

The Application is for full planning permission for the retention of a water reservoir, formation of hardstandings and repairs to an existing track.

The site lies within the North Staffordshire Green Belt, within the Rural Area, and within an Area of Active Landscape Conservation, as indicated on the Local Development Framework Proposals Map.

The application is classed as Major Development but has also been called in by two councillors due to the history of the site and public concern regarding the works and activities at the site.

The 13 week period for the determination of this application expires on 19th December 2014.

RECOMMENDATION

Permit subject to the following conditions;

- i) **Development to be completed in accordance with approved plans.**
- ii) **Restriction on hours of operation to 8am to 4pm on weekdays only.**
- iii) **All activity associated with the engineering works, i.e. the vehicle movements, the removal of soil from the site, and the re-contouring of the site areas to cease after a period of no more than 2 years from the date of the decision,**
- iv) **Any material deposited in the area hatched blue on the attached plan shall be moved to an appropriate location within the site. The appropriate area shall be agreed in writing with the LPA within one month from the date of the decision and the material moved to that location within one month of that approval.**
- v) **Submission of dust mitigation measures within one month from the date of the decision and implementation for the duration of the development.**
- vi) **Submission of appropriate signage, speed restriction, resurfacing and maintenance details and road cleaning within one month from the date of the decision and full implementation within one month of that approval.**
- vii) **Removal of portcabin within one month from the date of the decision**
- viii) **No industrial skips or fuel tanks shall be brought onto the site unless agreed with the LPA**

Reason for Recommendation

The engineering operations, in the form of the excavation of the water reservoir, the formation of hardstandings and repairs to the existing track, are considered to represent appropriate development within the Green Belt that do not harm the openness of the Green Belt and help to conserve and enhance the appearance of the landscape. The resultant soil mounds excavated to form the water reservoir also do not have an adverse impact on the character and quality of the landscape but the associated lorry movements are uncontrolled and the frequency of the movements are having an adverse impact on the residential amenity of neighbouring residential properties. Suitable conditions would mitigate this impact to an appropriate level. The development therefore accords with Policies ASP6, CSP1 and CSP4 of the Core Spatial Strategy, Policies S3 and N18 of the Local Plan and the guidance and requirements of the NPPF, subject to conditions.

Policies and proposals in the approved development plan relevant to this decision:-

Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026 (CSS)

Policy ASP6: Rural area Spatial Policy
 Policy CSP1: Design Quality
 Policy CSP3: Sustainability and Climate Change
 Policy CSP4: Natural Assets

Newcastle-under-Lyme Local Plan 2011 (NLP)

Policy S3: Development in the Green Belt
Policy T16: Development – General Parking Requirements
Policy N17: Landscape Character – General Considerations
Policy N18: Areas of Active Landscape Conservation

Other Material Considerations include:

National Planning Policy

National Planning Policy Framework (March 2012)
National Planning Practice Guidance (2014)

Supplementary Planning Guidance/Documents

Planning for Landscape Change: Supplementary Planning Guidance to the Staffordshire and Stoke-on-Trent Structure Plan 1996-2011

Relevant Planning History

10/00704/AGR Erection of a building for storage of machinery Deemed Permitted

Views of Consultees

The **Environmental Health Division** have recommended conditions to restrict hours of operation, dust mitigation measures, noise mitigation measures and protection measures to prevent mud and debris onto the highway.

Betley, Balterley and Wrinehill Parish Council raise no objections to the principle of the development but a significant tonnage of material in particular peat remains on site and is likely to be moved off-site. Therefore the LPA should take steps to minimise any adverse impact on the amenity of local residents during the removal of such materials, and to minimise any adverse impact on highway safety through the deposit of mud on the highway. Investigations regarding peat extraction should be considered as a potential waste management operation.

Environment Agency has raised no objections to the application but they have detailed that part of this site is shown on indicative flood maps to be located within Flood Zone 3. Flood Zone 3 is an area of land with a 'high' probability of flooding as defined in Table 1 of the Technical Guide to the National Planning Policy Framework (NPPF). The construction of a water reservoir would have required the excavation of significant amounts of material. However it is not clear from the application forms where this material has been deposited. Therefore to ensure that there is no loss of floodplain capacity and that the risk of flooding off site is not increased, this material must **not** be placed on land within Flood Zone 3.

National Grid has detailed that due to the presence of National Grid apparatus in proximity to the specified area, the contractor should contact National Grid before any works are carried out to ensure their apparatus is not affected by any of the proposed works.

County Council Planning has expressed a wish to comment on the application and their views will be reported prior to the planning committee if they are received in time.

The **Highways Authority, County Council Footpaths** and **Natural England** have not responded within the deadline for comments which expired on the 14.10.2014 and it has to be assumed at this stage that they have no comments to make upon the application

Representations

Seven letters of objection and five letters of support have been received. The letters of **objection** raise the following concerns;

- Large amounts of soil are being imported on a daily basis,
- Soil grading is taking place on the site,
- Soil exportation needs to be controlled,
- The volume of traffic causes noise, dust and vibration,
- Hours of operation needs to be controlled,
- Large volumes of soil from the works carried out will need to be strictly controlled,
- There are no traffic controls or safety signage in place,
- The activities cause a loss of residential amenity,
- A speed restriction should be enforced for lorries,
- What work is there still to be carried out?
- How long will it take?
- How much more materials are to be imported and of what do they consist?
- The current exemption certificate has exceeded the approved tonnage by probably 100.000 tons
- This project has already been going on for 7 months now.
- A 6 month timeframe should be imposed on the operation which is based on 15000 tonnes. This would equate to 134 lorries a month or approximately 7 lorries a day (14 in/out) and not 70 (140 in/out) as there have been on some days. 2 years is not acceptable.

The letters of **support** make the following comments;

- Mr. Oulton is doing a lot of drainage work to improve the land,
- The barns were part of the wider farm and have now been sold. The conversion required works and so does the agricultural land around it. Mr. Oulton needs time to carry out these works.

Applicant/agent's submission

A location plan, site plan (showing the works carried out), a topographical survey and a section of the pond/ water reservoir has been submitted along with the requisite planning application form. A supporting statement from the applicant and two letters from neighbouring land owners have also been submitted making the following comments;

- In 2012 a potato crop of 5 and a half acres was planted,
- The year was wet and required the crop to be sprayed. Due to the quality of the land the harvester sank and £18,000 worth of potatoes were left in the ground.
- In the spring the neighbouring land owner was approached about digging the dyke out which was on his land which cost £2,700. The dyke has been dug out three times costing approximately £9,000 over the years.
- The County Council advised that he could dig out a water reservoir to hold the surplus water and fill in a hole. They also said that excess soil could be exported. The county detailed that no planning permission was required because it was land drainage.
- The water reservoir is now used as a water irrigation system for the land and uses 20,000 litres per day in dry weather.
- When the land was bought the field had an access track that ran up the middle of the field which the gas board had put in to get to gas lines. Trying to farm the land around the track was difficult. The track has now been diverted to connect to the existing track.
- The rerouted track enables farm vehicles to work the land.
- The work being carried out has enabled has made the land more workable for the farming business so that it carry o for years to come,
- There is a footpath that comes onto the land, and we have renewed the stiles and always kept it clear,
- The footpath is blocked and this is the County Councils responsibility and walkers are walking across the field to avoid the debris that is causing the blockage,
- Betley Parish Council have indicated that the land is being destroyed but when the land was bought in 1991 there were 7 acres of land that had not been farmed for 15 years and now all of the land is being farmed, except where the works have occurred,

- The land is being kept in a better state than the previous owners because all 34 acres are being farmed and will continue to be.
- The walkers have commented on the works detailing that whilst they want to see the works finished they have made a vast improvement to the land,
- The wildlife in the area has been improved and one lady wants a seat to watch the wildlife,
- The operation is not for a lifetime and anybody is welcome to view what is happening at the site.

The neighbouring land owners both details that since Mr. Oulton has carried out the drainage work the land and surrounding land has considerably improved. The drier land allows cattle to graze without damaging diverse pasture land. The Flora and Fauna has been a major benefit to the environment.

KEY ISSUES

The application is retrospective with the works being predominantly carried out. Members will recall that a number of enforcement expediency reports have been considered and the owner/ applicant has been encouraged to submit a planning application to regularise the breaches of planning control. This application therefore is to regularise the works carried out - excavation of the water reservoir, the formation of hardstandings and repairs to the existing track.

The site is located within the North Staffordshire Green Belt, the Rural Area and within an Area of Active Landscape Conservation, as indicated on the Local Development Framework Proposals Map. The main issues for consideration are as follows:

- Is the use appropriate or inappropriate development in Green Belt terms?
- Is there any conflict with policies on development in the countryside and the impact of development on the landscape?
- The impact on neighbouring residential amenity levels?
- The Impact on Betley Mere Site of Special Scientific Interest (SSSI)
- The impact on highway safety?
- Flood Risk
- If inappropriate development in Green Belt terms, do the required very special circumstances exist to justify acceptance of the use?
- Enforcement matters

Is the use appropriate or inappropriate development in Green Belt terms?

The site is located within the Green Belt. In these locations the NPPF details that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

The NPPF, at paragraphs 89 and 90, indicates that new buildings and other forms of development are classed as inappropriate development other than a number of identified exceptions. Exceptions include;

- buildings for agriculture and forestry (para 89),
- mineral extraction; and
- engineering operations;

Paragraphs 87 and 88 detail that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

The formation of an access track and pool are classed as engineering operations. The applicant has detailed that the works have been carried out to assist the agricultural enterprise and land. The water reservoir has helped to improve drainage on the land and neighbouring agricultural land whilst also

forming part of an irrigation system. The irrigation system assists the owner's potato crop and the track enables vehicles to manoeuvre around the agricultural unit. The hardstandings that have been formed would enable the irrigation system to be operated and would allow agricultural machinery to be sited.

The applicants supporting statement, the letters of support from neighbouring land owners, verbal discussions and site visits demonstrate that the engineering operations are for the functioning of the agricultural unit and the works to the track, the formation of the hardstandings and water reservoir do not adversely harm the openness of the Green Belt.

The mounds of soil are as a result of the water reservoir being excavated and are being exported off site. The owner has previously detailed that there is enough volume of soil to result in exportation for a further three to four years depending on demand. These soil mounds are not considered to harm the openness of the Green Belt.

The engineering works that have been undertaken are considered to constitute appropriate development in the Green Belt.

A portacabin which the applicant has previously detailed was required in association with the works carried out still remains. There is no justifiable need for this portacabin and it is classed as inappropriate development within the Green Belt and should be removed within one month of this decision. The condition should also ensure that the industrial skips and fuel tank now removed are also not brought back onto the site

Is there any conflict with policies on development within the countryside and the impact of development on the landscape?

The site is within an Area of Active Conservation and NLP Policy N18 states that "Within these areas the Council will support, subject to other plan policies, proposals that will help to conserve the high quality and distinctive character of the area's landscape. Development that will harm the quality and character of the landscape will not be permitted. Within these areas particular consideration will be given to the siting, design, scale, materials and landscaping of all development to ensure that it is appropriate to the character of the area."

The track appears typical of what would be expected on an agricultural unit. The track is very informal in appearance and is considered to have a minimal impact on the character and quality of the landscape. Many agricultural units have concrete tracks which are of a more permanent construction and appearance which would have a greater impact on the appearance of the landscape.

The formation of the water reservoir has been done in an appropriate manner and it is acceptable in appearance and enhances the landscape. The water reservoir has been formed to overcome drainage problems of the land and is required to support a proposed irrigation system for the potato crop that is a primary use of the agricultural business. This is in accordance with policy ASP8 of the Core Spatial Strategy which seeks a positive approach to rural enterprise.

The applicant has imported railway ballast and stock piled this around the water reservoir along with the excavated soil mounds. The applicant has also indicated that the importation of material stopped on the 3rd October 2014 and that no more material is required on site due to there being enough on site to carry out the works required with the hardstandings the only elements left to be completed.

Whilst the stockpiling of material has some impact on the landscape it is a temporary feature and on balance it is not considered that it would significantly harm the appearance of the landscape to warrant action to secure its immediate removal as there are minimal views from any main vantage points.

The works are considered necessary for an agricultural purpose and do not harm the character or quality of the landscape. The development therefore accords with policies N17 and N18 of the local plan, policy ASP6 of the CSS and the guidance and requirements of the NPPF.

The impact on residential amenity?

The amount of vehicle movements, in particular lorry activities at the site has resulted in a number of regular complaints to be received by the Borough Council. The County Council and Environment Agency are carrying out their own investigations regarding activities at the site. The County Council have detailed that they will provide an update on their investigations prior to the meeting and any comments received will be reported accordingly.

In terms of this planning application a number of objections have been received which primarily focus on the amount of lorry movements that have occurred over the last two years and the amount of lorry movements still required due to the volume of soil that still needs to be exported. The objections are on the grounds that the lorry movements are having an adverse impact on neighbouring residential amenity levels in terms of noise, dust and vibration.

The Environmental Health Division has recommended conditions which would minimise the impact on neighbouring properties. They detail that hours of operation should be restricted to 7am to 6pm on weekdays, 7am to 1pm on Saturdays and no movements on Sundays or Bank Holidays. They also advise that noise and dust mitigation measures should be submitted to the LPA for approval. Such a condition could be imposed, however it is considered that it would be more appropriate to restrict the hours in a condition to between 8am and 4pm which is consistent with the hours restrictions that Committee resolved should imposed through an enforcement notice.

Committee also resolved that enforcement action should also require that all activity associated with the engineering works, i.e. the vehicle movements, the removal of soil from the site, and the re-contouring of the site areas to cease after a period of no more than 2 years from the date that the notice comes into effect. A number of neighbouring properties have raised concern that this two year period is excessive and that the amount of soil on site needs to be established before an appropriate decision can be made regarding the time allowed to complete the activity associated with the engineering operations. In this regard the County Council are due to visit the site and plot the soil at the site although this will not give an accurate volume calculation of how much soil needs to be exported and how many lorry movements this is likely to require. Your Officer's view remains that the 2 year period as resolved by Committee is still acceptable unless comments from the County are received prior to the meeting which detail why this would be excessive and/ or jeopardise actions that they may take regarding the breach they are investigating.

The recommended conditions from EHD regarding dust and noise require the applicant to submit further information. It is considered that the applicant should submit this information within one month from the date of the decision with assistance from EHD.

Subject to the recommended conditions it is considered that the impact on neighbouring residential properties can be controlled to an acceptable level and would not lead to a detrimental impact on the living conditions which would be in accordance with requirements and guidance of the NPPF.

The impact on Betley Mere SSSI

The application site overlaps the edge of the 500m buffer around Betley Mere and Natural England (NE) has been consulted on the application. Whilst their formal views have not been received they have indicated that they will be making comments on the application detailing that the LPA should undertake a habitats regulations assessment (HRA) due to the proximity to Betley Mere SSSI. Further advice on this has been sought from NE and their comments will be reported prior to Committee. However, there is no indication that the works carried out has or will have a significant adverse impact on the SSSI but there is a concern that material being brought onto site has the potential to have an adverse impact. In this regard the applicant has detailed that no more material is required to be brought onto site and no harm should be caused.

The impact on highway safety

The site is an established agricultural unit with access onto the A531. The amount of vehicle movements onto the highway has resulted in soil and debris being deposited. There is still a large amount (volume) of soil on the site following the excavation of the water reservoir. The applicant has indicated that a percentage of this will be used within the agricultural unit in order to improve the

farming of the agricultural unit. However the majority of it will be exported. Therefore in the interests of highway safety and to prevent mud and debris being deposited onto the highway it is considered necessary for the applicant to submit protection measures securing this. This can be secured via condition.

Flood Risk

Part of the application site is located within Flood Zone 3 which is identified as having a high probability of flooding as defined in Table 1 of the Technical Guide to the National Planning Policy Framework (NPPF).

EA have raised no objections to the development undertaken but they have raised concerns about any material being deposited on land which falls within the Flood Zone. The south-west corner of the site falls within the Flood Zone and there is a high level of material deposited in this location. Therefore to minimise any flood risk, as advised by EA, it is considered necessary for the owner to relocate this material to another area within the site. Due to potential disturbance to residential amenity levels it is considered that it should be located well away from neighbouring properties and should not require more than two lorry movements using the access. The location and time frame can be secured via condition. This condition would avoid potential flooding implications in accordance with the requirements of the NPPF.

Enforcement

The County Council and the Environment Agency are carrying out further investigations regarding other activities at the site. The comments of the County Council are being sought to ensure any conditions imposed on this application do not jeopardise further enforcement action that the County take.

The applicant/ owner has failed to comply with restrictions placed on the activities at the site previously and the LPA were in the process of taking enforcement action which sought to control the activities through the serving of an enforcement notice which the owner could have lodged an appeal against. However, if the applicant/ owner were to breach any of the conditions imposed on a planning permission the Council could serve a breach of condition notice (BCN). There is no right of appeal against a BCN and a notice would take effect 28 days after it is served.

Background Papers

Planning file
Planning documents referred to

Date report prepared

14th October 2014