is for a hobby only.
- Has the owner any experience in farming.

- The land has not been used for agricultural purposes.
- The development won't be used for agricultural purposes once built.
- Permission has not been given from DEFRA for livestock to be kept here.
- No water provision for the chickens.
- Anti-social behaviour from unauthorised use of the site and impacts on residential amenity.
- Enforcement matters regarding the site / the land has been used for the unauthorised use of the applicant's business and for disposal of waste.
- The land has been used for the burning of commercial waste / noise and smell impacts.
- The plans refer to an existing structure, however no permission has been given for an existing structure.
- The development would block the culvert which runs through the site / flooding concerns.
- The access does not have planning permission.
- Concerns regarding highway safety of the access for this application / near misses in the area / speeding.
- An existing access to the west of the site should be used.
- The Highways recommended conditions need to be met.
- It would be too expensive for the applicant to be able to comply with the Highway conditions.
- Concerns regarding costs to taxpayers.
- Cost of works to grass verge / electricity and services run under the grassed verge.
- Mud and debris already on the road from the site.
- There has been a large van kept on site.
- Loss of trees.
- Untidy land / keeping of waste materials on site.
- What type of boundary treatments would be required to secure the site for livestock.
- This application would encourage future development on site.

4. Relevant Planning Policy

National Planning Policy Framework (2021)

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 55, 56 and 57 (Decision-making);
Paragraph 84 (Building a Strong Competitive economy);
Paragraphs 104, 105, 110, 111 and 112 (Promoting sustainable transport);
Paragraphs 126, 129, 131 and 134 (Achieving well-designed places);
Paragraphs 152, 154, 157, 159 and 167 (Meeting the challenge of climate change, flooding and coastal change);
Paragraphs 174, 182, 183, 184, 185 and 186 (Conserving and enhancing the natural environment);
Paragraphs 194, 195, 197, 199, 202 and 204 (Conserving and enhancing the historic environment).

Adopted North West Leicestershire Local Plan (2021)

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

The application site is a field in Appleby Parva measuring approximately 0.7 hectares (1.73 acres) and is located to the east of Austrey Lane and to the West of Atherstone Road. The site is located outside Limits to Development, as defined by the adopted Local Plan.

This application seeks full planning permission for the erection of an agricultural storage building, a chicken coop and an access track and hardstanding. The applicant proposes to use the new building for storage of maintenance vehicles such as a small tractor and equipment as well as for the storage of hay and 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.

Paragraph 84 of the NPPF (2021) 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 overarching principle of the NPPF is to protect the countryside but to also allow sustainable development where appropriate.

Planning History

As detailed in an earlier section of this report, there have been a few previous planning applications on this site for similar proposals to the current application. An initial planning application for an agricultural building (15/00775/FUL) raised some concerns including its impact on trees and ecology and therefore this application was withdrawn. A subsequent similar 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 last application (20/00707/FUL) proposed a building that was the same size and has the same location as application 16/00568/FUL. The 2020 application also included additional features such as a timber chicken coop, a structure to provide an electricity box, an access track and hardstanding. This application received an officer recommendation for approval however was refused at planning committee. Application 20/00707/FUL was refused for two reasons; that being the development's impact on the character of the countryside and the essential need for the proposed building.

In 2021 application 20/00707/FUL was appealed by the applicant (APP/G2435/W/21/3266391) and the appeal was dismissed. The Inspectors conclusions with regard to the principle of the building are outlined below (matters relating to visual impact will be considered in the Design section of this report).

Need for the building - Conclusions of appeal decision APP/G2435/W/21/3266391

Neighbouring residents have objected to this application due to what they consider to be a lack of "need" for the building. This will be considered further as follows.

The Planning inspector for appeal APP/G2435/W/21/3266391 applied "moderate weight" to the agricultural consultant's response to a previous application for this site in 2016 (16/00568/FUL). The agricultural consultant took into account the proposed use of the site and the size of the proposal and concluded that the development was acceptable in principle.

It is accepted that the proposal in the current application would have a slightly larger footprint than applications 16/00568/FUL and 20/00707/FUL, however the previous building could have accommodated additional storage space in the roof space of the building. When taking that into account, it is considered that the overall useable floor space would be comparable and therefore the same advice, relating to principle matters, from the agricultural consultant and the Planning Inspector would be applicable to the current application.

The advice received from the agricultural consultant as part of application 16/00568/FUL stated 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."

The Local Planning Authority argued at appeal stage that there given the use of the site was for hobby farming then this would not represent an essential agricultural use within the countryside. This was also a concern raised by members of the public in relation to the previous and current applications. The Planning inspector considered this point and stated that Policy S3 of the Local Plan does not:

"...define or quantify in the policy, or the supporting text provided, the nature or extent of development that may be reasonably necessary for the purposes of agriculture. Furthermore, the policy provides no distinction between commercial and hobbyist agricultural activity."

The inspector also referred to Section 336 of the Town and Country Planning Act 1990 which defines "agriculture" as the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land) and the use of land as grazing land. The Inspector also highlighted that this Act also provides no further quantification or distinction between business and hobbyist agricultural activity.

A neighbour objection has been received regarding the farming experience of the applicant, this is not a material planning consideration.

The Inspector therefore concluded that that Policy S3 of the adopted Local Plan accepts the principle of agricultural development as being acceptable on land within the countryside, regardless of it being used for large scale / commercial or small scale / hobby farming. Therefore this proposal would not conflict with Policy S3 (a) of the Local Plan.

Policy Assessment

As per the assessment above the application is considered to be supported in principle under Policy S3(a) however this is also subject to compliance with subparagraphs (i) - (vi) of S3. This is considered further below:

(i) The appearance and character of the landscape, including its historic character and features such as biodiversity, views, settlement pattern etc. are safeguarded and enhanced.

For the reasons discussed later in the design section of this report, it is considered that the appearance and character of the landscape would not be safeguarded.

(ii) It does not undermine, either individually or cumulatively with existing or proposed development, the physical and perceived separation and open undeveloped character between nearby settlements either through contiguous extensions to existing settlements or through development on isolated sites on land divorced from settlement boundaries.

(iii) it does not create or exacerbate ribbon development.

The development is for agricultural purposes and therefore does not exacerbate ribbon development. The scale of the development is minor and therefore does not undermine the physical or perceived separation between nearby settlements.

(iv) built development is well integrated with existing development and existing buildings.

This matter will be discussed later in the design section of this report. Whilst there aren't any existing buildings on site the development has been located close to the site entrance and nearby dwellings.

(v) the development will not seriously undermine the vitality and viability of existing town and

local centres.

Given that the use of the building would be for agricultural purposes only, the use of the building would not be one that would impact on the vitality or viability of any existing town or local centre. Furthermore, Paragraph 84 of the National Planning Policy Framework (NPPF) states that planning decisions should support the growth and expansion of all types of businesses within rural areas.

(vi) the proposed development is accessible, or will be made accessible by a range of sustainable transport.

It is accepted that the site is not served by a range of public transport. However, due to the agricultural nature of the proposal this requires buildings to be located in the countryside and it is not a requirement for this type of development to meet with this criteria. It is also noted that very similar developments could be achieved elsewhere in the countryside through a prior approval application without any need for them to be served by sustainable transport.

When taking all these matters into consideration it is considered that the development would, on the whole, accord with the aims of Policy S3 of the adopted Local Plan, and Paragraph 84 of the NPPF.

Other principle matters / Neighbour concerns

Neighbours have raised concerns that they do not think that an agricultural use 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 builder's business, for storage / disposal of waste materials and burning of materials.

Notwithstanding the concerns raised, this proposal is for agricultural purposes only and therefore the proposed use is all that can be considered in determination of this application.

A neighbour has stated that they do not believe that permission has been given from DEFRA for livestock to be kept here. However, as the Planning Inspector concluded, there is no evidence to confirm that that this would not be forthcoming in the future.

A neighbour has raised concerns that there would be no water provision for the chickens. This would not be a reason to refuse the planning application however given that there is a culvert running through the site it is considered that a water connection could be feasible. If that was not the case then water can still be brought to the site.

In conclusion, having regard to all of the above, the principle of the development is considered to be acceptable.

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 130 and 134 of the NPPF.

Paragraph 174 of the NPPF states planning decisions should recognise the intrinsic character and beauty of the countryside.

As previously mentioned, the proposal would also need to accord with subparagraphs (i) and

(iv) of Policy S3 of the adopted Local Plan. Paragraph (i) requires the appearance and character of the landscape, including its historic character and features such as biodiversity, views, settlement pattern to be safeguarded and enhanced and paragraph (iv) requires built development to be well integrated with existing development and existing buildings.

The application site comprises a relatively small field of predominantly rough grassland located at the junction of Atherstone Road with Austrey Lane. Westhill Farm and a few residential properties are located to the west and north with open countryside to the south and east. The area to the south and east comprises of open fields separated by hedgerows and areas of woodland.

The previous application on this site 20/00707/FUL, for a similar proposal, was dismissed at appeal because the proposal was considered to have a harmful impact on the open countryside, contrary to Policy S3 subparagraph (i). This has also been raised as a concern for the current application by neighbouring residents and the local Ward Member. This will be considered further below.

The current application proposes a black corrugated onduline sheeted roof with timber cladding, a red brick plinth and timber doors. The proposed chicken coop building would also be constructed in timber. It is considered that the proposed materials to be used in the building would be acceptable in the rural setting and would be consistent with the appearance of a typical agricultural building.

The site is raised above the road level when compared to Austrey Lane and Atherstone Road. This elevates the application site and makes the development more prominent, whilst there are some boundary trees and hedgerows along these roads the site is more exposed during the winter months when the leaves have fallen from the trees, especially in views from Atherstone Road. Furthermore, over the years, more vegetation and trees have been removed from the site entrance. Some close boarded fencing has recently been erected on the application site in the same location of the proposed development, and this is already visually prominent from the entrance to the site and in views from both Atherstone Road and Austrey Lane.

The Planning Inspector for APP/G2435/W/21/3266391 identified that the most prominent open countryside views of the application site are those taken from the south and east of the application site. The Inspector stated that the sites "...undeveloped nature makes an important contribution to the character of this part of the countryside."

It is noted that the Planning Inspector did not raise an objections with regard to Policy S3(iv) which requires development to integrate with existing development. Whilst there is no built development within the site for the proposed development to integrate with, the development has been located as close as possible to the access of the site and adjacent to the boundary edge of the field. There is also some built development in the locality of the proposed development, such as nearby residential properties opposite the site. It is considered that the proposal accords with Policy S3 (iv) of the adopted local Plan.

The footprint of the previously proposed building was 4.6 metres x 6.1 metres and proposed a maximum height of 5.3 metres. The current application proposes a building that would be 4.6 metres x 9.3 metres and a maximum of 4 metres in height. The current application would therefore be 1.3 metres lower in height but would actually be 3.2 metres wider.

The Planning Inspector for APP/G2435/W/21/3266391 determined that the 2020 proposed scheme, owing to its design, would appear as an unusual disproportionately tall and narrow

building relative to the size of its footprint. Whilst the height of the building has been marginally reduced, the floor area of the building would increase from the 2020 scheme, as such the overall bulk of the new development would not differ from the harm identified by the Planning Inspector under appeal decision APP/G2435/W/21/3266391.

The Inspector noted that the most prominent and open views of the countryside for this site are those from land to the south and east of the application site. The front elevation of the proposed new building is the most prominent elevation of the development from open views of the countryside and landscape. The front elevation of the proposed building would become longer when compared to the 2020 application and would thereby make the building equally prominent from views of the site from the south and east.

It is accepted that the Inspector stated that the proposed development would result in the introduction of built development on a rural site where there is currently none and it would impact on the open character of the area. This proposal would not address this concern raised by the inspector and would still result in a build development on a currently undeveloped site.

The Inspector also stated that the other development such as the chicken coop and hard standing, when considered individually, would not cause unacceptable impacts on the character of the area due to its small scale nature and reduced height. However when all the development is considered collectively the Inspector raise a concern of erosion of the open character of the site. The Inspector therefore concluded that when the 2020 application was considered as a whole "...the proposed development would cause harm to the character and appearance of the appeal site and the surrounding area." Whilst the previously proposed electricity box structure has been removed in the current application all other cumulative development is still proposed and would still have a cumulative adverse impact on the open character of the area.

Enforcement matters have been raised by local residents including an existing structure on site which appears to be unauthorised. The existing structure is indicated on the submitted site plan and does not appear to benefit from planning permission. This structure is also shown in the applicant's submitted appendix photos and is a temporary style shelter constructed in timber. This is currently under investigation by the Council's Enforcement team along side other matters raised in resident's objections.

Ultimately the Planning Inspector concluded that:

"For the above reasons, the proposed development would unacceptably harm the character and appearance of the surrounding area. Accordingly, the proposed development would not accord with criterion (i) of Policy S3 of the Local Plan. This part of the policy, amongst other things, identifies that development will be supported where the appearance and character of the landscape is safeguarded and enhanced."

It is considered the changes in the current application do not address the concerns raised by the planning inspector. The proposed development would have a detrimental impact on the character of the open countryside. The adverse impacts of approving development in this case would significantly and demonstrably outweigh the benefits when assessed against the policies within the Framework taken as a whole. The scale of the building and the collective impact of the hard surfacing and track would also be to the overall detriment of the visual characteristics of the area and would not allow it to assimilate into the rural environment. These impacts would also be intensified as a result of the elevated ground level of the application site when compared to the public Highway (approximately 2 metres) which would enhance the prominence of a building.

Whilst some changes have been made to the proposal from previous applications on this site, the amendments are minimal and actually increases the floor area of the building from the previous application that was dismissed at appeal. This is not considered to overcome the concerns raised by the Planning Inspector for APP/G2435/W/21/3266391.

The proposal would therefore have a harmful visual impact on the character of the Countryside and would not safeguard the appearance and character of the open landscape. The application would therefore not meet the requirements of the Council's Local Plan Policy S3 especially subparagraph (i) or the NPPF's core planning principles of preventing development that would be harmful to the intrinsic open character of the countryside. The proposal would therefore fail to comply with the NPPF and Policy D1 of the adopted Local Plan.

Impact to Heritage Assets

The site lies to the south-west of a grade II listed building which is on the northern side of the A444 and approximately 70 metres 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 197 of the NPPF 2021 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 199) 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 no objections to this application and does not identify any harm to surrounding designated heritage assets.

Although the proposal is not of entirely traditional materials or design, 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 considered that the scheme is appropriate and would comply with the NPPF.

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 Council 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. If the development had 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.

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.

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.

Concerns have been raised regarding noise and smell impacts from the burning of waste on site. These matters do not fall within the remit of the planning system as set in law and would be considered and controlled separately, outside of the planning application process, by both the Environment Agency and the Council's Environmental Health team.

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.

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. The Parish Council have also raised concerns with the site access. These matters will be considered below.

Access for this development would be from Austrey Lane near to the junction with Atherstone Road. 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 the 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) in previous applications, however the CHA have raised no objections regarding this development.

Neighbour concerns have been raised that the site access requires planning permission however previous applications on this site and advice received by Leicestershire County Council Highways Team have concluded that this is not the case.

Residents' concerns have also been raised regarding mud being deposited in the road from vehicles currently using the site. If this presents a hazard to highway safety then this can be reported to the County Highway Authority and cannot be controlled through the planning process. Additionally, it is noted that this concern relates to the existing use of the current site.

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 requested by the CHA would not meet the six tests of planning conditions as per Paragraph 55 of the NPPF.

Residents have fears that the recommended conditions, requiring works to the gradient etc, would be too expensive for the applicant to be able to comply with the Highway conditions and would then become a cost to the taxpayer. This is not a material planning consideration.

Members of the public have also mentioned that there are likely to be costs associated with works to the frontage grass verge / electricity and services run under the grassed verge. This would also be at the expense of the applicant and would be a civil matter between the applicant and the relevant electricity company. Any works to a Highway verge would also be a civil matter between the applicant and the County Highway Authority, where costs would be obtained from the applicant for any necessary works on highway land.

Residents have referred to a large van being kept on site. This is not included in the current application and therefore hasn't been considered as part of this proposal. If this relates to an unauthorised use of the site then this can be referred to the Council's enforcement team for investigation.

Neighbour concerns have been raised regarding accidents in the area, speeding traffic and near misses. 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. The CHA advise that there have been no recorded PICs at the site access or junction of Austrey Lane / A444. The CHA raise no concerns for this application on the grounds of Highway Safety.

Overall, the CHA has advised that they are satisfied that the development would not result in any unacceptable risks to highway safety.

In view of the above it is considered that the proposal accords with the intentions of Paragraphs 110 and 111 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. As such the River Mease SAC would not be significantly or adversely

affected by the proposed development.

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 neighbours that there is a culvert on site which, if affected, could lead to flooding on neighbouring sites.

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 and therefore consideration has been given to surface water impacts from the proposed development.

As per the above section on River Mease matters, 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.

Issues regarding the culvert have been raised in previous applications with Natural England and they advised that they have no objections to the development.

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. Neighbours 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 has been consulted on the application and has advised that it would be unreasonable to request any protected species surveys given the minor scale of the development. The Ecologist has recommended a note to applicant to advise about badgers in the area and one regarding vegetation clearance. It is also recommended to secure some new landscaping by condition, which should be a native species.

On the basis of the above there are no ecological reasons for objection and this proposal is considered to comply with Policy En1 of the adopted Local Plan.

Trees

Neighbours have raised concerns in regards to the loss of trees on site. The application does not propose to remove trees as part of this application. The Council's Tree Officer has been consulted on the application and advises that the access track should be constructed to a

porous specification, which can be secured via a hard surfacing condition. The Tree Officer has confirmed they have no arboricultural objections to this application.

It is also recommended to include an additional landscaping condition to assist in screening the proposed building from the public highway. This would help to enhance the appearance of the site.

It is therefore considered that the proposal would accord with Policy En1 of the adopted Local Plan.

Other

Concerns have been raised regarding some close-boarded fencing that has been erected on site and neighbours have raised concerns regarding what type of boundary treatments would be used by the applicant to secure the site for livestock. Boundary treatment of up to 2 metres in height would not require planning permission and therefore the appearance of future fencing could not be controlled, though it is perhaps more likely that a rural style of fencing would be used as it is likely to be more cost effective.

Concerns have been raised regarding the keeping of materials on site and the land being untidy. This is a separate matter that the Council's enforcement team could investigate.

Residents also consider that this application would encourage further future development on site. This Council through the consideration of this scheme can only assess what is currently proposed.

Conclusion

The site is situated outside the Limits to Development. The proposed building is considered to be reasonably necessary for the purposes of agriculture. Whilst the scheme is not considered to give rise to any detrimental impacts upon the occupiers of neighbouring dwellings, heritage assets, highway safety, ecology, flooding, trees or the River Mease SAC, the concerns raised with regard to the impact on the landscape and open character of the countryside are paramount in the consideration of this application.

As per the above assessment, the proposed development would have a detrimental impact on the character of the open countryside. The adverse impacts of approving development in this case would significantly and demonstrably outweigh the benefits when assessed against the policies within the Framework taken as a whole. The scale of the building and the cumulative impact of the hard surfacing and track would also be to the overall detriment of the visual characteristics of the area and would not allow it to assimilate into the rural environment. This would be exacerbated by the elevated ground level of the application site when compared to the public Highway which would enhance the prominence of a building. Whilst some changes have been made to the proposal from previous applications on this site, the amendments are minimal and would actually increase the floor area of the building from the previous application that was dismissed at appeal. This is not considered to overcome the concerns raised by the Planning Inspector for APP/G2435/W/21/3266391.

The proposal would therefore have a harmful visual impact on the character of the countryside and would not safeguard the appearance and character of the open landscape. The application would therefore not meet the requirements of the Council's Local Plan Policy S3 especially subparagraph (i) or the NPPF's core planning principles of preventing development that would be harmful to the intrinsic open character of the countryside.

*RECOMMENDATION - REFUSE***Appendix 1 -****Appeal Decision APP/G2435/W/21/3266391 (For Planning application 20/00707/FUL)****(subject to no contrary observations by 12 April 2022)**

- 1 Paragraph 174 of the NPPF states planning decisions should recognise the intrinsic character and beauty of the countryside. Paragraph 84 of the Framework supports growth and expansion of all types of rural business. Policy S3 of the adopted Local Plan states that development will only be permitted on land outside the Limits to Development, where it meets certain criteria and where it complies with considerations set out in criteria (i) to (vi). Development permitted in the countryside would need to safeguard the appearance and character of the landscape, including its historic character and features such as biodiversity, views, field patterns and local distinctiveness.

The application site lies in an area defined in the adopted North West Leicestershire Local Plan as countryside as per Policy S3 of the adopted Local Plan and as such it is protected against unwarranted development. The proposed development would have a detrimental impact on the character of the open countryside. The adverse impacts of approving development in this case would significantly and demonstrably outweigh the benefits when assessed against the policies within the Framework taken as a whole. The scale of the building and the cumulative impact of the hard surfacing and track would also be to the overall detriment of the visual characteristics of the area and would not allow it to assimilate into the rural environment. This would be exacerbated by the elevated ground level of the application site when compared to the public Highway which would enhance the prominence of a building. Whilst some changes have been made to the proposal from the previous application on this site, the amendments are minimal and would actually increase the footprint of the building from the 2020 application dismissed at appeal. This is not considered to overcome the concerns raised by the Planning Inspector in that appeal.

The proposal would therefore have a harmful visual impact on the open character of the countryside in this location and would not safeguard the appearance and character of the landscape. The application would therefore not meet the requirements of the Council's Local Plan Policy S3 especially subparagraph (i) or the NPPF's core planning principles of preventing development that would be harmful to the intrinsic open character of the countryside.