



Appeal Decision

Site visit made on 24 September 2019

by Paul Cooper MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 October 2019

Appeal Ref: APP/T2405/W/19/3222856

Granitethorpe Quarry (Disused), Leicester Road, Sapcote, Leicestershire LE9 4QF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr John Mac against the decision of Blaby District Council.
 - The application Ref 17/01669/FUL, dated 28 November 2017, was approved on 28 September 2018 and planning permission was granted subject to conditions.
 - The development permitted is change of use of land from a dormant quarry to horsiculture, through the re-siting of a manege previously approved in 16/0725/FUL (Resubmission).
 - The condition in dispute is No 8 which states that: Notwithstanding the submitted details, no works shall commence on the site, until such time as a Construction Environmental Management Plan has been submitted and approved in writing by the Local Planning Authority. The Construction Environmental Management Plan shall detail the proposed methods for the construction of the manege hereby approved, and shall show details of how the levels at the quarry's northern and north western edge shall be raised, and be constructed and secured. The Construction Environmental Management Plan shall include particulars of the types and amounts of, and the locations for storage of and disposal of any materials to be imported to or exported from the site. Contractor details and a timetable of works should also be included, including the proposed construction hours for the development. The Construction Environmental Management Plan shall also include an assessment to identify potential environmental and ecological impacts arising from the development and include any necessary mitigation measures. The works shall thereafter be carried out in accordance with the approved details and timetable.
 - The reason given for the condition is : To reduce the possibility of materials being deposited in the quarry and to ensure that development at the quarry edge is carried out in a safe and satisfactory manner, and in the interests of species protected by law under the Wildlife and Countryside Act 1981.
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Decision

1. The appeal is allowed and the planning permission Ref 17/01669/FUL for the change of use of land from a dormant quarry to horsiculture, through the re-siting of a manege previously approved in 16/0725/FUL (Resubmission) at Granitethorpe Quarry (Disused), Leicester Road, Sapcote, Leicestershire LE9 4QF is varied by modifying Condition No8 in terms of a minor alteration to the wording of that condition and is now subject to the conditions as set out in the attached schedule.

Main Issue

2. The main issue is whether the condition is reasonable and necessary in terms of whether the development is carried out in a safe and satisfactory manner.

Reasons

3. The appeal site forms part of a disused quarry and has a considerable planning and enforcement history. The 2016 application allowed the initial change of use, and the location of the manege was amended in the 2017 application, subject to conditions, including Condition 8 as listed above.
4. Paragraph 55 of the National Planning Policy Framework (the Framework) states that planning conditions should only be imposed where they are necessary, relevant to planning, relevant to the development, enforceable, precise, and reasonable in all other respects.
5. The appellant states that the condition in question fails four of those six tests identified above, namely that the condition is not necessary, not relevant to planning, is not precise, and is not reasonable in all other respects. I shall deal with each of these in turn.

Not necessary

6. The appellant states that conditions for Construction Environmental Management Plans (CEMP) are usually only required for major schemes, not comparatively small schemes such as this.
7. The quarry has been previously identified as a sensitive location, with both potential land stability issues, and ecological potential. Whilst the Council granted consent for the revised scheme, there were concerns regarding the level of detail provided to ensure that works could be carried out correctly and would address any potential issues. In addition to this, I understand that there were enforcement issues in relation to unauthorised works carried out on the site.
8. I find that the nature of the site means that clear procedures need to be in place in order to ensure that development can take place safely and correctly. I do not think it is unreasonable of the Council to request full and correct details of the works proposed, and therefore I consider that the imposition of the condition is necessary in this instance.

Relevant

9. The appellant considers that the Council have not worked proactively in order to secure the development, and that the Framework states that applications for sustainable development should be approved where possible.
10. As set out above, the nature of the site, and the works required to facilitate the approved planning consent mean that the condition is relevant to planning, and from the evidence in front of me, it appears that considerable levels of dialogue have taken place, and the Council have sought to ensure compliance with agreed works where possible, and enforced accordingly where this has not taken place. Therefore, I find that the Council have carried out the duty of working with the appellant which gives further credence to the fact that the condition is relevant to planning.

Precision

11. The appellant states that the condition is not precise, as it does not describe the area of works accurately. The Council have acknowledged that this is a drafting error. However, when seen in the context of the planning approval,

there is no doubt regarding the area that should be protected, and the intentions of the condition are clearly set out.

12. As I consider that the condition is necessary, and as a result is not severable from the other conditions, in this instance the condition can be resolved by redrafting, I will vary the original permission by deleting the original condition, and imposing a correctly worded replacement, which will be included in the schedule at the conclusion of this decision.

Not reasonable

13. On this matter, the appellant states that the slope stability report was not formally assessed by the Council, and the Ecology Consultee considered that the site holds little ecological value. In conclusion, the appellant states that a CEMP would cost tens of thousands of pounds, to reach the same conclusion as the application process, whereas the cost of the development would be considerably lower, and therefore as the condition places unjustifiable and disproportionate burdens, it will fail the test of reasonableness.
14. The Council accepts that the relocation of the manege is not an issue from a slope stability aspect, but reiterates that there has been no construction methodology forwarded.
15. I agree with the Council in this respect. It is essential that a correct and up-to-date methodology is submitted as set out in the condition and allows the development to continue in a correct and safe manner.
16. With regard to the comment regarding the cost of carrying out a CEMP, I have no evidence in front of me to set out how the appellant has reached such a figure, and without such evidence, I can attribute this little weight.
17. From the evidence in front of me, I find that the claim of the appellant regarding the ecology report has been quoted out of context, and survey recommendations are due to the possibility of biodiversity interest. Again, I attribute the comments of the appellant little weight.
18. In conclusion on this issue, I find that there is insufficient evidence to suggest that the condition is not reasonable in terms of Paragraph 79 of the Framework.

Conclusion

19. For the collective reasons outlined above, I therefore conclude that Condition 8 continues to be justified in terms of being both reasonable, necessary, precise and relevant in order to afford appropriate control relating to the potential effects of the proposals and is consistent with the aims of Paragraph 79 of the Framework. However, I have varied the original permission by including a correctly worded replacement, so therefore the appeal is allowed, on that matter only.

Paul Cooper

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby approved shall be built in strict accordance with the following approved plans:

Location Plan - B17/28/L01A

Site Sections - B17/28/P02B

Block Plan - B17/28/B01A

Site Plan as Proposed - B17/28/P01A
3. Notwithstanding the materials indicated on the approved plans, no development shall commence on site until details of the materials to be used for the construction of the manege and associated fencing and gates, hereby approved, have been submitted and agreed in writing by the District Planning Authority. The development shall be carried out in accordance with the approved details.
4. No materials other than those detailed in Block Plan - B17/28/B01A (limestone aggregate, geotextile membrane and silica sand, and fencing) for the construction of the manege and its associated fencing shall be imported to the application site.
5. The manege hereby approved shall be used for private equestrian purposes of the applicant only and shall not be used in connection with any riding school, or livery stables or for any other commercial activity and for no other purpose (including any other purpose in Class D2 Town and Country Planning (Use Classes) Order 2015), or any subsequent re-enactment with or without modification.
6. Only equipment associated with and used for the training and exercising of horses shall be placed on the land within the red line as denoted on the approved Location Plan - B17/28/L01A.
7. No external lighting (including floodlights) shall be installed without the details first being submitted to and agreed in writing by the District Planning Authority on a planning application submitted in that regard.
8. Notwithstanding the submitted details, no works shall commence on the site, until such time as a Construction Environmental Management Plan has been submitted and approved in writing by the Local Planning Authority. The Construction Environmental Management Plan shall detail the proposed methods for the construction of the manege hereby approved, and shall show details of how the levels shall be raised, and be constructed and secured at the application site's north and north western boundary with the quarry edge. The Construction Environmental Management Plan shall include particulars of the types and amounts of, and the locations for storage of and disposal of any materials to be imported to or exported from the site. Contractor details and a timetable of works should also be included, including the proposed construction hours for the development. The

Construction Environmental Management Plan shall also include an assessment to identify potential environmental and ecological impacts arising from the development and include any necessary mitigation measures. The works shall thereafter be carried out in accordance with the approved details and timetable.

END OF SCHEDULE