



Appeal Decision

Site visit made on 16 January 2024

by L N Hughes BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd January 2024

Appeal Ref: APP/W3005/W/23/3326002

**Whiteborough Farm, Chesterfield Road, Huthwaite, Nottinghamshire
NG17 2QJ**

- 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 Mrs Julie Cook against the decision of Ashfield District Council.
 - The application Ref V/2023/0143, dated 13 March 2023, was refused by notice dated 10 July 2023.
 - The development proposed is access track, hardstanding and temporary change of use of agricultural land for storage use.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The access track, hardstanding, and outdoor storage are identified as completed in January 2019, and from my site visit appear to be as shown on the plans before me. For the avoidance of doubt, I have determined the appeal based on the submitted plans. The application description includes 'retention of' in relation to the access track, but I have not included this in my description above as retention does not constitute a form of development in this instance.
3. The National Planning Policy Framework ('the Framework') was revised in December 2023. The content of the Framework has not been materially altered in respect of the main issues before me, and therefore it has not been necessary to go back to the parties in this regard.

Main Issues

4. The main issues are the effect of the development on:
 - the character and appearance of the countryside;
 - nature conservation, with particular regard to the site's part designation as a Local Wildlife Site; and
 - highway safety.

Reasons

Character and Appearance

5. The site is part of Whiteborough Farm, and comprises an access track off Chesterfield Road, leading to an area of hardstanding currently used for storage of large modular offices and other large format equipment. This is on formerly

open land adjacent to the cluster of farm and equestrian buildings, within open fields all around including the field through which the access track runs. The wider area has a clearly rural and agricultural character, with open and long distance views due to the area's topography. A public right of way (PROW) runs across and around the site.

6. The proposed development would result in the retention of the existing access track and hardstanding in perpetuity, and a 12 month temporary change of use for storage on the hardstanding. As the access and hardstanding also facilitate the storage use, they cannot be considered in isolation from it. I also cannot ignore any effects of the storage solely due to it being temporary, as I must consider if any harm would be caused during those 12 months.
7. The site is identified as countryside on the Policies Map of the Ashfield Local Plan Review (ALPR) (2002), and its Policies ST4 and EV2 state that in the countryside only appropriate development will be granted permission. Policy EV2 sets out the criteria for such appropriate development, of which none apply. Although its criteria (a) relates to rural uses including agriculture, the storage use does not comprise such a use despite its temporary nature. The development therefore conflicts with these policies.
8. The ALPR Policy ST1(a) identifies that development will be permitted where it will not conflict with other policies in the plan, which I have already found it does. ST1(b) requires development to not adversely affect the character, quality, amenity, or safety of the environment. The containers are industrial style units, out of keeping with the countryside's agricultural character. They do not relate well to the materials or form of the existing buildings, nor to the open fields or vegetation around the farm. They are visible at very close range from the PROW, and also within longer distance views as noted on my site visit and in the interested party photographs.
9. A landscaping scheme is proposed, and planning conditions could improve screening by requiring hedges of a minimum height, and restricting double height stacking of the modular units. However, this would not fully mitigate its visual impact, especially at close range. Even for a temporary period, the storage use would therefore cause harm.
10. The access track and hardstanding are to some extent more aligned with an agricultural appearance. However, the track is prominent from Chesterfield Road and the PROW, because of the topography and open views, its position in bisecting the field, and as its surface and colouring of recycled crushed aggregate is relatively stark compared to the grassland. The proposed landscaping would again provide insufficient mitigation for this impact. The hardstanding is less visible except at close range, but would be more so once the storage use had ceased, and again would be a relatively stark contrast to the fields.
11. Overall therefore, the proposal causes harm to the character and appearance of the countryside, and conflicts with the AVLP Policies ST1, ST4, and EV2. It also conflicts with Policies NP1 and NP4 of the Teversal, Stanton Hill and Skegby Neighbourhood Plan 2016-2031 (2017), which amongst other things require schemes to protect and demonstrate respect for the existing landscape character. The development further conflicts with the Framework paragraph 135 in the need to be visually attractive and sympathetic to the surrounding landscape setting.

Nature Conservation

12. The access track runs through Whiteborough Farm Pasture, identified as a Local Wildlife Site (LWS) in the ALPR, and noted in its Appendix 1 as being a well-established pasture with a notable plant community.
13. The appellant's Ecological Survey dated April 2023 concluded that the access track has resulted in approximately 0.08 ha loss of other neutral grassland habitat, which is of local conservation importance despite not containing any rare plant species and lacking several typical indicator species of this grassland type. Compensation for this loss is suggested through the establishment of 0.50 ha of wild flower pollen and nectar mixture in the adjacent field to the east, alongside 80m of new native species hedge planting. With these improvements, the Survey suggests a biodiversity net gain of 28.09% through the provision of improved wildlife habitats and increasing biological diversity, as well as contributing to soil stabilisation and water conservation. This would be a benefit of the scheme.
14. However, the Survey does not consider the likelihood of any further ecological impact due to the vehicles driving through the middle of the LWS, nor whether the separation of the grassland into distinct areas either side of the track also has an impact such as on wildlife movement or grassland growth.
15. Moreover, no legal agreement has been submitted to give sufficient certainty that this compensatory provision would be undertaken and maintained in perpetuity, and with no other use of this land occurring. Although the appellant suggests conditions could be used for this purpose, I find conditions would not give the required level of certainty, and would not be enforceable in perpetuity.
16. Overall therefore, I find the development has a harmful effect on nature conservation, with particular regard to the site's part designation as an LWS. It conflicts with the ALPR Policy EV6(a), as insufficient provision has been made to protect features of nature conservation, and also EV6(b) as there is insufficient evidence that the proposal could not be located elsewhere. It also conflicts with part 15 of the Framework in its aims to conserve and enhance the natural environment, and specifically paragraphs 180 and 186 which seek protection of sites of biodiversity value, and advise for permission to be refused if significant harm to biodiversity cannot be avoided.

Highway Safety

17. The appeal is accompanied by only very minimal information relating to the access track. This has not allowed for a detailed assessment by the County Highways Authority, which required technical information relating to the track's design, vehicle tracking, clarification on uses, traffic generation, drainage, and passing places. I agree that on the basis of the evidence before me, I have no certainty that the development causes no harmful effect to highway safety. A harmful effect must therefore be assumed as a precautionary principle.
18. As such, the development conflicts with the ALPR Policy ST1, which only supports development where it will not adversely affect highway safety. It also conflicts with the Framework paragraphs 114 and 115, which require that safe and suitable access can be achieved for all users, and that the design of transport proposals reflects current national guidance.

Other Matters

19. The storage use allows for the diversification of an agricultural and land-based rural business, as supported by the Framework paragraph 88. As such it provides a small-scale economic benefit, to which I give limited weight. The appellant suggests that it also provides temporary employment for its operators, but with no information provided as to the number of hours this would entail. The present storage use involves leaving large objects on the site for periods of time, so apart from occasional movements I find any employment opportunities likely very limited, and so I give this only very limited weight as a benefit.
20. The appellant identifies that the track and hardstanding would be used for equestrian and farming enterprises once the storage use has ceased. The justification is that as farm machinery and equipment used by agricultural contractors has increased in size, there are real difficulties in getting from Chesterfield Road to the land at the rear of the farmyard for deliveries of feed and equipment. However, although I noted on my site visit a pinch point between buildings at the front of the farm followed by a sharp corner bend, this still appears wide enough to allow for relatively large vehicles to pass. No detailed information such as tracking plans has been provided to identify these difficulties, or how often they occur. The need for the full extent of hardstanding has also not been justified. I therefore give the benefit to farming activities very minimal weight.
21. A satellite image dated September 2019 shows a track in the same location. However, this appears far less noticeable than at present, being a much more informal access with grass in the middle of the wheel tracks, and with no separation from the field. As such, its historic presence lends only very minimal weight in support of the proposal now before me. There is also no evidence that this is the only possible route for the access.
22. Although the track and hardstanding are suggested to be typical of the type which could be developed under permitted development rights, specific rights have not been identified, nor a detailed consideration of whether the proposal would comply with any such requirements. I therefore give no weight to this as a fallback position.
23. Overall, these limited benefits and factors in support of the development do not outweigh the substantial harm I have identified above, to which I give cumulative substantial weight.

Conclusion

24. The development conflicts with the development plan as a whole. With no other material considerations outweighing this conflict, for the reasons given above I conclude that the appeal is dismissed.

L N Hughes

INSPECTOR