



Appeal Decisions

Site visit made on 1 April 2025

by **D Moore BSc (HONS), PGDip, MCD, MRTPI, IHBC**

an Inspector appointed by the Secretary of State

Decision date: 11 April 2025

Appeal A Ref: APP/A0665/C/24/3347202

Land at Roughlow Farm, Tirley Lane, Willington, Cheshire CW6 0PG

- The appeal is made under section 174 of the Town and Country Planning Act 1990, as amended, (the 1990 Act).
- The appeal is made by Mr Clive Sykes against an enforcement notice issued by Cheshire West and Chester Council.
- The notice was issued on 23 May 2024.
- The breach of planning control as alleged in the notice is without planning permission, the creation of two agricultural tracks, one across the centre of the land in the approximate position marked between points 'A' and 'B' on the attached plan and one along the north west perimeter of the land in the approximate position marked between points 'B' and 'C' on the attached plan, plus a hardstanding area and wooden storage shed in the approximate position marked 'D' on the attached plan.
- The requirements of the notice are to:
 - i. Remove all constituent materials forming the central track between points 'A' and 'B' on the attached plan.
 - ii. Remove all constituent materials forming the track around the north-west perimeter, between points 'B' and 'C' on the attached plan.
 - iii. Remove the hardstanding and wooden shed located to the north west of the land marked 'D' on the attached plan.
 - iv. Return the land to its former condition.
- The period for compliance with the requirements is 6 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (d), (f) and (g) of the 1990 Act. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary of Decision: Appeal A is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.

Appeal B Ref: APP/A0665/W/24/3354887

Roughlow Farm, Tirley Lane, Willington, Cheshire CW6 0PG

- The appeal is made under section 78 of the 1990 Act against a refusal to grant planning permission.
- The appeal is made by Mr Clive Sykes and Ms Lynne Teasdale against the decision of Cheshire West and Chester Council.
- The application Ref is 22/04179/FUL.
- The development proposed is a retrospective application for agricultural track (along centre of land) to agricultural building. Including hardstanding and revised access on to Tirley Lane.

Summary of Decision: Appeal B is allowed, and planning permission is granted.

Appeal C Ref: APP/A0665/W/24/3354889

Roughlow Farm, Tirley Lane, Willington, Cheshire CW6 0PG

- The appeal is made under section 78 of the 1990 Act against a refusal to grant planning permission.
- The appeal is made by Mr Clive Sykes and Ms Lynne Teasdale against the decision of Cheshire West and Chester Council.
- The application Ref is 22/04195/FUL.

- The development proposed is a retrospective application for agricultural track (along North West perimeter of land) to turning area. Hardstanding turning area and wooden storage shed for agricultural uses only.

Summary of Decision: Appeal C is allowed, and planning permission is granted.

Applications for costs

1. An application for an award of costs has been made by Mr Clive Sykes against Cheshire West and Chester Council. This is the subject of a separate Decision.

Preliminary Matters

2. The notice and decision notices specify conflict with Policy GB3, however, this has been acknowledged as an error and the relevant policy is GBC2. I have determined the appeals on this basis.
3. The Council suggests that the Landscape Appeal Statement and Site Access Tracking Report should be disregarded as new information that was not submitted with the applications. The documents in question were commissioned and supplied in response to the Council's reasons for refusing the planning applications and for issuing the notice. They were submitted with the appeal statements, and the Council, and any interested people, have had the opportunity to comment. It is not prejudicial for me to accept this information.
4. It is also argued by the Council that the scheme has evolved due to the grass margins that have been planted or grown along the tracks since they were constructed. The tracks were originally wider than they appear now. However, it is not uncommon that the effect of development is softened over time due to planting or landscaping, whether planned or otherwise. This does not constitute an amendment to the development because the hardcore remains in situ.

Appeal A on ground (c)

5. In order to succeed on the ground (c) appeal, the appellant must show on the balance of probabilities that the matters alleged do not constitute a breach of planning control. This ground of appeal concerns one of the tracks "across the centre of the land in the approximate position marked between points 'A' and 'B'" (track AB), and the area of hardstanding (D on the enforcement notice plan).
6. The appellant argues that track AB benefits from development 'permitted' under Article 3 and Schedule 2, Part 2, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) – means of access to a highway. This provides that the formation, laying out and construction of a means of access to a highway which is not a trunk road or a classified road, where that access is required in connection with development permitted by any Class in this Schedule (other than by Class A of this Part) is permitted development.
7. Track AB runs across the land from the junction of Tirley Lane with Waste Lane. It is the most direct route from the main agricultural building within the land to the highway. There is no dispute that the building is an agricultural building that was erected under the provisions of Schedule 2, Part 6, Class A of the GPDO (ref 20/03974/AGR confirmed prior approval was not required on 27 November 2020), nor that Tirley Lane is not a trunk or classified road.

8. It is explained that track AB was used during the construction of extensions to the farmhouse (ref 19/03837/FUL approved on 10 January 2020) and for the construction of the agricultural building itself, but it was always intended to function as the means of access from the building to the highway.
9. I accept that track AB provides a means of access for the purposes of Part 2, Class B since it enables the movement of vehicles between the permitted building and the road network. However, the formation, laying out and construction of that means of access took place prior to the erection of the permitted building. For that reason, it cannot be said to have been required in the first instance in connection with development permitted by any Class in Schedule 2. Although track AB was subsequently retained and used in connection with the agricultural activities at the site, permitted development rights cannot be claimed retrospectively.
10. It is suggested that the area of hardstanding has been in place for many years, and it has simply been upgraded, as opposed to being operational development requiring planning permission. The evidence in support of this claim is very limited, however.
11. I conclude, therefore, that it has not been shown that track AB, nor the hardstanding, do not constitute a breach of planning control, and the ground (c) appeal must fail.

Appeal A on ground (d)

12. In order to succeed on ground (d), the appellant must show on the balance of probabilities that, at the date the notice was issued, no enforcement action could be taken in respect of the matters alleged. It is argued that the area of hardstanding at point D on the plan was substantially completed four or more years prior to the date of the notice and is thus immune from enforcement action due to the passage of time.
13. It is stated that the hardstanding was substantially completed in January 2020. A 'Google Earth' image, dated 2 June 2020, has been supplied which indicates there was an area of hardstanding at point D on that date. However, this is about a week short of the required immunity period. There is also an invoice for a roller for hire between 22 January 2020 and 31 January 2020. It is not readily apparent from the invoice that the plant was used to compact the hardstanding.
14. In addition, the appellant refers to an email and an invoice for landscaping work, in particular, front garden enhancement to include a temporary storage area. The email is dated 16 March 2020. Again, it is not clear from the email exchange and invoice that the works documented were for the hardstanding.
15. Overall, I am not satisfied that the appellant has discharged the burden of proof in respect of this matter. The ground (d) appeal must fail, therefore.

Appeal A on ground (a), Appeal B and Appeal C

Background and Main Issue

16. The notice is directed at operational development at Roughlow Farm, comprising two agricultural tracks, a hardstanding area and wooden storage shed. The location of the tracks, hardstanding and shed are identified on the accompanying plan.

17. The issue of the notice followed the refusal of two retrospective applications for planning permission (Appeals B and C). The applications sought permission for the operational development referred to in the alleged breach of planning control, together with alterations to the field access at Tirley Lane, the creation of a yard area adjacent to the main agricultural building at the Farm, a woodstore and a further area of hardstanding. The alterations to the field access included planting new sections of hedgerow.
18. The terms of the deemed planning application (Appeal A) are derived from the allegation, as set out in the banner heading above. Under Appeals B and C, I have considered the full extent of the development sought in each of the planning applications.
19. I consider the main issue, in respect of all three appeals, is the effect of the development on the character and appearance of this part of the Cheshire countryside, in particular, the Area of Special County Value (ASCV).

Reasons

20. The appeal site comprises two sloping fields that encompass the residential property at Roughlow Farm. The northern field is in use as an apple orchard. It is predominantly enclosed by hedgerows and/or fences and is bounded by rural lanes to the west and north, and by the Sandstone Trail to the east. Vehicular access is provided via a field gate from Tirley Lane at its junction with Waste Lane.
21. Track AB leads south through the central part of the northern field, down to a larger field, which is in use as a vineyard. The track gives access to an agricultural storage building and yard area, which lie adjacent to the residential curtilage. The second track (track BC) runs downhill from the gate alongside the western field boundary and hedgerow. This leads to a modest, timber, open fronted store with a pitched roof and an area of hardstanding. The building is mainly used for the storage of wood and apples.
22. The tracks are constructed from hardcore. They have been planted with grass margins and central grass strips, which the appellant says was intended to lessen their visual impact. The tracks appear to have 'bedded-in' since they were first constructed. Track AB is described by the Council as being 5 metres in width at its narrowest point. This is not how it appeared at the time of my site visit.
23. The appeal site is within the ASCV, which is a local landscape designation and forms the highest level of landscape quality within Cheshire West and Chester. The appeal proposals lie within ASCV 7 – Willington¹. The special qualities of ASCV7 are attributed to its strong rural character and tranquil landscape where there is an absence of modern built elements and intrusive transport corridors. The sandstone fringe is important to the setting of the prominent, rolling wooded ridge that rises steeply at Tirley Lane. The area has a very low density settlement pattern with scattered farms within the ridge and fringe landscape, linked by narrow, winding country lanes. The report highlights that the landscape is prominent, distinctive, and has a simple skyline with spectacular views across the Cheshire Plain.

¹ Local Landscape Designations: Areas of Special County Value June 2017.

24. The landholding at the Farm is located on one of the sandstone ridges that rise above the Plain. The landscapes associated with the ridges and plain are agricultural with a mix of fields and scattered farmsteads, and the site itself is agricultural in character. It is visually prominent and contributes positively to the wider, high-quality landscape.
25. I viewed the appeal development from numerous public viewpoints including from the Sandstone Trail, and from various points along the adjoining lanes. The access tracks, wooden storage shed, and areas of hardstanding were not visible from the short section of the Sandstone Trail where views towards the Farm could be obtained. For the most part, views into the appeal site from adjacent lanes were restricted by the hedgerows or intervening trees. There are some private views from properties in the immediate vicinity, but direct views are likely to be restricted due to the topography and landscape features. There was a clear view of the altered access at its junction with Tirley Lane and the top of track AB was visible. Partial views of track BC and the wooden storage shed were visible from parts of the adjoining lane.
26. The presence of tracks is not uncommon across the predominantly agricultural landscape as a means of accessing the farms and scattered residences that are typical features. I saw several examples of such tracks in the vicinity of the site.
27. In my judgement, the two tracks subject to the appeals are not overly prominent in public views. Their appearance as hardcore or compacted earth tracks with grassed margins and central strips is appropriate to their countryside setting. Further, the additional hedge planting at the access is likely to improve the visual appearance of the road junction and provide screening over the longer term. Similarly, the area of hardstanding alongside the agricultural building is not extensive and not particularly visible in any event.
28. The wooden storage shed is small in scale and well-located on part of the land that is less prominent. Its construction is of a high-quality, and it is suitable to its countryside location in terms of design. The store is seen against the backdrop of the residential buildings, and it is appropriate in its context. The associated area of gravel hardstanding is not visually intrusive, or urbanising given its limited visibility.
29. Overall, I agree with the conclusion of the Landscape Appeal Statement provided by the appellant². This finds that the effect of the development on landscape character would be negligible/neutral in the short term. It would have a minor beneficial effect in the longer term, due to the benefits resulting from the hedgerow in connection with the revisions to the site access. In terms of the visual effects of the development, the impacts on all visual receptors were identified as negligible/neutral, with the exception of local road users, where there was a minor/moderate beneficial effect in the longer term associated with the provision of additional hedgerow planting.
30. The Council questions the need for the unauthorised development and indicates the tracks are over-engineered for their intended purpose. It is also considered that there is not an operational need for the wooden storage shed, and it is not suitably sited in relation to the existing farm buildings.

² Landscape Statement, Barnes Walker October 2024.

31. It is apparent that there is a need for an access from the main building to the road network, and it is logical for that access to take a direct route across the steeply sloping field, track AB. The area of hardstanding adjacent to the building is appropriate to the size of the building. I saw that the building was being used for agricultural purposes, including as a store for two relatively large farm vehicles and for several smaller agricultural vehicles and other related equipment. The track is constructed from hardcore with grass margins and has the appearance of an agricultural track. Its design is appropriate to its purpose.
32. The surfaced track enables access by a range of delivery and service vehicles, and emergency vehicles, which would otherwise be hindered by the topography. The hardcore construction is necessary to ensure vehicles cross the land safely, without causing erosion. There is a turning area at the northern end of track AB, which allows the larger fuel delivery vehicles to exit the site in forward gear. The alterations have also improved visibility. A vehicle 'swept path analysis' of the tracks and the area around the agricultural building has been provided to illustrate this point³.
33. The wooden storage shed is used in connection with the agricultural enterprise as a place where timber is stored and dried before sale, and for washing and storing apples. The area of hardstanding serves the store and is also used for staff parking on occasion. Track BC provides access to the store but also provides access to the rows of fruit trees. The provision of a farm track along a field boundary is not unusual as a means of maintaining access to the land during periods of inclement weather, and in this case, it also serves to provide an appropriate access to the shed. I am satisfied there is a clear operational need for the development in connection with the agricultural enterprise, and the design is appropriate for its intended purpose.
34. The Council is seeking a plans condition, but I do not find this to be necessary since the development has taken place. I have not imposed the condition requiring a landscape plan to secure the retention of the planting margins along and within the two tracks. It is unlikely these would be removed in the circumstances, and I am not persuaded a retention clause by way of a planning condition is necessary.
35. Overall, I find that the scale and nature of the development is appropriate in the context of agricultural activities at the site. It takes account of the site characteristics, its relationship with the surrounding landscape and its local character. The scale and design of the development is acceptable and is not harmful to the character and appearance of the countryside nor is there harm to views into, over and out of the site. Crucially, the development preserves the special character and scenic value of the ASCV and the intrinsic character and beauty of the Cheshire countryside.

Conclusion

36. I conclude that the development does not have an adverse effect on the character and appearance of this part of the Cheshire countryside, and it preserves the special character and scenic value of the ASCV. It accords with Policies STRAT9, ENV2 and ENV6 of the Council's Local Plan: (Part One) Strategic Policies; and Policies DM6 and GBC2 of the Local Plan: (Part 2) Land Allocations and Detailed Policies, which seek to protect and enhance local landscape character.

³ Site Access Tracking: Service Vehicles November 2023.

37. The development accords with the National Planning Policy Framework insofar as it seeks to protect the intrinsic character and beauty of the countryside.

Conclusions

38. For the reasons given above, I conclude that Appeal A succeeds on ground (a). I shall grant planning permission for the operations as described in the notice. The enforcement notice will be quashed. In these circumstances the appeals on grounds (f) and (g) do not fall to be considered.
39. Appeals B and C succeed.

Formal Decisions

40. Appeal A is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act (as amended) for the development already carried out, namely “the creation of two agricultural tracks, one across the centre of the land in the approximate position marked between points ‘A’ and ‘B’ on the attached plan and one along the north west perimeter of the land in the approximate position marked between points ‘B’ and ‘C’ on the attached plan, plus a hardstanding area and wooden storage shed in the approximate position marked ‘D’ on the attached plan” at Land at Roughlow Farm, Tirley Lane, Willington, Cheshire CW6 0PG.
41. Appeal B is allowed, and planning permission is granted for agricultural track (along centre of land) to agricultural building. Including hardstanding and revised access on to Tirley Lane at Roughlow Farm, Tirley Lane, Willington, Cheshire CW6 0PG in accordance with the terms of the application, Ref 22/04179/FUL, and the plans submitted with it.
42. Appeal C is allowed, and planning permission is granted for agricultural track (along North West perimeter of land) to turning area. Hardstanding turning area and wooden storage shed for agricultural uses only at Roughlow Farm, Tirley Lane, Willington, Cheshire CW6 0PG in accordance with the terms of the application, Ref 22/04195/FUL, and the plans submitted with it.

D Moore

Inspector