

Planning Reference No:	09/1624W
Application Address:	Whittakers Green Farm, Pewit Lane, Hunsterson, Nantwich, Cheshire, CW5 7PP
Proposal:	Retrospective Permission For The Improvement And Extension Of An Existing Agricultural Track For Use In Association With Agricultural And Green Waste Compost Operations At Foxes Bank And Whittakers Green Farm, Hunterson, Nantwich
Applicant:	Mr F.H Rushton
Application Type:	Full
Grid Reference:	369430 345860
Ward:	Doddington
Earliest Determination Date:	12 August 2009
Expiry Dated:	30 August 2009
Date of Officer's Site Visit:	22 July 2009
Date Report Prepared:	01Sept 2009
Constraints:	None

SUMMARY RECOMMENDATION

Approve with conditions

MAIN ISSUES

Impact of the proposed development on:

- **The character and appearance of the open countryside**
- **Potential ecological harm caused by the track that has already been constructed**

1. REASON FOR REPORT

The application was deferred from the Southern Planning Committee held on 16th September 2009 to allow for Members to visit the site.

This application is considered to be of a minor nature and the decision would have been delegated by the Head of Planning and Policy to officers for a delegated decision. However, this application has been called in to the Southern Planning Committee by Councillor Walker so that the application can be reported to them for determination.

Councillor Walker provided reason for the call-in; *to ensure that the planning committee can give due consideration to issues of potential ecological harm, and consider the impact of the character and appearance of the countryside and potential harm caused by the development.*

2. DESCRIPTION OF SITE AND CONTEXT

The application site is located in a field approximately 100m to the south east of 'Foxes Bank', located off Bridgemere Lane, and approximately 175m to the north east of 'Whittakers Green Farm', located off Pewit Lane, Hunsterson, Nantwich (refer to Route C-C of Appendix 1). The site is located within the Open Countryside outside the Settlement Boundary as designated in the Borough of Crewe and Nantwich Replacement Local Plan 2011.

Planning permission was granted by the former Cheshire County Council in March 2009 for the creation of new access and track to join up with *existing* farm tracks between Foxes Bank and the Green Waste Composting Facility at Whittakers Green Farm (reference 7/2008/CCC/7) (refer to Route A-A for consented track and Routes B-B and D-D for existing tracks of Appendix 1). The purpose of the new track was to provide an alternative vehicular access from Bridgemere Lane to Whittakers Green Farm Green Waste Compost Facility, rather than using Pewit Lane which is narrow and less suitable for heavy goods vehicles.

When the applicant began constructing the approved vehicular access track, it was constructed in the course of the most direct route across the field, (Route C-C) as opposed to improving the *existing* farm track that followed the perimeter of the field boundary (Route B-B).

The applicant argued that this track (Route C-C) had been an existing route in this central location since 1983, and that the development that had taken place was, in his opinion engineering operations reasonably necessary for the purposes of agriculture (i.e. improvements to existing agricultural tracks), which would therefore be permitted development by virtue of Part 6 of the General Permitted Development Order. However, having viewed past and recent aerial photography, it is apparent that there has not been an access track through the centre of the field as claimed by the applicant.

As permission 7/2008/CCC/7 (Route A-A) did not provide consent for the access track to take the most direct route through the centre of the field (Route C-C), the applicant was requested to submit a formal retrospective planning application in order to regularise the development that had taken place.

3. DETAILS OF PROPOSAL

This application is for retrospective planning permission for the improvement and extension of an existing agricultural track for use in association with agriculture and green waste operations at Foxes Bank and Whittakers Green Farm, Hunsterson, Nantwich (Route C-C).

The 240m long and 3.1m wide track is required to create vehicular access across the field in question to a standard suitable for agricultural and heavy goods vehicles associated with farming activities at Foxes Bank and green waste composting activities at Whittakers Green Farm respectively, providing a link between existing tracks on the farm (Routes D-D) and the newly permitted one (Route A-A consented by virtue of 7/2008/CCC/7).

The track has been constructed of a surface in the form of a hardcore base and a fine aggregate top surface, thus forming a permeable surface. Passing bays have also been provided.

4. RELEVANT HISTORY

Planning permission was granted in 2004 for the use of land for composting of green waste at Whittakers Green Farm by virtue of planning permission 7/P04/0124. Subsequent applications have been made since, including those made under section 73 of the Town and Country Planning Act 1990 (as amended) to vary various planning conditions;

- 7/2006/CCC/11; Application to vary condition 13 of permission 7/P04/0124 to allow importation of green waste on Bank Holidays except for Christmas; (not extant as permission 7/2009/CCC/1 has superseded this)
- 7/2007/CCC/7; Full planning application to provide an extension to the existing green waste composting facility;
- 7/2008/CCC/9; Variation of Condition 14 of permission 7/P04/0124 to increase the green waste vehicle movements to tie in with planning application 7/2008/CCC/7 for the new access track to the site. (Refused and dismissed on appeal); and
- 7/2009/CCC/1; Subsequent variation of Condition 14 of permission 7/P04/0124 to increase the number of vehicle movements; including seasonal variations in maximum average vehicle movements, but less than the refused application, with restricted hours of delivery and alternative route (approved).

5. POLICIES

The Development Plan comprises the North West of England Regional Spatial Strategy 2021 (RSS) and the Borough of Crewe and Nantwich Replacement Local Plan 2011.

The relevant Development Plan Policies are:

Local Plan Policy

- BE.1 Amenity
- NE.2 Open Countryside
- NE.5 Nature Conservation and Habitats
- NE.9 Protected Species
- NE.12 Agricultural Land Quality

Other Material Considerations

- PPS1: Delivering Sustainable Development
- PPS7: Sustainable Development in Rural Areas
- PPS 9: Biodiversity and Geological Conservation.

6. CONSULTATIONS (External to Planning)

The Strategic Highways and Transport Manager does not object to this development.

The Public Right of Way Unit do not object to the proposal. The agricultural track is adjacent to Public Footpath No.4 Hunsterson as recorded on the Definitive Map. As the track already exists, it appears unlikely that the proposal would affect the public right of way. However, should planning permission be granted, the Public Right of Way Unit

requests an informative to be attached to any decision notice, listing the developers' obligations with regards to the right of way.

The Borough Council's Nature Conservation Officer does not object to this development. He has reviewed the results of the latest ecological survey that was undertaken in connection with a previous planning application on the site for the infilling of hollows (ecological report dated March 2009), and contains useful information on the wider ecological context of the farm.

Impacts on Habitats

The majority of the site where the track now lies has previously been used for cereal crops which would be of no nature conservation value. However, approximately 50m of the track passes through an area surrounded by scattered scrub and rough grassland. Whilst it is considered that this area has more nature conservation value than the intensively farmed fields, this habitat type is not uncommon in Cheshire, and is not a priority for conservation. It is therefore considered that the loss of a small area of this habitat to accommodate the constructed track is likely to have had a negligible impact on the nature conservation assets of the Borough.

Impacts on Protected Species

The submitted ecological survey did not highlight any significant issues for protected species. The most sensitive area is possibly the bridge crossing over the brook at the southern end of the track. This habitat could support a number of protected species including: water vole, otter and white-clawed crayfish. The bridge crossing the stream is however a very minor development and there does not appear to have been any excessive damage to the stream banks or river bed.

There is a number of water bodies scattered throughout the farm land surrounding the track. These water bodies could support breeding great crested newts. The ponds that are within the ownership of Whittakers Green Farm were assessed as part of the submitted ecological survey and were found to have below average or poor potential to support great crested newts.

From viewing the OS maps, the nearest pond that could have potential to support great crested newts is over 180m from the track. Considering the distances from the ponds, and the low level of potential impact associated with this development, it is considered that the potential impact of the development upon great crested newts was likely to be negligible.

Badgers are known to be active on the site. The submitted ecological survey did identify an active sett on the farm, but this is a considerable distance away from the track, and therefore it is considered that the construction of the track is likely to have no impact upon this protected species.

Natural England are not aware of any nationally designated landscapes or any statutorily designated areas of nature conservation importance that would be significantly affected by the development that has taken place. Natural England raised concerns in relation to the retrospective application as; at the time of consultation, the ecological survey had not been submitted despite having been undertaken in March 2009. Therefore, it would appear that the application had not assessed the possible impacts on protected species.

The completed survey has since been forwarded to Natural England but no further comments have been received.

Environment Agency have no objections; but have requested the following informative to be included on the decision notice should planning permission be granted: *If any controlled waste is to be used on the site the operator will need to obtain the appropriate authorisation from the Environment Agency.*

7. VIEWS OF THE PARISH / TOWN COUNCIL

Doddington and District Parish Council have been consulted. At the time of writing the report no comments have been received.

8. OTHER REPRESENTATIONS

Four letters of objection have been received from local residents. The relevant planning grounds of objection include issues relating to:

- The application states within the description of the development that track is required in association with the agricultural activity at Foxes Bank Farm. This is an error as the farm is called Foxes Bank;
- That the necessary wildlife and ecology studies had not been carried out prior to the construction of the track to ensure due consideration was made for presence of protected species in neighbouring watercourses;
- The wildlife studies that were carried out were not adequate or comprehensive;
- Visual impact and the impact on residential amenity; and
- Inadequate construction of the track

Councillor Walker has called this application in for committee approval to ensure that due consideration is made to the potential ecological harm, and to consider the impact of the character and appearance of the countryside and potential harm caused by the development that has been already constructed.

9. APPLICANT'S SUPPORTING INFORMATION

The applicant's agent (Civitas Planning Limited) has submitted the planning application documents with Supporting Planning Statement dated June 2009 and accompanying Design and Access Statement. A Great Crested New Survey Assessment dated March 2009 was also submitted and undertaken by Worcestershire Wildlife Consultancy.

10. OFFICER APPRAISAL

Principle of Development

The principle of the development in terms of the provision of an access track from Bridgemere Lane (Route A-A), through these fields to join existing tracks (Routes B-B and D-D) at Whittakers Green Farm has already been approved by virtue of planning permission 7/2008/CCC/7 as outlined above.

Policy

On careful consideration of the application against the relevant policies set out above, it is considered that the proposal is in accordance with the Development Plan. Relevant policy compliance will be examined in further detail within the text below.

Highways

As the track does not egress onto highway, there are no highways issues in relation to this application; therefore there are no objections from the Strategic Highways and Transport Manager. Should planning permission be granted a condition would be imposed to ensure that any deposit of mud or debris on the adjacent highway resulting from the access track, shall be moved immediately from the highway.

Design and Construction of the Road

The road has been designed with passing bays and apparently constructed by excavating a depth of 1 metre, and the use of a hardcore sub-base and fine material as a binding course, providing a road capable of use by not only vehicles associated with the farm enterprise, but also the green waste composting facility. Should planning permission be granted, a condition would be attached to request the details of the construction of the track to ensure that it has been constructed as stated within the planning application and to an appropriate and adequate standard. If it is considered that it is not of an appropriate standard, a condition would require the submission of alternative construction specification, and where necessary the road would be reconstructed in accordance with the approved construction specification.

To ensure that the construction of the track is subsequently maintained to an adequate standard, should planning permission be granted, a condition would be imposed to ensure that the track is maintained throughout the life of the composting operation at Whittakers Green Farm to ensure that an even and level surface across the width of the entire length of the approved track is maintained, and also constructed to ensure no rutting/pot-holing occurs to the surface of the track, and to ensure no ponding water occurs.

Furthermore, a condition would also be imposed to ensure the passing bays are constructed in accordance with the approved plans and retained and kept clear of debris to ensure the safe passage of on coming vehicles.

Amenity and visual impact

As stated previously, the principle of an access track from Bridgemere Lane to Whittakers Green Compost Facility, (via existing farm tracks) has already been approved by virtue of planning permission 7/2008/CCC/7. It is considered that there are no significant differences between the visual impact and impact on amenity with regards to the track taking the route around the field boundary, compared to that of the direct route across the field. Furthermore, the provision of this new access track removes the need for heavy goods vehicles using Pewit Lane, thus improving the amenity of the local area.

As such, it is considered that the application is in accordance with Policy BE.1 Amenity of the Borough of Crewe and Nantwich Replacement Local Plan 2011.

Ecology

Concerns have been raised in relation to the potential ecological harm caused by the construction of the track, and that due consideration has not been taken into account in relation to protected species. The Council's Nature Conservation Officer has considered the submitted Great Crested Newt Survey Assessment and is satisfied that there would have been no significant impact on local ecology, nature conservation interests or protected species during the construction of the track. The Nature Conservation Officer

commented on the bridge crossing at the southern end of the track, as the brook could support a number of protected species. However, this bridge was constructed prior to the construction of the track subject to this application.

As such it is considered that this development is in accordance with policy NE.5 and NE.9 of the Borough of Crewe and Nantwich Replacement Local Plan 2011.

Open Countryside

As previously stated, the principle of an access track at this site has been approved by virtue of planning permission 7/2008/CCC/7. It is considered that the character and appearance of the open countryside has not been harmed by the construction of this track, as it is an extension of an existing track. As such, it is considered that this development is in accordance with policy NE.2 of the Borough of Crewe and Nantwich Replacement Local Plan 2011.

Restoration

As the primary purpose of the track is to facilitate access to Whittakers Green Farm green waste composting site, in the event that the operations cease at the composting site for six months or longer, should planning permission be granted, a condition would be attached to ensure that the site is fully restored back to agricultural use to the satisfaction of the Waste Planning Authority, within 12 months of the cessation of waste activities on site.

Errors within the description of the development

The application documents have been amended to ensure that the application description states that the track is for use in association with agriculture at 'Foxes Bank' rather than 'Foxes Bank Farm'. This was an error on the Applicant's Agent's part and has now been rectified.

11. CONCLUSIONS AND REASON(S) FOR THE DECISION

This application seeks retrospective permission for an extension of an approved access track (Route C-C; 240m long and 3.1m wide) for use in association with agricultural and green waste operations at Foxes Bank and Whittakers Green Farm, Hunsterson, near Nantwich.

Planning permission was granted in March 2009 for the creation of a new access track from Bridgemere Lane (route A-A) to join existing tracks (Routes B-B and D-D) to provide an alternative vehicular access to Whittakers Green Farm Waste composting site. When the applicant began constructing the approved vehicular access track, it was constructed in the course of the most direct route across the field; (Route C-C) as opposed to improving the *existing* farm track that followed the perimeter of the field boundary (Route B-B). This retrospective application seeks to regularise this.

It is considered that due consideration was made in the construction of this track in relation to nature conservation and protected species, and it does not have a detrimental impact on the character of the open countryside. Furthermore, it would not have a significant impact on the surrounding highway network, local amenity or visual impact of

the surrounding area and, as such, there would be no valid reason for refusal and therefore planning permission should be granted.

12. RECOMMENDATION

Planning permission should be granted subject to the following conditions and informatives:

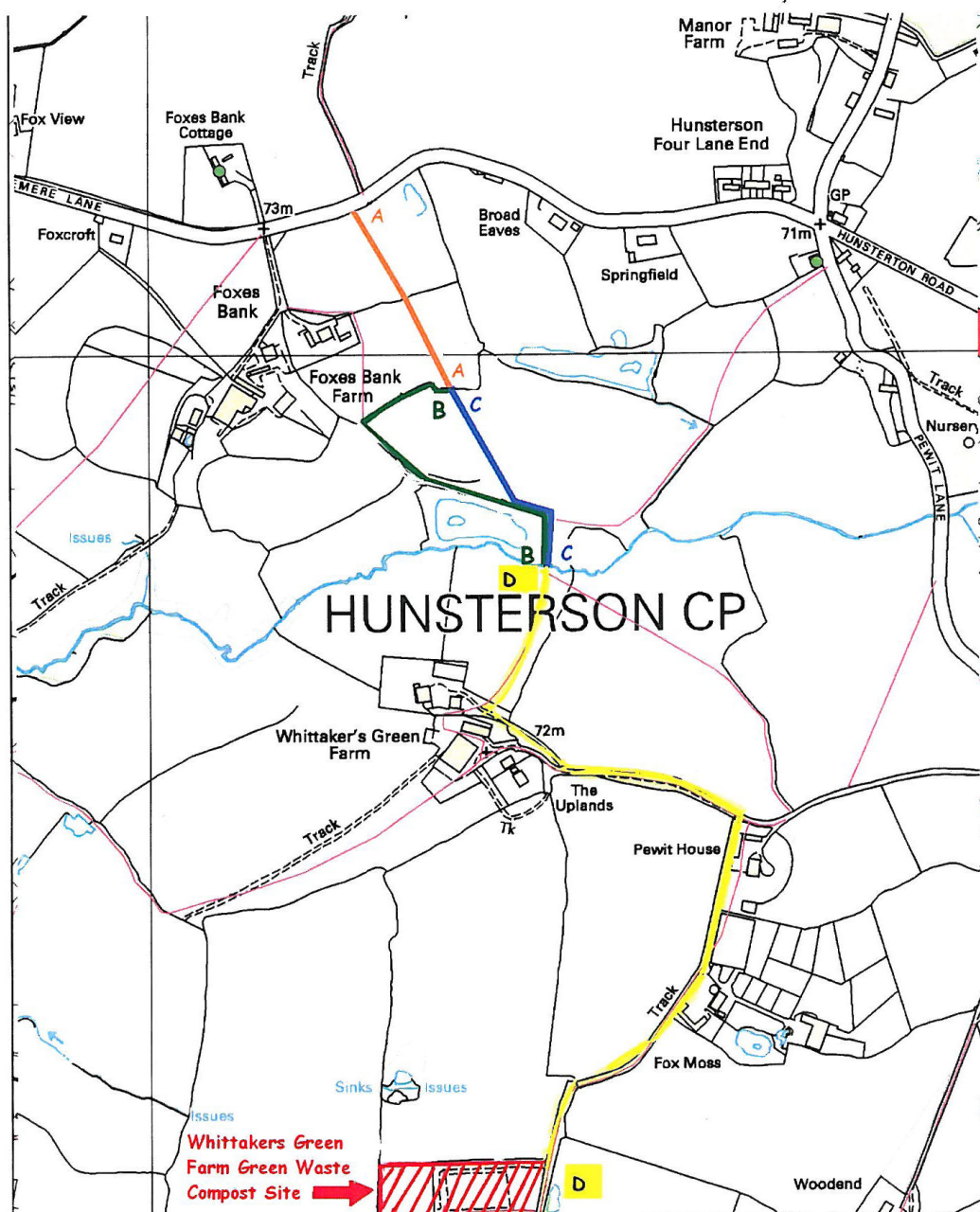
Conditions:

- 1. Approved plans;**
- 2. Construction details provided and where necessary reconstructed;**
- 3. Maintenance to ensure level surface and no rutting, potholing or ponding water;**
- 4. Passing bays to be constructed in accordance with approved plans and retained and kept clear throughout the life of the development;**
- 5. Restoration in the event of cessation of waste operations at Whittakers Green Farm; and**
- 6. Any deposit of mud or debris on the adjacent highway resulting from the access track, shall be moved immediately from the highway.**

Informatives:

- 1. Obligations towards the Public Rights of Way; and**
- 2. If any controlled waste is to be used on the site the operator will need to obtain the appropriate authorisation from the Environment Agency.**

Appendix 1 - Plan Illustrating Access Tracks; consented, existing, and retrospective leading to Whittakers Green Farm Green Waste Compost Site



A—A= Consented Access Track from Bridgemere Lane (7/2008/CCC/T)

B—B= Existing farm track following the field boundary

C—C= Track subject to the retrospective application (09/1624W)

D—D= Existing farm track leading to the Green Compost site