



Appeal Decision

Site visit made on 12 September 2024

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 15th October 2024

Appeal Ref: APP/M0933/W/24/3344817

Land Off Fairthorns Road, New Hutton, Cumbria LA8 0AP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by L and W Wilson (Endmoor) Ltd against the decision of South Lakeland District Council.
 - The application Ref is 2023/1070/FPA.
 - The development proposed is temporary change of use of land for material storage, portacabins, welfare units, solar PV panels, and creation of new temporary access (part retrospective).
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for an award of costs was made by L and W Wilson (Endmoor) Ltd against South Lakeland District Council. That application is the subject of a separate Decision.

Preliminary Matters

3. Planning permission (Ref: 5939006) was granted in 1993 for inert landfill site, with permission (Ref: 5/04/9004) granted in 2004 for completion. Permissions were subsequently granted in 1999 for the temporary storage of road planings (Ref: 5989016) and more recently (Ref: SL/2018/0844) for a temporary compound in connection with the construction of a new water main.
4. The change of use subject of the appeal commenced on 30 October 2023. At the time of my visit, I observed that the site was hard surfaced but the portacabins, welfare units and lighting were not present and the second access had not been created. Therefore, I have determined the appeal on the basis of the submitted plans.

Main Issues

5. The main issues are:

- i) The suitability of the location;
- ii) The effect of the proposal on the character and appearance of the area; and
- iii) The effect of the proposal on the local highway.

Reasons

Whether the location is suitable

6. Policy CS1.1 of South Lakeland Core Strategy Adopted October 2010 (the CS) sets out the Council's strategic approach to the location of development. This emphasises the need to protect the countryside for its intrinsic beauty. It seeks to direct development to existing service centres and, where possible, to minimise the need to travel and provide a choice of sustainable transport modes. It adopts a sequential approach to the location of development, first favouring previously developed land (PDL) in settlements before suitable infill opportunities in settlements and finally other well located land.
7. The definition of PDL in the National Planning Policy Framework (the Framework) excludes land developed for mineral extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures. Taking into account its planning history, the appeal site is not PDL, rather it is grassland in the open countryside.
8. The proposal would be a compound for material storage and welfare facilities for contractors, predominantly associated with essential infrastructure work along the M6 motorway north of junction 37 and up to Carlisle. The appeal site is close to a bridge that crosses the motorway. However, there is no direct access to the motorway at this point with the closest access being some 2km away at junction 37 via Fairthorns Road and the A684. The single lane rural road is unlit, winding and relatively narrow with passing places.
9. The site has been chosen because the land the contractors typically use was unavailable at the time and because of its previous use as a temporary compound. However, there is little evidence in relation to the contractors' usual compound. The earlier temporary compound was associated with the Haweswater aqueduct and it was not related to the motorway.
10. The evidence does not demonstrate that there are no suitable PDL sites in or closer to settlements or with established use as compounds. Neither is it demonstrated that there are no suitable alternative green field sites such as may be closer to settlements or the strategic road network and that would result in less or no harm, as discussed below. There is little evidence that the appeal site is better located in relation to the motorway work areas than alternative greenfield sites. Consequently, it has not been demonstrated that there are no sequentially preferable sites.
11. I understand that the proposal would be temporary, but I am not aware that should negate the need for development to be well located and in accordance with local plan policies. Moreover, while the Framework recognises that sustainable transport solutions will vary between urban and rural areas, it still requires development to be sensitive to its surroundings and it encourages the use of PDL and sites that are physically well related to existing settlements where suitable opportunities exist.
12. Therefore, I conclude that the location is not demonstrably suitable for the proposed development, with particular regard to the rural location, the green field nature of the appeal site and the absence of evidence in relation to suitable alternative sites. The proposal would conflict with CS policies CS1.1, CS1.2 and CS7.4 and policies DM1 and DM2 of South Lakeland Local Plan

Development Management Policies Adopted March 2019 (the LP). These require, among other things, that development is accessibly located where it minimises the need to travel, having regard to the settlement hierarchy and avoiding the open countryside unless there is an essential requirement for the rural location. It would conflict with the aims of the Framework in relation to making effective use of land, minimising the need to travel, and recognising the intrinsic character and beauty of the countryside.

Character and appearance

13. The appeal relates to a parcel of land adjacent to Fairthorns Road, this being a rural road that runs from the A684 through open countryside to either side of the M6 motorway. Except for the motorway, the area is otherwise rural and undeveloped with grassland, scattered trees and patches of woodland. The land rises to the west, but there are panoramic views to the east and north east across the expansive upland landscape and towards the distant fells. Notwithstanding its previous uses, I consider that the grassland appeal site would blend in with its rural agricultural surroundings.
14. The proposal would be a hardstanding compound, some 75m long and between 50-75m wide. It would be enclosed by 2m high metal fencing held in place by blocks and there would be 2 highway access points. It would be used for the storage of materials, the parking of numerous vehicles including cars, vans, HGVs, tractors and trailers, and for mess and welfare facilities including 2-storey portacabins with roof-mounted solar panels. There would also be external operational and security lighting.
15. Although relatively close to the road bridge, the proposal would be elevated above the M6 and well separated from it by the wide, vegetated embankment. As it would not be at the same level as the motorway nor accessed directly from it, the proposal would not be read in association with the motorway. The proposal would not be physically or visually well-related to the M6 or the infrastructure works areas north of junction 37. The secure compound, with cabins, materials storage, and parked vehicles would not be a typically rural form of development. It would be markedly out of keeping and it would be unexpected along a country lane. It would be a discordant and visually obtrusive feature that would not make a positive contribution to the rural character and appearance of the area or to local distinctiveness.
16. The motorway undoubtedly detracts from the otherwise relatively unspoilt rural landscape. However, the locally varied topography including natural landforms and cuttings means that, while stretches of the motorway are visible from elevated locations such as on and near the road bridge, the overall impression is that Fairthorns Road is a quiet rural road passing through undeveloped countryside. The M6 would not integrate the proposal into its otherwise rural surroundings. Irrespective that temporary compounds are required to serve works to the motorway, the fact of the motorway's existence does not justify a compound in this location. The appeal site is not close to or viewed in juxtaposition with Roan Edge Quarry, Lambrigg Wind Farm or Killington Services, which are in any case wholly different types of development with a justified need for their respective locations.
17. The lighting proposals have been amended from the lighting that was implemented prior to the planning application being made. The appellant acknowledges that the earlier non-directional, high level yard lights would likely

have been very noticeable from the surrounding area. Indeed, the Parish Council referred to the security lighting as bright, to the point of dazzling. The yard lights would be reduced in height and would face away from the motorway and downlighters would be attached to the portacabins. Motion-activated lights would reduce the duration of illumination. On this basis, the proposal would not result in the significant adverse effects of the originally implemented lighting.

18. The submitted Zone of Theoretical Visibility maps illustrate that the proposal would be visible at close range and from more distant locations to the east and north east, as far away as 1.5km. While lighting could be reduced to the minimum necessary to serve the development, even so, with light spill towards the hill to the west and the numerous vehicle headlights, the artificial illumination would still be conspicuous and would contribute cumulatively to the adverse visual impacts. The proposal would not be assimilated by vehicle headlights on the M6, taking into account the elevation of the appeal site and its separation from the M6, which is in a cutting. Even accepting that details of lighting could be secured by planning condition, it would not render the development acceptable.
19. The appellant proposes to plant a line of 2m tall hawthorn and holly to the rear of the trees along the highway boundary. This could be secured by planning condition. However, taking into account local topography, the size of the compound, the 2 highway entrances, and the already vegetated highway boundary, the planting would not screen the proposal nor mitigate the adverse visual impacts.
20. The compound is proposed for a further period of 3 years, following its creation in October 2023 and subsequent use. It would be restored to grassland at some point after the 3 year period had elapsed. Notwithstanding that it would not be permanent, there would be a significantly detrimental visual impact in the medium-term, during the lifetime of the development and until it was successfully restored to grassland. The proposed duration of the development does not weigh in its favour.
21. Therefore, I conclude that the proposal would harm the rural character and appearance of the area. It would conflict with CS policies CS1.1, CS1.2, CS8.2 and CS8.10 and LP policies DM1 and DM2. These require, among other things, that proposals protect the countryside for its intrinsic beauty, respond appropriately and conserve and reinforce the special qualities and local character and distinctiveness of the area. It would conflict with the aims of the Framework in relation to design, place-making and the countryside.

Local highway

22. The works to the M6 that would be served by the proposal extend from junction 37 up towards Carlisle. Contractors and visitors travelling between the appeal site and the motorway works would travel via Fairthorns Road, a short stretch of Old Scotch Road and the A684. The appeal site is roughly 2km from junction 37. Fairthorns Road is a somewhat winding rural road, with one lane, no lighting and no footway. Irrespective of its length, it does not appear suitable for intensive use by HGVs and construction traffic.
23. The SCP Technical Note assumes there would be around 10-15 arrivals and departures by car and HGV for 5 days of the week. This appears to be based on the first contractor to use the compound and there is little evidence in relation

to subsequent contractors including in terms of the number of site operatives or the number and type of HGV movements to and from the site. Moreover, while SCP consider the proposal would result in a negligible and acceptable increase in traffic, there is little evidence in relation to the existing use of the rural roads by other, including more vulnerable, highway users and farm traffic. In this regard, the Parish Council notes that the affected stretch of Fairthorns Road is used by local residents and Killington Service area personnel.

24. Site traffic would use the same highway access points used in connection with the Haweswater aqueduct works. However, traffic from the second access in that case travelled to and from the south, in contrast to the proposal where vehicles including HGVs would turn sharply in and out on the acute bend of Fairthorns Road and travel north east. Moreover, while the traffic impacts of the earlier scheme were found acceptable, that application was supported by a Traffic Management Plan, details of which have not been provided to demonstrate that the highway impacts would be directly comparable.
25. The proposal would include a more sensitive lighting scheme than the one implemented before the application was made. This would avoid dazzling passing motorists. A planning condition could be imposed to secure details of lighting.
26. The appellant considers that the proposal would not have an unacceptable impact on highway safety and that in any case the benefits associated with the works to the M6 would outweigh any potential impact on highway safety. However, it has not been demonstrated that the necessary infrastructure works are solely reliant upon the appeal site. Moreover, even accepting it would be for a temporary period, it has not been demonstrated that the rural roads are suitable for the associated HGV and construction traffic over the lifetime of the development.
27. Therefore, I conclude that the proposal would harm the safe operation of the local highway, with particular regard to amenity and the scope for conflict between road users. It would conflict with CS policies CS1.1 and CS1.2 and LP policy DM1. These require, among other things, that proposals minimise the need to travel and maximise the use of sustainable transport, provide for the safe movement of all highway users, and that traffic can be accommodated by the road network without detriment to amenity and highway safety. It would conflict with the aims of the Framework in relation to sustainable transport and minimising the scope for conflict between road users.

Other Considerations

28. The Parish Council did not object to the planning application, noting that the site had been used previously for civil engineering projects and that much of the equipment had been in place for some months. The proposal would apparently address the Parish Council's specific concerns in relation to the travel direction and the floodlighting. Nevertheless, the views of the Parish Council do not alter my findings on the main issues.
29. I accept that a site compound is required to serve the planned infrastructure works along the M6 and I acknowledge the importance of maintaining and upgrading the safety of the strategic highway network. Nevertheless, the site is not PDL and the contractors typically use land elsewhere. It has not been

robustly demonstrated that there are no alternative solutions, in the form of more suitable alternative sites, that would deliver similar benefits.

30. I note the suggestion that the proposal would provide support for the local economy, including local employment. However, the planning application form indicates that there would be no new employment opportunities. Taking into account the absence of local shops and services in proximity to the appeal site, this is a matter that carries little weight in favour of the proposal.
31. Although not illustrated on the proposed plans, the appellant proposes to plant a semi-mature hedge behind the trees on the highway boundary, to attach bird boxes to trees and, upon completion, the site would be restored to a wildflower meadow. In theory, these measures could result in biodiversity enhancement. A planning condition could be imposed in relation to hedge planting and bird boxes. However, the appellant is not the landowner and the site would not be restored until after the 3 year period. As such, there appears to be little guarantee that the hedge would be established and maintained, or that a wildflower grassland would be successfully created and retained. These matters carry little weight in favour of the proposal.

Conclusion

32. For the reasons set out above, I conclude that the proposal would conflict with the development plan and there are no material considerations that would outweigh that harm.
33. Therefore, I conclude that the appeal should be dismissed.

Sarah Manchester

INSPECTOR