

The application is for full planning permission for the retention and completion of a partially constructed agricultural 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 8 week period for the determination of this application expired on the 8th October but the applicant has agreed an extension of the statutory determination period to the 9th November 2018.

RECOMMENDATION

PERMIT subject to conditions relating to the following:

- 1. Works to be completed in strict accordance with the approved plans and submitted information,**
- 2. The recommendations, mitigation measures and enhancements set out in the ecological report shall be carried out in full,**
- 3. Submission and approval of a monitoring programme for the works,**
- 4. The landscaping to be carried out in accordance with the approved plans and any planting lost or damaged within 5 years shall be replaced,**
- 5. No more than a further 6000 tonnes of material to be imported onto the site, unless otherwise agreed,**
- 6. All material associated with the construction and completion of the track shall cease within 24 months from the date of the decision,**
- 7. Only inert waste is to be imported - any non-conforming waste should be removed to an authorised facility,**
- 8. No more than 16 HGV movements shall enter the site per day using the Waybutt Lane access only,**
- 9. Restriction on hours of operation to 8am to 6pm on weekdays and 8am to 1pm at weekends and no construction activity on Sunday or a public holiday,**
- 10. External lighting shall not be installed**
- 11. Submission and approval of methods to reduce mud and debris onto the highway network,**
- 12. No screening or processing of inert waste shall be carried out on site,**
- 13. Submission and approval of dust mitigation measures,**
- 14. No waste to be burned on the site at any time.**

Reason for Recommendation

The engineering operations associated with the formation of the track are considered to represent appropriate development within the Green Belt as they do not harm the openness of the Green Belt or conflict with the purposes of including land within it. The existing and proposed works conserve and enhance the appearance of the landscape. The application has demonstrated that the importation of material is unlikely to result in an adverse impact to the Betley Mere SSSI and subject to a number of suitable conditions the impact of the development on the ecology of the site, the landscape, highway safety and residential amenity will be appropriately mitigated. The development therefore accords with Policies ASP6, CSP1 and CSP4 of the Core Spatial Strategy, Policies S3, N17 and N18 of the Local Plan and the guidance and requirements of the NPPF.

Statement as to how the Local Planning Authority has worked with the applicant in a positive and proactive manner in dealing with this application

Whilst unauthorised works have been carried out the LPA has taken responsive action to limit the impact of the works and encouraged the submission of the application and the provision of additional information during the application process. Subject to conditions the development is considered acceptable and in accordance with local and national planning policy.

KEY ISSUES

The application seeks full planning permission for the retention and completion of a partially constructed track. The works that have already been undertaken are subject to an Enforcement Notice and Stop Notice, served on the landowners in May 2018. An appeal against the Enforcement Notice has been lodged but the appeal is currently being held in abeyance by the Planning Inspectorate until a decision on this planning application is made by the LPA.

The track accesses onto Waybutt Lane, which is within boundary of Cheshire East Council. An application for the part of the track that falls within their administrative area and the access onto Waybutt Lane has already been permitted by Cheshire East Council.

The application is supported by a planning statement, which sets out that the development is for an agricultural track which forms part of the overall plan of improvement for this agricultural holding. The track will be used to manage both the importation of feed and its distribution along the track using what is known as the New Zealand System. This system is endorsed by Natural England, Defra and the Environment Agency.

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

Is the development appropriate within the Green Belt?

Paragraph 134 of the NPPF indicates that the Green Belt serves five purposes, one of which is to assist in safeguarding the countryside from encroachment.

Paragraph 143 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Paragraph 145 states that other than in the case of a number of specified exceptions the construction of new buildings should be regarded as inappropriate in the Green Belt. Whilst one of the exceptions listed relates to buildings for agriculture and forestry, and although the development is said to be for agricultural purposes, as it is not a building this exception does not apply.

Paragraphs 146 of the NPPF indicates that certain other forms of development are also not inappropriate in the Green Belt provided that they preserve its openness and do not conflict with the purposes of including land within it. This includes engineering operations.

The works involved in the formation of the track are considered to represent an engineering operation which has no adverse impact on the openness of the Green Belt and does not conflict with any of the five purposes that the Green Belt serves. Whilst there is no reason to consider that the track is not required for agricultural purposes, based upon the information provided in support of the application, it is not necessary to be satisfied of this to conclude that the development is appropriate in the Green

Belt. On this basis, it is considered that the track would constitute appropriate development in the Green Belt and therefore very special circumstances are not required.

Is there any conflict with policies on development in the countryside and is the impact of development on the landscape acceptable?

The site is within an Area of Active Conservation. Policy N17 of the Local Plan (NLP) states that development should be informed by and be sympathetic to landscape character and quality and should contribute, as appropriate, to the regeneration, restoration, enhancement, maintenance or active conservation of the landscape likely to be affected. 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 engineering operations that have already been carried and that led to a Stop Notice and Enforcement Notice being served on the landowners involved high volumes of material being imported onto the site. Landscape remodelling has occurred given the topography of the landscape, particularly where the track crosses from Cheshire East to Newcastle, which, as indicated above, has been permitted by them. These works appear to have now been completed with minimal additional works now required to complete the section of the track as it lies within the Borough. The length of track which is proposed, which would finish the trackway, is on reasonably level land.

The application submission indicates that the track follows the natural contours and flow of hedges and trees on the land and on completion the track will be fenced off with stock fencing. It is also intended to plant new hedgerows to gap fill existing depleted hedges. In this respect a detailed landscaping plan and statement have been submitted which show wholesale landscaping being proposed adjacent to the track and this part of the agricultural unit.

The landscape plan as submitted is considered to offer improvements to the landscape and whilst the formation of the track has an impact on the landscape character, the application submission demonstrates that the development can conserve the character and appearance of the landscape and would be in accordance with policy N18 of the local plan.

LDS have requested a tree survey, tree protection information and an Arboricultural Method statement. This information has been requested from the applicant and any information that is submitted will be reported to the committee.

Whilst this information is necessary to make the development acceptable minor amendments to the location of the track could be made to avoid tree roots where necessary and this information could be secured by condition. A further update will be given prior to the meeting.

The development therefore accords with policies N17 and N18 of the local plan and the requirements of the NPPF.

The Impact on Betley Mere Site of Special Scientific Interest (SSSI)

Paragraph 175 of the National Planning Policy Framework (NPPF) sets out that development on land within or outside a Site of Special Scientific Interest (SSSI) which is likely to have an adverse effect on a SSSI should not normally be permitted. An exception should only be made where the benefits of the development clearly outweigh both the impacts that it is likely to have on the features of the site that make it of special scientific interest and any broader impacts on the national network of SSSIs. Ramsar sites are afforded the same protection.

Policy CSP4 of the Core Spatial Strategy indicates that the quality and quantity of the plan area’s natural assets will be protected, maintained and enhanced through a number of identified measures.

The application site is within close proximity to Betley Mere Site of Special Scientific Interest (SSSI). The unknown impact from the construction activities already undertaken without planning permission, including the imported material, were the fundamental reasons for the serving of the Stop Notice and Enforcement Notice following advice received from Natural England. The landowners were encouraged to carry out an ecological impact assessment which has now been done and forms part of the application submission.

The impact assessment acknowledges the impact that the development will cause but goes on to state that the proposed mitigation and enhancement measures are likely to significantly increase ecological value and biodiversity in the long term. However, it recognises that regular monitoring is required.

Natural England considers that the proposed development will not have likely significant effects on the Midlands Meres and Mosses (Phase One) Ramsar site and has no objection to the proposals. Their justification for that decision is on the basis of submitted information which depicts the watercourse in the vicinity of the proposed and partially constructed track ultimately flowing into the Mere Gutter some 60-70m downstream of the Ramsar Site's closest boundary. This accords with their records and deals with uncertainty over the potential existence of a direct hydrological link between the construction site and the Ramsar Site. In addition the submitted information in respect of the inert nature of the construction material addresses uncertainty regarding the materials being deposited on the land along the proposed track route.

Natural England advises that their comments on the Ramsar Site apply similarly to the Betley Mere SSSI. As a result it considers that the proposed development will not damage or destroy the interest features for which the site has been notified.

There is no reason, or basis, upon which your Officer could dispute the conclusions of Natural England and their advice is therefore accepted.

Natural England go on to advise that they raise no objections to the application as submitted on the basis of the conditions proposed by the Minerals and Waste Planning Authority regarding the quantity of construction material yet to be delivered to the site and the exact destination of that material. They advise a Construction and Environmental Management Plan is required in the interests of maintaining water quality in the watercourse in the vicinity of the proposed track to avoid unforeseen adverse impacts downstream of the construction site. They also support the biodiversity enhancements subject to the design allowing sufficient 'stand-off' between the proposed new hedgerow plants and the accompanying stock fencing to allow the hedgerow to become established free from browsing by livestock and to allow access for machinery (e.g. side arm mower/flail) when necessary.

On balance, it is considered that subject to conditions which ensure acceptable mitigation measures, including the future monitoring of the measures, it is considered that the application has demonstrated that the development would have no significant and long term harmful impact on the identified designated sites. It would therefore be in accordance with policy CSP4 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026 and the guidance and requirements of the NPPF.

The impact on highway safety and residential amenity

Paragraph 5.3 of the applicants transport statement indicates that the vehicle routing to and from the site will be via the A531 Newcastle Road, with construction vehicles turning into Waybutt Lane and onto the site. This was the route that was taken when the unauthorised works took place, prior to operations ceasing following the serving of the Stop Notice, and there were no reported highway incidents during this time.

The track (once completed) is proposed to be approximately 684 metres long and 3.5 metres wide. Approximately 10,317 tonnes of crushed concrete has already been imported onto the site (referred to in paragraph 4.08 of the Planning Statement). The applicant anticipates that a further 5,000- 6,000 tonnes would be required to complete the track as proposed. The submitted Transport Assessment, however, states;

"The total amount of material still required is 12000 tonnes of crushed inert stone and 6000 tonnes of clean stone and sand. Therefore, based on an HGV with a 20-tonne capacity this would equate to 900 movements in and 900 movements out. I have set out below some options in terms of the traffic impact. Vehicles will be routed via the A531 into the site access on Waybutt lane as previously carried out, prior to work ceasing on the site to secure the necessary planning approvals. It is my understanding that around 6000 tonnes have already been laid to date."

Therefore there are clear discrepancies between the Planning Statement and Transport Assessment. Notwithstanding these discrepancies it is considered that appropriately worded planning conditions could be imposed on a planning permission that restrict vehicle movements to and from the site in the interests of highway safety as recommended by the Highway Authority (HA). In this respect the HA has advised that the number of HGV's visiting the site shall not exceed sixteen in any one working day. In addition, they recommend a condition to secure measures to prevent the deposition of deleterious material on the public highway during the construction phase. Subject to such conditions there is no basis upon which it could be concluded that the development has an unacceptable impact on highway safety.

The vehicular movements associated with the importation of materials also have the potential to cause an adverse impact on residential amenity. This could be suitably addressed, however, through restrictions on the hours of construction in accordance with the advice of the Environmental Health Division. The HGV vehicles should only use the Waybutt Lane access and not the access off Main Road.

Enforcement matters

Paragraph 58 of the NPPF states that "Effective enforcement is important to maintain public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control."

The works undertaken to date were uncontrolled and the level of importation of unknown material raised significant concerns that the construction activity could have had indirect, adverse impacts on the designated sites referred to above due to surface water run-off. There was a significant risk that such surface water run-off would adversely affect water quality in local watercourses, for example due to sedimentation and potential pollution.

The uncontrolled nature of the activity also resulted in high volumes of HGV movements along Waybutt Lane, which also caused some detriment to highway safety and impact from noise and general disturbance to the residential amenity levels of neighbouring properties.

The landowner was continuously advised to submit a planning application but one was not submitted.

The Stop Notice and Enforcement Notice that were served in response to such unauthorised development resulted in the works and construction activity being stopped and the planning application was finally submitted.

As indicated above the landowner has appealed against the Enforcement Notice but the Stop Notice remains in effect.

Should the recommendation be accepted the unauthorised works that are the subject of the Enforcement and Stop Notices will retrospectively be granted planning permission subject to conditions and as such the question is raised as to whether such Notices should be withdrawn or amended? To answer this question your Officer is seeking legal advice and it is anticipated that a further update on this matter will be given.

APPENDIX

Policies and Proposals in the approved Development Plan relevant to this decision:-

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

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 \(NLP\) 2011](#)

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

Other Material Considerations

[National Planning Policy Framework](#) (July 2018)

[Planning Practice Guidance](#) (March 2014, as updated)

Relevant Planning History

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

14/00610/FUL Retention of water reservoir, formation of hardstandings and repairs to the existing track Permit (decision 03.12.2015)

Views of Consultees

Betley, Balterley and Wrinehill Parish Council indicate that the proposed agricultural track appears to be required to service the particular farming system and on that basis raises no objections. They advise that the LPA will also need to be satisfied that the agricultural system referred to is appropriate and relevant to the holding at Doddlespool. There are concerns about the impact of materials brought to the site to form the base of the track and the activity needs to be licensed and controlled by the relevant statutory bodies. Materials being brought on to the site to construct the track should use the Waybutt Lane entrance and not the A531 entrance. Conditions to secure the proposed landscaping and biodiversity enhancements need to be secured by conditions.

The **Landscape Development Section** support the principles shown in the landscaping proposals provided but request further tree survey information due to the proximity of the track to trees.

The **Environmental Health Division** raises no objections subject to conditions which restrict external lighting and construction hours.

The **Highway Authority** initially raised objections but following the submission of a Transport assessment they now have no objections subject to conditions which restrict HGV movements to no more than 16 per day and require the submission and approval of mud and debris reduction proposals.

The **Staffordshire County Council Mineral and Waste Planning Authority** raises no objections subject to the Borough Council being satisfied that amount of material proposed to be deposited is the minimum necessary for the intended/ agreed purpose and that adjacent residents would not be subject to unacceptable adverse impacts. Conditions are recommended as follows;

- Limit the amount of waste imported to the site,
- Limit the duration of waste importation,

- Ensure that only inert waste is imported, and any non-confirming waste should be removed to an authorised facility,
- Limit the number of vehicles entering and leaving the site,
- Limit the maximum number of vehicle movements per day,
- Control the hours of operation,
- Ensure that no mud or deleterious materials is deposited on the public highway,
- Control any lighting associated with the development,
- Ensure that no screening or processing of the inert waste is carried out on site,
- Control the noise associated with the import of the inert waste,
- Control the dust associated with the import of the inert waste,
- Ensure that no waste is burned on the site

The Environment Agency raises no objections.

Natural England raises no objections considering that the proposed development will not have significant adverse impacts on designated sites.

Staffordshire County Council Flood Risk Team (LLFA) raises no objections but advises that the southern part of the track appears to cross an ordinary watercourse/ditch. Land Drainage Consent would be required if works are proposed to the Watercourse (for instance: culverting to allow access across).

Cadent (National Grid) advises that searches have identified that there is apparatus in the vicinity of the site which may be affected by the activities specified. They therefore provide a number of advisory notes/ recommendations prior to works commencing on site.

Representations

Two representations have been received; one from **Paul Farrelly MP** who wishes to object to the planning application. In addition a further representation has been received from **Councillor Gary White** who makes the following objections;

- Materials need to be regulated by the statutory bodies;
- Materials being brought on to the site to construct the track should use the Waybutt Lane;
- A scheme of planting and biodiversity enhancement should be a condition;
- The applicant, in my view does not show regard for their neighbours or indeed the wider community in the way in which they operate their premises and I have received numerous complaints regarding this; and
- Rigorous conditioning and monitoring is necessary;

Applicant/agent's submission

The application is supported by the following documents;

- A Planning Statement with a number of appendices which include a farm track case study,
- Ecological Impact Assessment,
- Transport Assessment,
- Landscaping/ Visual Impact assessment
- Landscaping plan,
- Preliminary Ecological Appraisal,

These documents are available for inspection at the Guildhall and searching under the application reference number 18/00299/FUL on the website page that can be accessed by following this link <http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/18/00299/FUL>

Background Papers

Planning files referred to
Planning Documents referred to

Date report prepared

25th October 2018