



Appeal Decision

Site visit made on 12 August 2020

by M Scriven BA (Hons) MSc CMgr MCIHT MCMI

an Inspector appointed by the Secretary of State

Decision date: 19 October 2020

Appeal Ref: APP/P1133/W/20/3251272

White Horse Self Storage, Tedburn Road, Whitestone, Devon EX4 2HF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Gerald Dinnis Limited against the decision of Teignbridge District Council.
 - The application Ref 19/01413/FUL, dated 23 July 2019, was refused by notice dated 10 February 2020.
 - The development proposed is a change of use of land to self storage – Business B8.
-

Decision

1. The appeal is dismissed.

Procedural matters

2. The appellant has asked that drawing No 1346-3-03 be considered as indicative for the purposes of the appeal. However, I have little evidence that the drawing was originally submitted to the Council with the intention of it being considered as illustrative or for future consideration. Other parties have commented on the detail of the drawing and it is referred to extensively in the evidence provided. Even so, I have taken the drawing into account as being illustrative of the proposed development.
3. The Council gave two reasons for refusal relating to the loss, and proposed re-creation, of habitat as a result of the proposal. I have considered these matters collectively under the main issue, as well as regard to protected species given my statutory duties as a decision maker.

Main Issue

4. The main issue is the effect of the proposed change of use on the biodiversity of the area, with particular regard to Lowland Meadows habitat.

Reasons

5. The appeal site forms a parcel of land bound by a yard currently accommodating caravans, the A30 and a country lane. Across the lane there is a further storage yard of shipping containers and a car sales business with associated offices and workshops. The proposed development would provide similar storage to that which adjoins it, effectively extending the existing site. The wider combined site sits in the countryside with open fields and woodland prevailing.
6. The appeal site, although not nationally designated is a County Wildlife Site (CWS), containing Lowland Meadows habitat of principal importance under the

Natural Environment and Rural Communities Act 2006 (NERC). Section 40 of the NERC places a duty on decision makers to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. The value of the site positively derives from the habitat which is in limited existence across the country and adds to the wider biodiversity of the area. The valuable habitat would be harmfully lost to the hardstanding of the proposed development as shown in drawing No 1346-3-03. Even if the appellant's alternative open mesh surfacing material were to be suitable for the proposed use and would enable parts of the existing lowland meadow to persist, at least around a quarter of the site area would be likely to be covered by containers or caravans, and so the lowland meadow would be harmfully eroded.

7. Regulation 9 of the Conservation of Habitats and Species Regulations 2017 (Habitat Regulations) imposes a duty on decision makers to consider whether there is a reasonable likelihood of Protected Species being present and affected by proposed development. The bat, dormice and reptile report, clearly identifies a presence of protected species including horseshoe bats and nesting dormice in hedgerow at the appeal site. It also identifies a presence of slow worms. In addition to the loss of the lowland meadow habitat an existing hedgerow would be removed, as well as new flood lighting being installed. As such it is considered that the proposed development would be harmful to the identified protected species further to habitat loss, contrary to the Habitat Regulations.
8. Although the appellant has proposed to offset the loss of the habitat there is little information provided to demonstrate how the accepted mitigation hierarchy has been followed, whereby compensation should be a last resort, but rather use of an alternative, less sensitive site be pursued first.
9. The proposed offset site, which is larger than the appeal site and in the ownership of the appellant, would utilise a field nearby to re-create the lost habitat, with the intention of it being designated a CWS in future and achieving a net biodiversity gain. However, it is clear that the proposed compensation site is not yet comparable to the appeal site in terms of its ability to support the biodiversity of the appeal site. There is also little to explain how the offset site, which is outside of the appeal site would be secured in the long term.
10. The proposals to re-create the habitat of the appeal site are outlined in an ecologist's report, which followed surveys in 2017. The existing grassland in the offset site is largely of different type to the appeal site, and as such the field would require management to replace the habitat that would be lost at the appeal site. Whilst a brief methodology has been proposed, a yearly monitoring regime referred to and various conditions relating to management in perpetuity and retention of woodland edges, there is little substantive evidence to reliably predict how successful the measures would be, and over how long it would take for the new site to become established. Inference is made to three years however this is not expressly stated.
11. Similarly, in the event of the offset measures being unsuccessful it is unclear how any contingency scheme could be realistically taken forward in a reasonable time frame. As such the proposed offset scheme would not overcome the harm identified above
12. I acknowledge that further mitigation measures have been proposed at the appeal site, intended to mitigate the identified harm to protected species,

including replacement hedgerows, associated verge buffers and consideration of conditions relating to the type and hours of lighting. These measures and monitoring of protected species and new hedgerows would need to be dealt with by means of a condition and or planning obligation if the proposal were to be otherwise acceptable. However, this would not overcome the harmful loss to the lowland meadow. Whilst the appellant's offset site is intended to more than make up for this loss, there is no certainty that the lowland meadow could reasonably be re-created there.

13. It is understood that the site may previously have been a yard associated with the construction of the A30 and was then turned over to pasture in the late 1970s. Also, that it may have been used for car parking previously. Notwithstanding the appellant's view that this demonstrates the site could easily be re-created and the site is not irreplaceable, the existing site whilst not ancient, has had around 40 years to establish itself. Currently no comparable offset site exists and there is no certainty that it could be easily re-created in a reasonable time scale.
14. The appellant is of the view that conditions could be applied so as to ensure the success of the offset site. However, any conditions would not overcome the harm identified above and without a comprehensive methodology would fail to meet the requirements of the National Planning Policy Framework, 2019 (the Framework).
15. The appellant considers there to be wider public benefits of the proposals to weigh against the harm of the loss of the site, including serving a need for self-storage in the nearby area and the viability of the business which supports the local economy. However, little evidence supporting these matters has been provided, as such I do not consider such issues to outweigh the harm identified above.
16. Therefore, the proposed development would not accord with Policies S1A and S1 of the Teignbridge Local Plan, 2014 which seek to promote sustainable development. The proposal would not accord with Policy S22 of the Local Plan which amongst other things seeks to ensure the provision of biodiverse landscapes. Similarly, the proposal would fail to accord with Policies EN8, EN9, EN11 and EN12 of the Local Plan which collectively seek to ensure that biodiversity is protected or enhanced, with particular regard to important habitats, protected species and hedgerows.
17. The proposal would similarly not accord with the Framework, when read as whole and my statutory duties regarding the Habitat Regulations.

Other matters

18. Conditions relating to the size and number of caravans and storage containers which would be sited at the proposed development have been suggested by the appellant. Similarly, conditions regarding the colour and height of stacking of any storage containers, as well as landscaping to lessen their impact have been suggested. However, this would not outweigh the harm identified above.
19. The absence of objection from the Highway Authority or harm regarding traffic generation and highway safety associated with the proposed operations of the site is no more than a neutral consideration in the appeal.

20. I have not pursued enquiries into the proposed drainage arrangements for the site given there is no prospect of the proposal being granted planning permission.

Conclusion

21. For the reasons above the appeal is dismissed.

M Scriven

INSPECTOR