



Appeal Decision

Site visit made on 20 October 2020

by M Shrigley BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th December 2020

Appeal Ref: APP/T2405/W/20/3256610

Granitethorpe Quarry Disused, Leicester Road, Sapcote, LE9 4QF

- 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 Mr John Mac against the decision of Blaby District Council.
 - The application Ref 20/0113/FUL, dated 13 January 2020, was refused by notice dated 26 June 2020.
 - The development proposed is a retrospective application for re-siting of 'menage' in the area of the old quarry and change of use of land to horsiculture
-

Decision

1. The appeal is allowed and planning permission is granted for re-siting of the manege in the area of the old quarry and change of use of land to horsiculture at Granitethorpe Quarry (Disused), Leicester Road, Sapcote LE9 4QF in accordance with the terms of the application Ref 20/0113/FUL dated 13 January 2020 subject to the conditions set out in the Schedule at the end of this decision.

Procedural Matter

2. I have corrected the spelling of 'menage' taken from the planning application form and subsequently used in the header to 'manege' as this relates to horsiculture and better describes the proposal taking into account the appeal documentation before me.

Background and Main Issue

3. There have been historic flattening and infilling engineering works acknowledged by parties which have been subject to enforcement investigations. It is not for me to determine within a s78 appeal whether any of the works are lawful, and the Council have recognised in their Decision Notice that the development applied for in part is retrospective. I have therefore determined the proposal on that basis.
4. The main issue is whether the location is suitable for the re-siting of the manege having regard to i) local geodiversity and ii) biodiversity.

Reasons

Geodiversity

5. The disused quarry site subject to appeal is located within the open countryside. Both parties acknowledge that the appeal site is situated within a Regionally Important Geological Site (RIGS) where historic mineral extraction

has been apparent. This in the main relates to mining quartz dolerite deposits and the quarry has been dormant for some time for mineral workings.

6. The specific impact to the status of the land as a RIGS lies at the heart of the dispute between parties. In that regard Policy CS19 of the Council's Core Strategy (CS) seeks to safeguard against developing local sites of geological importance and encourages that other locations away from geologically sensitive sites are first considered. Policies DM2 criterion vi, DM15 and M11 of the Leicestershire Minerals and Waste Local Plan (LMWLP) also highlight that proposals in areas identified for mineral safeguarding will need to ensure that mineral resources of national or local significance are not needlessly sterilised by nonmineral development.
7. Historical planning applications 16/0725/FUL and 17/1669/FUL are also relevant to my decision as they have both been previously allowed by the Council which I have had regard to. Although the current application has been submitted retrospectively it is very close to those other approvals for a manege. The current proposal encroaches into the RIGS and therefore the subsequent level of change from the previous approved applications is also a fundamental part of my decision alongside the requirements of Policy CS19.
8. The appellant has given two reasons for the repositioning of the manege which relate to maximising grazing areas for the horses and also to locate it further away from the bridleway used by dog walkers which is a source of distraction to the use of the site.
9. The subsequent encroachment into the RIGS is marginal and does not prevent access to the locations key geological feature which is highlighted by the Council to be the north cliff face of the quarry. Because the position of the manege does not interrupt the north cliff face, the encroachment into the RIGS area from the position of the previous approved applications does not give rise to any significant harm to the special geological qualities of the land which are deemed necessary to safeguard.
10. Accordingly, whilst there is some conflict with Policy CS19 of the Blaby District Council Core Strategy 2013, as well as policies DM2 criterion vi, DM15 and M11 of the LMWLP it is outweighed by the fact that the position of the manege would not compromise the retention and accessibility of the specific area of the quarry face with geological interest and therefore the location of the proposal does not have an unacceptable geological impact overall.

Biodiversity

11. Policy CS19 of the CS also recognises that previously developed land can be a source of significant biodiversity. It seeks to protect wildlife within RIGS primarily through discouraging development and where this is unavoidable sites are safeguarded through appropriate forms of mitigation. The Council's development plan supports measures to protect species which do not receive statutory protection under a range of legislative provisions but have been identified as requiring conservation. To that end any development proposals are required to ensure that these species and their habitats are protected from the adverse effects of development using appropriate mitigation measures.
12. I have considered the statutory protection provisions for fauna and flora as well as the provisions of the Council's development plan. Although Policy CS19 is

- triggered the specific qualities of the site evidenced are linked to its geological attributes rather than wildlife provision identified through a formal assessment. The site is not part of a Local Nature Reserve, Local Wildlife Site or a notable Bio-diversity Action Plan site also broadly referred to by the policy.
13. Factoring the regrading works needed to recontour the land described by the appellant there is no conclusive evidence to determine that there has been, or would be, a material reduction in biodiversity as a result of the works subject to appeal. The Council's ecological officer points to wooded area reduction from around 2011. I do not discount that there have been trees or shrubs on the site historically offering some ecological habitat value. But I give little weight to that point as there is nothing directly linking tree loss to the appeal development and those circumstances appear to be a separate matter.
 14. The appellant's Ecology Survey advises that there are no protected species affected by the development. There is no specific ecological evidence before me which opposes that information. However, I do accept that there may be protected species living in the wider areas of the open countryside location the site is close to. It is also the case that scrub and tree regeneration evident on the fringe areas of the overall quarry has the capacity to support wildlife but that is some distance from the location of the manege.
 15. The proposed repositioning and size of the manege therefore does not have a demonstrable harmful impact on local ecology. I also acknowledge that quarry land sites can regenerate around the edges providing a long-term betterment for species that may be present in the wider countryside. There is evidence of some re-naturalisation occurring where historic engineering works appear to have been evident. Over time such naturalisation is likely to improve opportunities for successful wildlife habitats. I have no reason to doubt that would continue. Therefore, it is likely that the appeal site can still provide a terrestrial habitat or foraging areas for local fauna which may become more prevalent in the long term as trees and other vegetation become more established in wider countryside areas. Additional landscaping buffering and mitigation details are therefore not necessary with that in mind.
 16. I find that whilst there is some conflict with Policy CS19 of the CS as well as DM2 criterion vi, DM15 of the LMWLP there is no significant demonstrable harm to local ecology.

Other Matters

17. I have had regard to the objections to the development made by third parties linked to a variety of matters not covered in the main issues such as alleged breaches of planning control, noise, disturbance, increased traffic on a narrow lane, harm to a historic site, landscape harm, loss of amenity, amongst other matters. However, I have no substantive evidence to find that those objections alter the balance of my determination. The points are also beyond the specific contentions highlighted by the Council's Decision Notice which is the basis for the appeal in dictating they too had no objects to those elements. I therefore do not find that any of those further points are factors which should override the main issues contended or are convincing factors to dismiss the appeal.

Conditions

18. The Council have suggested a list of conditions for consideration. A time limit condition would not be enforceable given the development is retrospective.
19. The specifications of the manege detailed within the appeal plans is typical to functional requirements of equestrian use therefore the submission of further materials or fencing and gate details is not necessary. A condition restricting the importation of materials, and additional equipment above those detailed within the appeal plans or associated to the use applied for is required to minimise risk of unauthorised imported material or storage of non-related equipment being brought to the site.
20. It is unclear why the Council are seeking that the use of the development is not linked to a commercial stable/livery use. There is nothing in the submitted documents to suggest that it would be. However, from a highway safety perspective additional horse box transportation, to and from the site could increase in frequency if not properly regulated leading to highway safety detriment. Therefore, such a condition is required to prevent any public safety issues which could arise without such a condition.
21. With respect to the suggested construction management planning condition I have considered the allowed appeal decision to planning application 17/01669/FUL. But I am mindful that the construction management wording is unenforceable for a retrospective proposal where a Construction Management Plan has already been provided by the appellant and its details do not result in detriment to the north cliff quarry face. The regrading and levelling works for the manege relate to minor development where a condition limiting the importation of material is already justified and applied. For those reasons I find an additional control is not necessary.
22. I have applied the suggested conditions relating to the approved plans subject to modification to ensure the development is linked to those. I have also attached conditions relating to the use of lighting and landscaping provision to protect the visual appearance of the area from light pollution but subject to slight modification.

Conclusion

23. For the reasons given above the appeal succeeds.

M Shrigley

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby approved shall be built in strict accordance with the following approved plans: Location Plan – B17/28/L01B; Site Sections - B20 04 P02A; Block Plan – B17/28/B01B; Site Plan as Proposed - B20 04 P01A 3.
2. No external lighting (including floodlights) shall be installed without the details first being submitted to and agreed in writing by the Local Planning Authority. The approved details shall then be fully adhered to.

3. 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.
4. 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/L01B.
5. No materials other than those detailed in Block Plan - B17/28/B01B (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.
6. Prior to the use of the manege a scheme of landscaping shall be submitted to the Local Planning Authority for approval. The approved scheme shall then be fully implemented prior to the first use of the manege.