



Appeal Decision

Site visit made on 12 June 2025

by Diane Cragg DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 June 2025

Appeal Ref: APP/G1630/W/25/3360736

Green Orchard, Kayte Lane, Southam, Cheltenham GL52 3PD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant subject to conditions of consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Mr Gilbert Smith against the decision of Tewkesbury Borough Council.
 - The application Ref 24/00106/CONDIS sought approval of details pursuant to condition Nos 2 and 3 of a planning permission appeal Ref APP/G1630/W/23/3336130 granted on 16 May 2024.
 - The development proposed is described as 'Details of foul and surface water drainage; visibility splays; landscaping; ecological enhancement; external lighting; and timetable for implementation. Restoration scheme.'
 - The details for which approval are sought are condition 2 (i) (a) surface and foul water drainage; (b) visibility splays; (c) landscaping plan, (d) ecological enhancement plan, and (e) lighting strategy together termed the 'site development scheme' and condition 3 site restoration plan.
 - The reasons given for the conditions refer to the need to ensure development does not cause flooding or pollution; highway safety; to minimise visual impact; and to ensure no permanent harm to the Green Belt, the character and appearance of the area and biodiversity.
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Decision

1. The appeal is allowed in part and the details submitted pursuant to condition 3 restoration plan imposed on permission APP/G1630/W/23/3336130 dated 16 May 2024 and the details submitted with it in respect of these matters and in accordance with application Ref 24/00106/CONDIS are approved. In respect of condition 2 site development scheme, the appeal is dismissed.

Background and Main Issue

2. Planning permission was granted at the appeal site for the change of use of land to a residential caravan site for an extended Gypsy/Traveller family in May 2024 subject to 7 conditions. Conditions 2 and 3 required the submission of details as set out in the banner heading. The Council has subsequently confirmed that in respect of condition 2 (i) site development scheme, the details of (b) visibility splays and (e) lighting are acceptable. Details of the site development scheme not agreed are (a) surface and foul water drainage, (c) landscaping plan, and (d) ecological enhancement plan. In addition, the details of the restoration plan required by condition 3 are not agreed.
3. Therefore, the main issue is whether the details submitted to satisfy Condition 2 (i) parts (a), (c), and (d) of the site development scheme, and condition 3 are sufficient.

Reasons

Surface and foul water drainage

4. No specific development plan policies in respect of drainage have been brought to my attention. Nevertheless, the National Planning Policy Framework (the Framework) is clear that planning decisions should contribute to and enhance the natural and local environment by preventing new and existing development from contributing unacceptable levels of soil and water pollution. The Planning Practice Guidance sets out that septic tanks must not discharge effluent to surface water and must comply with the general binding rules¹. The 14 general binding rules include the requirement to use the correct treatment system.
5. Drainage information has been submitted to discharge the condition and certain facts about the site's infiltration capacity can be noted from previous work. There is agreement that the septic tank is of a sufficient size and the position of the septic tank is shown on the submitted drawings. Furthermore, there are calculations relating to the design of the drainage field based on the single BRE Digest 365 test taken in 2018. There is also some explanation of the surface water drainage with a description of the filter drain design and a conclusion that the filter drain would have the capacity to take additional surface water run-off.
6. I acknowledge that, even with its limitations, the 2018 BRE test was used to assess drainage details for a different scheme. However, I cannot be satisfied that an incomplete BRE365 test taken in 2018 at a different depth to the proposed field drainage would be an adequate basis for the design of the drainage scheme in connection with the approved development. Therefore, I cannot be satisfied that the drainage scheme would or is functioning acceptably.
7. Furthermore, without a drawing of the surface and foul water drainage scheme including the position of the drainage field, location of trenches for surface water and inspection chambers, the drainage proposals cannot be fully understood. A drawing would also serve as a record of the location of the surface and foul water drainage system and would ensure the scheme is clear enough to be enforceable in the situation where the drainage is not implemented correctly.
8. Overall, the drainage detail is insufficient, and I will not discharge the requirements of condition 2 in respect of surface and foul water drainage.

Landscaping Plan

9. The Framework seeks to ensure that developments are visually attractive as a result of effective landscaping and that planning decisions contribute to and enhance the natural and local environment by minimising impacts on, and providing net gains in, biodiversity.
10. The proposal is to plant hedges and trees. The location of tree and hedge planting is shown on the submitted plans and the mix of the hedge and number of trees is indicated in the written scheme along with the method and timetable for planting and proposed maintenance. I am satisfied that in the context of the site surroundings the mix of hedging and the number and species of trees are acceptable. There is also an area that is to be restored to grass and the details of how this will be achieved is set out in the landscape scheme.

¹ General binding rules: small sewage discharge to the ground. PPG Paragraph: 020 Reference ID: 34-020-20140306

11. An area of post and rail fencing is shown on the plan and all other fencing is indicated as existing. The Parish Council raises concerns about fencing, but the Council do not indicate that the existing fencing is to be agreed as part of the landscaping scheme and the appellant has not submitted details of it to be agreed. Therefore, I have not considered the existing fencing around the site to be part of the landscape plan.
12. There are discrepancies between the landscaping described in the Planning Statement and the Landscaping Scheme. However, the Council considers the Landscape Scheme to be acceptable and therefore the approval details could be specific to those described in the Landscape Scheme and shown on the submitted plans.
13. Therefore, overall, the details of the Landscape plan are acceptable, and sufficient to comply with condition 2 part (i)(c).

Ecological Enhancement Plan

14. Regarding the Ecological Enhancement Plan the appellant acknowledges the ecologist requires minor adjustments to the scheme, but no amended details have been submitted. I have no reason to disagree with the Council that the minor changes required to the placement of bird boxes and bee hotels would be important to the scheme's success. Therefore, the amendments are necessary to achieve the Framework objectives of minimising the effects of the development on biodiversity value. Further, without the necessary amendments I cannot be satisfied that the details of the Ecological Enhancement Plan would be clearly articulated such that the Council could monitor and enforce it, if needed.
15. Consequently, I conclude that the Ecology Enhancement Plan is not adequate, and I will not discharge the requirements of condition 2 part (i)(d).

Restoration Scheme

16. The details of the appellant's Restoration Scheme are included in a letter that accompanies the discharge of conditions application². Although the Council has indicated that the Restoration Scheme is not approved, there is little in their decision or their subsequent appeal statement to indicate any specific concerns with the information provided.
17. The restoration proposals would see all existing hard surfaces removed within 6 months of the cessation of the use with the spoil removed from the site. New topsoil would be laid and sown with a meadow mix. I am satisfied that the Restoration Scheme would restore the site in an appropriate manner consistent with its rural surroundings and is acceptable. I will therefore discharge condition 3.
18. I note the concerns about the wording of condition 3. However, I am approving the Restoration Scheme, and the implementation of the scheme is sought in the circumstances set out in condition 4 of the planning permission.

Other Matters

19. Highway informative suggestions cover matters that are not before me and should be separately resolved between the parties.

² Philip Brown Associates Ltd letter dated 08/07/2024 under the heading condition 3.

Conclusion

20. For the reasons given above, the appeal is allowed in part and condition 3 is discharged. Regarding condition 2, while parts of the site development scheme required by 2(i) namely (b) visibility splays, (c) Landscaping plan and (e) lighting are acceptable for the reasons set out in this decision the details of (a) surface water drainage and (d) ecological enhancement plan are insufficient. Therefore, I am unable to discharge the details of the site development scheme and in respect of part (i) of condition 2 the appeal is dismissed.

Diane Cragg

INSPECTOR