



Appeal Decision

Site visit made on 14 January 2025

by **F Harrison BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 06 February 2025

Appeal Ref: APP/X1355/W/24/3350418

Westerton Industrial Estate, South East of A688 (from Binchester Moor Roundabout to C96 Junction), Binchester Moor, Spennymoor DL14 8AH

- 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 Mr John Newton of Westerton Storage against the decision of Durham County Council.
 - The application Ref is DM/24/00008/FPA.
 - The development proposed is change of use of former pastoral field to become extension to industrial estate for class B8 use (storage and distribution).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The revised National Planning Policy Framework (the Framework) was published on 12 December 2024. I have considered the changes and as they are not material to the proposal, further comments were not sought from the parties. I have, however, determined the appeal having regard to the revised Framework.

Background and Main Issues

3. The appellant's submissions indicate that there were three reasons for refusal on the decision notice. However, it appears that the Council's standard statement of proactive engagement has been interpreted as a reason for refusal in error. With this in mind, the main issues are the effect of the proposal on:
 - the character and appearance of the area; and
 - biodiversity.

Reasons

Character and appearance

4. The appeal site is a parcel of land adjacent to the Westerton Industrial Estate that accommodates a grass field and a short section of tarmac access road. It is bounded by the industrial estate to the north, the industrial estate and woodland to the east and by the A688 to the west. There is open countryside to the south. The surrounding area predominantly comprises agricultural land that has an open character with verdant qualities owing to the presence of hedgerows and trees.
5. While there are a number of settlements nearby, the appeal site is spatially separate from Spennymoor, the nearest settlement, and so does not have urban

edge characteristics. Instead, the appeal site and its immediate context is of a distinctly different character from the built-up areas and has intrinsic countryside qualities. This is despite the presence of sporadic commercial development and electricity pylons crossing the landscape.

6. It is not disputed that the appeal site lies in the open countryside. The surrounding landscape is not subject to national or local designations. Nevertheless, the supporting text to Policy 39 of the County Durham Plan (2020) (CDP) sets out that the intrinsic character and beauty of the countryside is important and that all landscapes matter. This reflects the aims of Framework paragraph 187 that decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.
7. The change of use at the site would inevitably alter its character and appearance. The appellant has sought to address the Council's concerns raised in pre application advice and the scheme has been designed for the efficient and practical storage of caravans. However, in extending development towards the A688 the proposal would have an urbanising effect on the prevailing character and appearance of the area. While the proposal would be largely screened from the road by the existing and proposed hedging and from the east by the existing industrial site and woodland, the storage of caravans with their utilitarian appearance would draw the eye and be an unwelcome intrusion.
8. There are several public rights of way (PROW), including within the appeal site, which connect to a wider network of PROWS in the area. The open, largely undeveloped nature of the appeal site and its relationship to the surrounding countryside can clearly be appreciated by those using the PROW network. Even allowing for additional landscaping to soften the proposal, the visual change would be readily apparent in views from numerous vantage points on the PROW network, particularly along the routes to the south of the site. From here the proposal would be seen within the context of panoramic rural views and the caravans and motorhomes with their utilitarian appearance would starkly contrast with the verdant open countryside.
9. Along routes 0060000074/74, 1150000021/21 and 1150000075/75 the proposal would harmfully interrupt the countryside scene to the detriment of the enjoyment of its users. Route 1150000019/19 within the site is said to be used by a relatively limited number of people and access would remain, including during the construction phase. Nevertheless, the users of this route would have a different experience due to the increase in built form and activity which would be on both sides of the PROW and detract from the intrinsic countryside character, even along a short section of the route. While it is suggested that the PROW could be diverted around the site perimeter very limited details have been provided and as such this is not something I can comment on further.
10. The appellant's Landscape and Visual Impact Assessment (LVIA) establishes a visual envelope covering the appeal site and surrounding area, with viewpoints and sensitive receptors. I am satisfied that the selected viewpoints are representative of the visual effects of the development. The LVIA concludes that overall, there would be no significant detrimental change to landscape character and that potential negative visual impact would not be significant.

11. Viewpoints 3 and 4 show that the proposal would be largely screened by existing vegetation and undulating topography, and I concur. However, as shown on the site photographs at viewpoints 5 and 6, and as observed on my site visit, there would be clear views of the proposal. Despite being over a longer distance, the existing open views would be urbanised and the proposal would be particularly prominent when seen from viewpoint 5 given the topography of the locality. Similarly, for the occupiers of the sensitive receptors at L4 and L5, views of the proposal would be prominent. As set out in the LVIA, in these views the proposal could not be successfully mitigated through additional landscaping on the site's southern boundary, resulting in a long-term minor negative visual impact. The proposal would not meet the requirements of CDP Policy 39 as a consequence.
12. It is not disputed that the proposal satisfies criterion b of CDP Policy 10 in relation to development being necessary to support the expansion of an existing business falling beyond the scope of a rural land-based enterprise. Nevertheless, this does not negate the general design requirements of the policy. Furthermore, any policy compliance in relation to trees and geodiversity would be a neutral matter weighing neither for nor against the proposal.
13. To conclude on this main issue, the proposal would be unduly harmful to the character and appearance of the area and would conflict with CDP Policies 10 and 39. Amongst other things these policies require that new development in the countryside does not give rise to unacceptable harm to the intrinsic character of the countryside and does not have adverse landscape and visual effects, which cannot be adequately mitigated.

Biodiversity

14. The planning application (subject of this appeal) pre-dates the introduction of a statutory requirement for Biodiversity Net Gain (BNG). However, CDP Policy 41 includes a requirement that proposals minimise impacts on biodiversity by retaining and enhancing existing biodiversity assets and features and provide net gains for biodiversity. No minimum percentage is specified, but the policy is clear that a net gain should be achieved.
15. The proposal would occupy modified grassland and sparsely vegetated land. Therefore, the proposal would result in a reduction in the amount of these categories of habitats. A BNG calculation was submitted with the application using the metric applicable at that time which indicates a net loss of 2.32 habitat units, which amounts to 72.65% of the site. In addition, the trading rules embedded in the metric would not be satisfied. While some mitigation and enhancement measures are proposed, the scheme would not deliver a net gain in biodiversity as required by CDP Policy 41. In doing so it would be inconsistent with the aims of Framework paragraph 187 that planning decisions contribute to and enhance the environment by, amongst other things, minimising impacts on and providing net gains for biodiversity.
16. Undertaken by suitably qualified consultants, the BNG Assessment (2023) concludes that additional off-site compensation or alterations to the site layout and landscaping strategy would be required to deliver BNG. The appellant proposes some broad options to increase habitat units and suggests that this matter could be overcome through an appropriately worded planning condition. However, in the absence of any substantive evidence on the nature and extent of any changes to

the appeal proposal it is not possible to ascertain that BNG could be delivered. Moreover, it is not clear whether the changes required to deliver net gains would fundamentally alter the proposal. As such, this is not a concern that could be rectified by a planning condition.

17. For the reasons given above, the proposal would be harmful to biodiversity and would conflict with CDP Policy 41.

Other Matter

18. While the appellant has expressed frustrations with the Council's handling of the case this does not affect my consideration of the scheme's planning merits.

Planning Balance and Conclusion

19. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. I have found that the proposal would be harmful to the character and appearance of the area in conflict with CDP Policies 10 and 39. It would also not deliver BNG, in conflict with CDP Policy 41. I attach significant weight to these harms. I will now consider whether there are material considerations that would indicate that my decision should be made otherwise than in accordance with the development plan.
20. The proposal would support an apparently successful and growing storage business which would be of economic benefit and would accord with the provisions of the Framework at Section 6 that seek a strong competitive economy. Notwithstanding that there are different ways that development can contribute positively to the economy, it has not been clearly articulated how many jobs would be created or how the proposal would help to facilitate growth and expansion of storage and distribution uses on the existing industrial estate. There is also no detail in relation to any multiplier effects arising from the proposal. As such, in the context of the scale and nature of the proposal the positive contribution the scheme would make to the economy attracts limited weight.
21. While it is indicated that the proposal cannot be located elsewhere there is no robust evidence in this regard, nor has it been clearly shown that there is a demand for this type of employment land. Consequently, I give the specific needs of the appellant limited positive weight.
22. The proposal would result in benefits, but it would also cause harm. Weighing the two up is a matter of planning judgement. In this case, the adverse impacts of granting planning permission would not outweigh the benefits. Accordingly, for the reasons given above, I conclude that the material considerations do not indicate that a decision should be made other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

F Harrison

INSPECTOR