

Appeal Decision

Site visit made on 19 June 2024

by M Ollerenshaw BSc (Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 August 2024

Appeal Ref: APP/R0660/W/23/3330472

Land off Lamberts Lane, Congleton, Cheshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Mr R Worrall against the decision of Cheshire East Council.
 - The application Ref 22/1134D sought approval of details pursuant to condition Nos 5 and 8 of planning permission Ref 21/4786C, granted on 22 December 2021.
 - The application was part approved (condition No 5) and part refused (condition No 8) by notice dated 27 July 2023.
 - The development proposed is described as proposed new stables, horse exercise arena and associated yard area.
 - The details for which approval is sought relate to condition No 8 which states that:
Prior to the first use of any facing or roofing materials the applicant shall submit a strategy for the implementation of measures to enhance the biodiversity value of the site and the land within the area edged blue together with a scheme of management. The submitted strategy should include proposals for the provision of features for nesting birds including house sparrow and roosting bats, improvements to the grassland habitat and native species planting. The proposal shall be permanently installed within the first planting season following completion of the development and managed in accordance with approved details.
 - The reason given for the condition is:
To safeguard biodiversity in accordance with the NPPF and Local Plan Policy SE3.
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Decision

1. The appeal is allowed, and the details submitted¹ pursuant to condition No 8 attached to planning permission Ref 21/4786C granted on 22 December 2021, in accordance with the application Ref 22/1134D, are approved.

Procedural Matters

2. The Council's decision letter for the application for approval of details reserved by condition approves the landscaping details for condition No 5, but did not approve the biodiversity enhancement details for condition No 8. The dispute therefore relates to condition No 8 only. Accordingly, I have limited my assessment to the details submitted pursuant that condition.
3. The appellant submitted a biodiversity net gain drawing with the appeal. It does not change the substance of the proposals and the Council had the opportunity to comment on it as part of their appeal submission. I have therefore taken this drawing into account in my decision.

¹ Location Plan, Biodiversity net gain drawing 0341023, Grassland Management Strategy Statement (AE09-R02a), and Planning Appeal Supporting Statement prepared by Equestrian Design.

Main Issue

4. The main issue is whether the details of biodiversity enhancements submitted in relation to condition No 8 of the planning permission are acceptable.

Reasons

5. The appeal site forms part of a field to the north of Lamberts Lane on the edge of Congleton. It is within a Wildlife Corridor and the Howty Corridor Local Wildlife Site (LWS). The LWS is designated for grassland and woodland habitats and its function as a Wildlife Corridor and buffer.
6. The Council refers to the loss of grassland from within the LWS as a result of the development permitted, which has now been implemented. It was concerned that grazing horses in particular could lead to a loss of biodiversity and therefore attached condition No 8 to secure biodiversity protection and enhancements.
7. In support of the application for approval of details of this condition, the appellant submitted a grassland management strategy prepared by an ecologist. The strategy outlines how the site and adjacent land edged blue will be managed, including measures to control overgrazing of the land to retain plant species diversity. At my site visit I could see that grazing by the small number of horses kept on the site is being sensitively managed by the appellant, including by means of enclosures. Several biodiversity enhancements have been carried out on the site and adjoining land such as bird and bat boxes, a pond, a wildflower meadow and native species planting. There is no dispute between the parties that these are all acceptable, and I have no reason to find otherwise.
8. The Council's concern is that in order to remain enforceable the strategy should relate to future landowners and not just the current one, as the permission runs with the land. That is having regard to reference in the management strategy to the grassland being managed for 30 years, or for the period of landownership by the current owner, whichever would be the shorter time span.
9. This is reasonable however given the requirement for the grazing strategy only arises due to the equine development and associated grazing on adjoining land. Future landowners may discontinue that use and/or subdivide the land which could potentially revert to agricultural use without the need for planning permission and be grazed by sheep or cattle, as has previously taken place. In such circumstances it would be unreasonable to require them to manage the grassland for a use that has ceased. Notwithstanding this, the appellant has confirmed² they will continue to manage the grassland following good practice horse grazing guidelines for 30 years, subject to the land remaining in equestrian use for domestic/leisure purposes. On that basis I consider this element of the strategy to be acceptable.
10. Ecological management is dependent on regular monitoring. To this end the management strategy sets out that access will be facilitated for monitoring by external organisations such as the Cheshire Wildlife Trust to enable assessment of the grassland diversity throughout the land ownership period. While the submitted strategy does not make it clear when monitoring will be undertaken, the appellant is willing to grant access within 7 working days of a request. That would ensure relevant external bodies could access the site for monitoring purposes at whatever frequency is deemed necessary. Reference in the strategy

² Paragraph 6.4 of the Planning Appeal Supporting Statement

to access by arrangement with the landowner is reasonable because of the potential health and safety and animal welfare issues on the site.

11. The strategy sets out that the appellant will review the grassland biodiversity and the impact of the grazing regime highlighted by the monitoring organisations, and if required, changes to the grazing regime will be made to prevent a biodiversity loss. I consider that to be a reasonable and proportionate approach given it is not a specific requirement of the condition that external access be secured for monitoring, nor that the results of such monitoring and any subsequent mitigation measures be submitted to the Council for approval. Thus, given the scale of the development, I am satisfied that the scheme would secure an appropriate level of monitoring and management for the purposes of the condition, as worded. Moreover, while the development has resulted in the loss of a small part of the grassland, the evidence before me indicates that the proposed arrangements represent an overall improvement over how the wider land was previously managed from an ecological perspective and considerable biodiversity enhancements have been secured.
12. Although a plan identifying the land was not appended to the management strategy, the site address, grid reference and planning application number are set out at the beginning of that document. It goes on to tie the proposed strategy to the site location plan for the blue line ownership boundary. A further drawing submitted with the appeal also identifies the land to which the proposals relate, and it details the biodiversity enhancements. It is therefore clear that the strategy relates to the wider land within the appellant's control. In these circumstances I see no reason why the enhancements and management strategy would not be enforceable.
13. For the above reasons, I conclude that the details submitted in relation to biodiversity enhancements are acceptable and meet the requirements of condition No 8. These details therefore comply with the relevant provisions of Policy SE3 of the Cheshire East Local Plan Strategy 2010-2030, which seeks to ensure, amongst other things, that areas of high biodiversity value are protected and enhanced.

Conclusion

14. For the reasons set out, and having considered all other matters raised, I conclude that the appeal should be allowed.

M Ollerenshaw

INSPECTOR