
Appeal Decision

Site visit made on 2 April 2024

by T Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 July 2024

Appeal Ref: APP/M4320/W/23/3331280

**National Trust Car Park, Victoria Road, Formby Easting (x) 327456
Northing (y) 408235**

- 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 Richard Pearce (National Trust) against the decision of Sefton Metropolitan Borough Council.
 - The application Ref DC/2022/02146, dated 9 November 2022, was refused by notice dated 6 July 2023.
 - The development proposed is Coastal Adaptation Works Comprising Dune Restoration & Car Park Relocation.
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Decision

1. The appeal is allowed. Planning permission is granted for Coastal Adaptation Works Comprising Dune Restoration & Car Park Relocation at National Trust Car Park, Victoria Road, Formby, Easting (x) 327456 Northing (y) 408235 in accordance with the terms of the application Ref DC/2022/02146 dated 9 November 2022 subject to the conditions set out in the attached schedule.

Application for costs

2. An application for costs was made by Mr Richard Pearce (National Trust) against Sefton Metropolitan Borough Council. This application is the subject of a separate decision.

Main Issues

3. The first main issue is whether the proposal would be inappropriate development in the Green Belt including the effect of the proposal on the openness of the Green Belt having regard to the Framework¹. The second main issue is the effect of the proposal on the character and appearance of the area with regard to tree loss.

Reasons

Green Belt

4. The appeal site is within the Green Belt. For the purposes of paragraph 155 of the Framework, the car park could be considered an engineering operation.

¹ National Planning Policy Framework 2023.

5. The Framework advises that with regard to proposals affecting the Green Belt, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
6. At paragraph 155, the Framework advises that certain forms of development, including engineering operations, are not inappropriate in the Green Belt provided that they preserve its openness and do not conflict with the purposes of including land within it.
7. My attention has not been drawn to any development plan policy relating to the Green Belt, rather I have been directed to the Framework. It is in relation to its requirements that I have considered the proposal against in terms of the Green Belt.
8. A fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence. The assessment of openness requires a consideration of both spatial and visual aspects.
9. The area where the car park is proposed is set down slightly, and although there would be some infilling of the ground which would result in raising of the existing ground levels, the car park level would remain similar to the level of the surrounding landform. Further, some tree screening would remain. These factors would limit the perception of bulk associated with the engineering operations associated with the provision of the car park.
10. As a result, the proposal would preserve the openness of the Green Belt and would not conflict with the purposes of including land within the Green Belt. The scheme would not therefore represent inappropriate development within the Green Belt.

Trees

11. It is clear that the site is popular with visitors, and although only a snapshot in time the beach was busy and it was clear that many people had accessed the site by car. The car park was well occupied and many cars were parked along its access road.
12. The evidence indicates that the existing car park is built on demolition rubble and that natural dune movement leads to regular sand inundation of the car park as well as erosion of waste materials upon which the car park is built. It is suggested that car parking spaces will be lost year on year.
13. I was able to observe waste materials on my visit which provided a rather incongruous backdrop to those enjoying the beach and dunes. Further, the proposals involve a substantial scheme of dune restoration which over time would increasingly benefit the biodiversity of the site. The proposals for the car park would secure a better experience for visitors to the site in the medium term.
14. I accept that the number of trees that would be lost from the site would be high. There would therefore be some harm to the character and appearance of the area. However, the wider area close to the coast is extensively wooded and many of the mixed broadleaved trees are individually of low value in terms of form and condition.

15. The harm to visual amenity would generally be localised to views close to and around the proposed car park and as such the adverse visual impacts would be limited.
16. I afford substantial weight to the benefits of the proposal which has merits as a thoroughly considered scheme to address a particular problem affecting this particular site. On that basis, the tree loss proposed would not be unacceptable.
17. I do not therefore consider that the proposal would conflict with part 7.a of Policy EQ9 of the Sefton Local Plan (2009) (SLP) which states that development proposals must not result in unacceptable loss of existing trees or woodlands.
18. There would however be conflict with part 7.b of Policy EQ9 which states that proposals must replace any trees lost as a result of the development at a ratio of 1:1 within the site. There would also be conflict with Policy ESD7 of the Formby and Little Altcar Neighbourhood Development Plan (NDP) which states that amongst other things new development should not result in the net loss of trees or woodlands and that trees lost as a result of development should be replaced at 1:1 ratio.

Other Matters

19. I note that significant levels of concern have been expressed with regard to the access to Freshfield Caravan site. However, there appears to be provision for a link within the bounds of the appeal site to the track to that site, although I noted at the time of my visit that the track was blocked with sand. Whilst noting those concerns, the issue of access to that site is beyond the scope of this appeal.
20. There is nothing to indicate that the proposals would have any unacceptable impact on biodiversity interests including red squirrels and bats. There is nothing to indicate that asbestos removal cannot be safely managed.

SAC, SPA and Ramsar Sites

21. The evidence indicates that the site sits within the Sefton Coast Special Area of Conservation (SAC) and The Ribble and Alt Estuaries Ramsar site. The Ribble and Alt Estuaries SPA is closely to the west. The evidence also suggests that without mitigation the proposal would damage or destroy interest features for the which the Sefton Coast Site of Special Scientific Interest (SSSI) has been notified.
22. The qualifying features of the Sefton Coast SAC primarily relate to the mixed dune habitats supporting great crested newt and petalwort, whilst the other qualifying features of the other sites principally relate to the wide range of breeding and non-breeding bird populations.
23. The proposal would involve a large degree of activity and works within and within close proximity to the sites and could therefore result in impacts on the designated sites which could include but not be limited to direct noise or visual disturbance to birds, impact upon prey species, change in water quality, physical damage and habitat loss, direct damage to or loss of habitat, air quality impacts and other direct impacts. An impact pathway is therefore present.

24. Therefore, adopting the precautionary principle, and in the absence of any evidence to the contrary, I consider that as a result of the proposal, likely significant effects on the protected habitats sites cannot be ruled out.
25. I am therefore required to carry out an Appropriate Assessment. The works that would take place would be likely to have a detrimental impact on the populations and habitats present as a result of disturbance to habitat. As such, the favourable conservation status of supported species would not be likely to be maintained. The development would be likely to have a detrimental impact on the delivery of the sites objectives, adversely affecting their integrity.
26. However, detailed mitigation measures are proposed, which are conditioned. On the basis that these measures are implemented and followed, the proposals will not, either alone or in combination with other plans and projects, have an adverse effect upon the integrity of the relevant sites nor damage or destroy interest features for the which the SSSI has been notified. The SNCB have been consulted and consider the scheme ecologically sound.

Environmental Impact Assessment

27. An Environmental Statement was produced in accordance with the 2017 EIA Regulations. I have taken this into account in considering this appeal. The statement considered the topics of Ecology and Nature Conservation, Construction Noise and Air Quality in detail.
28. Significant impacts on biodiversity were not predicted. It concluded that the levels of noise and vibration predicted would be within the acceptable limits for occupants of nearby dwellings and for sensitive bird species. No significant impacts were identified with regard to noise and dust either during the construction or operational phase of the development. Comments have been sought from statutory consultation bodies and these and other comments have been taken into account. Mitigation measures are included within the conditions set out below.

Conditions

29. Conditions one, two and three are necessary to define the consent. Conditions two, four, five, six, seven, twelve, thirteen, nineteen, twenty and twenty one are necessary to protect biodiversity interests at the site. Condition six is also necessary in the interests of the living conditions of nearby occupiers. Condition eight is necessary to safeguard retained trees on site in the interests of the character and appearance of the area. Conditions nine, ten, eleven, fourteen, fifteen, seventeen and eighteen are necessary in the interests of highway safety. Condition sixteen is necessary in the interests of promoting more sustainable forms of travel.
30. Plan P10217-00-001-GIL-0400 Rev 03 'Planting Plan' – identifies and area for provision of mitigation planting area 1.66Ha coloured light green. However, the evidence indicates that woodland plantation does not support the conservation objectives of SAC qualifying species and should not be provided. No replacement planting is therefore sought or required via condition relating to that mitigation planting area.

Planning Balance and Conclusion

31. The scheme would not represent inappropriate development within the Green Belt. There would be some limited harm to the character and appearance of the area and there would be conflict with Policy EQ9 of the SLP and Policy ESD7 of the NDP.
32. However, I afford substantial weight to the benefits of the proposal which outweigh the harm identified. Considerations indicate that a decision should be made otherwise than in accordance with the development plan. The appeal is therefore allowed.

T Burnham

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.
- 2) The use of the relocated car park hereby permitted shall cease and the land be reinstated to its original condition on or before 1st January 2049 in accordance with a scheme to be submitted and approved in writing by the Local Planning Authority. Reinstatement shall be carried out in accordance with the approved scheme.
- 3) The development shall be carried out in accordance with the following approved plans;
 - 1:13202 Location Plan
 - P10217-00-001-GIL-0100 Rev 06 'Indicative General Arrangement'
 - P10217-00-001-GIL-0105 Rev 02 'Indicative Car Park General Arrangement'
 - P10217-00-001-GIL-0106 Rev 00 'Car Park Maximum Parameters'
 - P10217-00-001-0202 Rev 01 'Indicative Sections'
 - P10217-00-001-GIL-0400 Rev 03 'Planting Plan' – Excluding the provision of mitigation planting area 1.66Ha coloured light green.
 - P10217-00-001-GIL-0104 Rev 02 'Car Park Proposed Levels'
 - M16034-A-005 Rev A 'Refuse Vehicle Swept Path Analysis'
 - 60621196-ACM-VR-XX-DR-DR-200001 Rev P03 'Proposed Drainage Strategy Drainage Areas'
 - 60621196-ACM-VR-XX-DR-DR-200002 Rev P03 'Proposed Drainage Strategy Drainage Layout'
 - 60621196-ACM-VR-XX-DR-DR-200004 Rev P02 'Typical Drainage Details'
- 4) Prior to any decommissioning or restoration works taking place following the cessation of use of the relocated car park a full decommissioning & restoration plan must be submitted to and approved in writing by the Local Planning Authority. The approved plan must then be adhered to during the decommissioning of the car park and restoration of the site.

- 5) No development, clearance or other works shall commence within Area A on Simply Ecology Plan 'Sand Lizard Sensitive Areas and Proposed Staged Working (June 2023), until it has been cleared of Sand Lizards under Licence issued by Natural England, a copy of which must be submitted to the Local Planning Authority prior to the translocation works commencing.
- 6) No development shall commence, including any works of demolition, until a Construction Environmental Management Plan has been submitted to, and approved in writing by, the Local Planning Authority. The approved statement shall be adhered to throughout the construction period and shall include but shall not be limited to the following:
 - Noise and visual avoidance and minimisation measures to cover all activities associated with the proposal (for protected species and sensitive receptors)
 - Pollution prevention measures (for air, soil & water from dust and other materials from activities)
 - Reasonable Avoidance Measures for amphibians and reptiles around the working areas and construction routes within the site
 - Details of industry standard biosecurity measures for all machinery and standard construction industry pollution and invasive species control measures
 - Details of where machinery/materials will be stored
 - Details of where vehicles and machinery will be refuelled
 - Details of any stockpiling locations
 - Details of protection zones around areas of retained habitat, and how they will be secured
 - Details of site clearance processes before construction works begin to check for SAC distinctive species within the working area.
- 7) Prior to the commencement of development, the details of a monitoring programme of qualifying bird species and their behaviour by an Ecological Clerk of Works (ECoW) must be submitted to and approved in writing by the Local Planning Authority. The monitoring programme must include details of how significant disturbance will be measured and set out what further mitigation measures will be implemented (if required).
- 8) No equipment, machinery or materials shall be brought onto the site for the purposes of the development until details of all fencing for the protection of trees, hedges, and other landscape features, including its location and type have been submitted to and approved in writing by the Local Planning Authority. The fencing shall be erected in accordance with the approved details, and shall be maintained until all equipment,

machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, and the ground levels within those areas shall not be altered, nor shall any excavation be made at any time.

- 9) No development shall commence, including any works or demolition, until a Construction Period Access/Car Parking Management Plan has been submitted to, and approved in writing by the Local Planning Authority. The approved plan shall be adhered to throughout the construction period and shall include the following:

- Details of temporary information signs.
- Details of temporary directional signs.
- Temporarily covering existing car park and destination directional signs.
- Details of how continued pedestrian/cycle access is provided and managed during the works.
- Details of any additional physical measures used to manage and control access.

- 10) No development shall commence, including any works of demolition/excavation, until a Highways Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The approved statement shall be adhered to throughout the construction period.

- 11) Prior to the first use of the relocated car park a detailed scheme of highway works together with a programme for their completion shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include:

- Provision of two permanent Traffic Information Variable Message Signs on the Formby Bypass.
- Provision of Car Park Capacity Variable Message Signs on the main accesses to both the Victoria Road and Lifeboat Road car parks.
- A review of all existing directional and car park signs for the National Trust, including the renewal/update of all existing signs.
- Provision of additional directional signs between the Victoria Road car park and the Lifeboat Road car park.

The relocated car park shall not be brought into use until the required highway works have been constructed in accordance with the approved details.

- 12) No tree, shrub or hedgerow felling, or any vegetation management and/or cutting operations shall take place during the period 1st March to 31st August inclusive. If works are required within this time period then a suitably qualified ecologist must survey the trees for evidence of any active nests. If a bird nest in current use is discovered then an appropriate 3m stand-off around the nest must be created until after the nest has been vacated.

- 13) The implementation of the Himalayan Balsam and Japanese Knotweed treatment programme as set out in the approved Outline Construction

Environmental Management Plan shall be undertaken during the construction of the development. The invasive species shall be removed from the working area and temporary stand-off fencing shall be used to ensure the species are adequately controlled, and measures shall be used to limit any spread to the rear of the site.

- 14) The relocated car park shall not be brought into use until a Permanent Car Parking Management Plan comprising of immediate, continuing and long term details on how the car park will be managed including pay and display details, how the car park traffic will be controlled when the car park is nearing and at capacity, details on how public information will be provided including the provision of Car Park Capacity Variable Message Signs has been prepared, submitted to and approved in writing by the Local Planning Authority. The car park management shall then be carried out in accordance with the approved plan.
- 15) The car park area hereby approved shall not be opened for use until all spaces have been marked/allocated and all necessary signage and directional markings within the car parking area provided.
- 16) The replacement car park hereby approved shall not be operated until facilities for the secure storage of cycles have been provided for use in accordance with details to be submitted to and approved in writing by the Local Planning Authority. They shall be retained for the lifetime of the development thereafter.
- 17) The relocated car park shall not be used until a detailed scheme of Sefton Coastal Footpath signage works together with a programme for their completion has been submitted to and approved in writing by the Local Planning Authority. No part of the development shall be brought into use until the required signage works have been constructed in accordance with the approved details.
- 18) The relocated car park shall not be used until a detailed scheme of footpath improvement works together with a programme for their completion has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the resurfacing of the existing footpath into the site from Victoria Road from its junction with Victoria Road to the existing entrance kiosk. No part of the development shall be brought into use until the required works have been constructed in accordance with the approved details.
- 19) The replacement car parking area hereby approved shall not be operated until a scheme and appropriate scaled plan identifying suitable locations on the site for the erection of bird nesting boxes and bat boxes together with a timetable for implementation has been submitted to and approved in writing by the Local Planning Authority. The approved scheme of nesting and bat boxes shall be installed in accordance with the approved details and timetable and retained for the lifetime of the development.
- 20) The car parking area hereby approved shall not exceed a capacity of 237 spaces.

- 21) Excavator operation and movements on the frontal dunes, during the construction phase, shall not be undertaken 1 hour either side of high tide between 1st October and 31st March.