



Appeal Decision

Site visit made on 22 July 2025

by Elaine Moulton BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th August 2025

Appeal Ref: APP/V4630/W/24/3357425

Foxhill Fisheries, Pinfold Lane, Walsall WS9 0QT

- 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 Iain Denton of Ian Denton Ltd against the decision of Walsall Metropolitan Borough Council.
 - The application Ref is 23/1529.
 - The development proposed is new fishing lakes with additional car parking.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal is supported by additional information which was not before the Council when it made its decision, namely Pond Construction Volumetrics drawing J02346/A1/004. The proposal detailed on that drawing appears very similar, if not identical, to that shown on the proposed site plan upon which the Council made its decision. I find, therefore, that it does not materially alter the proposal, rather it provides more detailed information in response to the reasons for refusal.
3. The Council has had sight of the appeal documents and has had the opportunity to consider and provide comment on the pond construction volumetrics drawing. As such, I find that the Council would not be prejudiced by my acceptance and consideration of such evidence and, accordingly, I have taken it into account when determining this appeal.
4. The Government published a revised National Planning Policy Framework (the Framework) on 12 December 2024. For the avoidance of doubt, where reference is made to the Framework, the paragraph numbers quoted are those that appear in the current version.

Main Issues

5. The main issues are:
 - Whether it has been demonstrated that the proposal would be safe for its lifetime without increasing flood risk elsewhere;
 - The effect of the proposal on highway safety, with particular regard to visibility at the access, the adequacy of parking provision, highway capacity, and the adjoining public right of way;

- Whether the proposal would preserve or enhance the character or appearance of the Great Barr Conservation Area, preserve the setting of nearby Grade II listed buildings, The Pinfold and Coxfold Farmhouse, and its effect on the significance of Old Hall Court, a non-designated heritage asset;
- The effect of the proposal on the living conditions of nearby residents by reason of noise and disturbance from construction vehicles; and
- The effect of the proposal on protected species and habitats.

Reasons

Flood risk

6. The Framework, at paragraph 181, states that when determining any planning applications, it should be ensured that flood risk is not increased elsewhere. The proposal would increase the extent of hard surfacing and would change the ground levels around the proposed and existing ponds. As such, I find that it is reasonable to consider that the proposal poses a flood risk on and off site. The site is within Flood Zone 1 and has an area of 1 hectare or more, thus, as specified in footnote 63 of the Framework a site-specific flood-risk assessment (FRA) is required. I acknowledge that an FRA has not been specifically requested by the Council, this does not, however, change the clear requirements in this regard as set out in the Framework.
7. Further to the decision, drawings have been provided that include the drainage arrangements for the proposed new ponds, pond extension and car park extension, involving pipes that would direct water to a ditch/stream within the site. In addition, it has been confirmed that the ponds will be unlined and naturally filled by rainwater, and the car park construction would be porous.
8. Nonetheless, no assessment of flood risk has been undertaken, and no details have been provided to determine infiltration rates. Accordingly, there is nothing before me to demonstrate that water would safely soak away into the land, or that the proposed drainage pipes and the existing ditch/stream have capacity to safely accommodate surface water runoff arising from the proposal. Whilst the existing pools may never flood, this does not constitute compelling evidence that the proposal is acceptable in this regard, and that sufficient drainage details could be secured through planning conditions.
9. Accordingly, I conclude that it has not been demonstrated that the proposal would be safe for its lifetime without increasing flood risk elsewhere. It would therefore be contrary to Policy ENV5 of the Black Country Core Strategy (CS), adopted February 2011. Additionally, it would not accord with guidance relating to flood risk set out in the Framework.

Highway safety

10. The Highway Authority (HA) has indicated visibility splays of 2.4 metres (m) by 43m are required at the access junction in both directions to meet the requirements of Manual for Streets. Such requirements are not disputed by the appellant and there is nothing before me that would lead me to disagree with the HA in this regard.
11. Visibility splays measuring 2.4m by 43m are shown on the latest iteration of the Engineering Layout drawing. A short section of hedgerow is shown to lie within the

splay in the westerly direction which would be a limiting factor in securing appropriate visibility. However, as the hedge is within the control of the appellant its removal, where it encroaches within the splay, could be secured through a planning condition. On that basis, and considering my observations on site, I am satisfied that the required visibility splays could be achieved at the access point.

12. The latest parking details show the provision of 49 parking spaces including six disabled spaces, which marginally exceeds the 10% requirement set out in Policy T13 of the Walsall Unitary Development Plan (UDP), adopted 7 March 2005. The dimensions shown on the plans indicate that all such spaces would accord with the Council's standards and that a reversing aisle of 6m would be achieved.
13. In the absence of adopted parking standards for a development as proposed, the HA indicates that it is necessary for the appellant to set out the maximum parking demands, including the total number of fishing pegs, to provide a greater certainty as to the level of car parking that would be required. Whilst it is not entirely clear how many pegs are proposed, it is, nevertheless, reasonable to assume that there would not be a parking space for each peg.
14. Currently only 20 unmarked parking spaces are provided for the existing 36 pegs, and there is nothing before me to suggest that such provision does not meet the current needs of the fishery or has led to customers choosing or being forced to park in a manner that is harmful to highway safety. On that basis, given that the proposed increase in parking spaces would be broadly proportionate to the increase in the extent of the water bodies on the site, it is reasonable to consider that the proposed level of parking would be adequate. Even taking into consideration the improved fishing experience, some customers would continue to travel by alternative means than the private car, such as by bicycle or taxi. Consequently, and in the absence of any compelling evidence to the contrary, I find that adequate parking would be provided to meet the increased demands arising from the proposal.
15. The proposal would lead to an increase in the number of trips to and from the appeal site, which the appellant indicates equates to approximately 100 vehicle movements per day. Whilst noting the narrowness of the nearby roads and their lightly trafficked nature, there is no evidence before me that indicates that the trips that would be generated by the proposal could not be safely accommodated within the local highway network. As such, there is no basis upon which to conclude that the proposed development would cause congestion or severe highway network capacity issues.
16. The public right of way (PROW), Ald42 Aldridge, directly adjoins the boundary of the appeal site. It is largely separated from the site by an existing fence, which would be extended to fill in an existing gap. Thus, although a large area of standing water would be close to its route, the users of the PROW would not easily access the site and be put at risk. Furthermore, safety measures, such as signage and buoyancy aids could be secured by condition should I have been minded to allow the appeal.
17. I observed that the PROW is at broadly the same level as the nearest part of the site. Given the limited level changes that are proposed, there is no basis upon which to conclude that surface water run-off and mud deposition would arise from

the development, either during or after construction, to the extent that the safety of the users of the PROW would be unacceptably compromised.

18. In conclusion, I find that the proposal would not have a harmful effect on highway safety in respect of visibility at the access, the adequacy of parking provision, highway capacity, and the adjoining PROW. In this regard it would not conflict with UDP policies T1, T7, T8, T9 and T13, CS policies TRAN2 and TRAN4, and Policy T4 of Walsall Site Allocations Document (SAD), adopted January 2019. Such policies, amongst other things, seek to help people get around, protect pedestrian routes and ensure that development does not compromise highway safety, and require development to satisfy car parking standards. The proposal would also accord with the relevant provisions of the Framework.

Character and appearance

19. The appeal site contains a bungalow, other buildings, a car park and fishing ponds that fill a significant proportion of the south-eastern section. Fields, in use as pasture and largely bound by hedgerows, occupy the remainder of the site. Other than Beacon Heights, containing park homes, that adjoins the eastern boundary, the site is surrounded by open fields and sporadic buildings.
20. The site is within the Great Barr Conservation Area (CA) which covers a large area and has a strong rural character. Its significance, insofar as it relates to this appeal, is derived from its small fields bound by hedgerows which provide evidence of historic field systems. The appeal site contributes to that significance as field boundaries are retained within it.
21. The timber framed Grade II listed buildings, The Pinfold and Coxfold Farmhouse, lie to the east of the site off Pinfold Lane. The significance and special interest of these listed buildings is, in part, derived from their historic value, as evidence of the agricultural history of the area, as well as their aesthetic value.
22. Old Hall Court, a non-designated heritage asset (NDHA), lies within the CA adjoining the site. It comprises a former farmhouse and associated farm buildings constructed around a central courtyard, all of which are now in residential use. Its significance is, in part, derived from its historical value as an example of traditional farm buildings.
23. The proposed pond extension and two, larger, ponds would have an appearance, and would be sited in a position, that would be closely related to the existing water bodies. The existing field boundaries would be retained, thereby ensuring that the historic field system would remain evident. Furthermore, given the limited changes to the ground levels, as shown within the appeal documents, the proposed mounds, once landscaped, would retain the open and rural character of the area, thereby ensuring that such features would be assimilated into the rural setting.
24. The proposed car park extension would be separated from the existing by a hedgerow, which would be retained, and screened from public views by a hedgerow along Pinfold Lane. Any hedgerow removed to accommodate the required visibility splays would be limited, and the section lost could be replanted to the rear of such splays, thus ensuring that its effect on the character and appearance of the area would be negligible.

25. For these reasons, I find that the proposal would not be harmful to the character or appearance of the CA. Furthermore, as the listed buildings and the NDHA are separated from the appeal site by dense landscaping or by Beacon Heights, the proposal would not materially affect the way that they are experienced.
26. Given the above, I conclude that the character and appearance of the CA would be preserved by the proposal, as would the setting of the identified Grade II listed buildings. In addition, the proposal would not have an adverse effect on the significance of the NDHA. It would therefore accord with UDP policies GP2, ENV7, ENV32 and ENV33, and CS Policy ENV3 which expect all developments to make a positive contribution to the quality of the environment and seek to resist poorly designed developments. Furthermore, there would no conflict with the similar aims of Policy DW3 of the Designing Walsall Supplementary Planning Document.

Living conditions

27. The Pond Construction Volumetrics plan that has been provided in support of the appeal, shows that the mounds created around the site would be limited in scale. Therefore, whilst the Council has had experience of development of this nature resulting in unauthorised waste disposal operations, it is reasonable, in this case, to consider that they would be formed using excavation spoils and would require no importation of materials.
28. Although there would be no vehicle movements associated with the importation of materials, the proposed engineering works would generate some noise, dust and disturbance during the construction works. Nonetheless, any such nuisance would be short-term and could be appropriately managed through a condition.
29. Consequently, I find that the proposal would not unacceptably affect the living conditions of nearby residents by reason of noise and disturbance from construction vehicles. As such there would be no conflict with UDP policies GP2 and ENV10 which, amongst other things, seek to resist development that would have an unacceptable adverse impact on the environment and nearby land uses.

Protected Species

30. The planning application was supported by a Preliminary Ecological Appraisal and Preliminary Roost Assessment document (the PEA). The PEA found that the proposal would result in the loss of, and impact on, neutral grass that offers suitable habitat for foraging reptiles but would have a negligible or inconsequential impact on other species including great crested newts, bats, and local bird populations. It recommends the undertaking of reptile surveys to determine the presence, or otherwise, of reptiles on the site and sets out habitat creation and enhancement opportunities that could be incorporated into the proposal.
31. In response to the Council's decision, the appeal is supported by additional survey information and an Ecology Response which concludes that sufficient ecological information has been provided to support the proposal and that the conclusions made within the PEA can be relied upon. This is not disputed by the Council. Accordingly, I find that sufficient evidence is before me to establish the presence or otherwise of protected species on the site, and to conclude that any effects of the proposal can be suitably mitigated.

32. In conclusion, the proposal would not adversely affect protected species and habitats. As such there would be no conflict with UDP Policy ENV23, CS Policy ENV1, and SAD Policy EN1 which require, amongst other things, the conservation of wildlife and habitats. In addition, the proposal would not conflict with the Supplementary Planning Document 'Conserving Walsall's Natural Environment' or with paragraph 193 of the Framework.

Conclusion

33. The development conflicts with the development plan when considered as a whole and there are no other considerations, either individually or in combination, that outweighs the identified harm and associated development plan conflict.
34. I therefore conclude that the appeal should be dismissed.

Elaine Moulton

INSPECTOR