

Application No: 20/4695W

Location: HUNTERS MOON, SWINEYARD LANE, HIGH LEGH, WA16 0SD

Proposal: Land Improvements and Levels Changes Including Importation of Soil and Inert Material to Regrade Areas of Land to Improve Drainage for Equestrian Use

Applicant: Mr Joseph Gillespie

Expiry Date: 22-Jan-2021

SUMMARY

The proposal is for engineering works that are considered to be not inappropriate development in the Green Belt subject to preserving openness and not conflicting with the purposes of including land within it. In this case there would be a very limited impact on openness which has required consideration of very special circumstances.

The improvement in the drainage of the land, allowing it to be used productively by the existing equestrian business would be a significant benefit.

The changes would blend satisfactorily into the landscape once the land has been restored to an equestrian use, and the Council's Principal Landscape Architect considers the proposals to be acceptable in terms of their final impact on the landscape.

There would be significant benefits to biodiversity resultant from the proposed works, including the replacement planting.

The proposal would provide a means of managing 60,000 cubic metres of inert material in a sustainable manner. The predicted capacity gap in Cheshire East for the deposit of inert material to landfill identified in the updated Cheshire East Waste Needs Assessment, would also be a benefit that would accord with the waste hierarchy.

If it considered there are very special circumstances that would outweigh any perceived conflict with the preservation of openness.

Highways have raised no objections subject to the importation operations lasting no longer than 6 months.

There will be impacts on ecology, trees and hedgerows and these can be mitigated by the measures set out in the application.

Mitigation measures will be provided to protect nearby residents from the effects of noise.

Conditions would ensure that the materials imported would be suitable.

The Environment Agency and the Council's flood risk team have no objections subject to conditions.

The scheme therefore represents a sustainable form of development and the planning balance weighs in favour supporting the development.

RECOMMENDATION:

Approve subject to conditions

PROPOSAL

The proposal is for land improvements and levels changes including the importation of soil and inert material to regrade areas of land to improve drainage for equestrian use.

The importation would be limited to a period of 6 months and the materials imported would be dry, inert soils and building materials, these will be sourced from construction sites, predominantly greenfield residential developments, within a 15 mile radius. The increase in land levels will vary due to the existing topography but in places it is indicated to be up to 3m above existing levels.

SITE DESCRIPTION:

The application site comprises approximately 9.5 hectares of land used for equestrian purposes to the south of Swineyard Lane and west of the M6 motorway. The site is generally flat agricultural land enclosed by mature vegetation. There are trees and hedgerows within the site and public footpaths around the site but not within it.

The land is prone to waterlogging due to perched groundwater, undulating ground levels and sloping contours.

RELEVANT HISTORY:

19/4738M Prior notification for agricultural building – Refused 26th March 2018

18/0982M Prior notification for agricultural building – Refused 4th November 2019

NATIONAL & LOCAL POLICY

National Policy:

The National Planning Policy Framework establishes a presumption in favour of sustainable development.

Development Plan:

Cheshire East Local Plan Strategy (CELPS)

PG3: Green Belt
PG6: Spatial Distribution of Development
SD1: Sustainable Development in Cheshire East
SD2: Sustainable Development Principles
SE1: Design
SE2: Efficient use of Land
SE3: Biodiversity and Geodiversity
SE4: The Landscape
SE5: Trees, Hedgerows and Woodland
SE6: Infrastructure
SE7: The Historic Environment
SE13: Flood Risk and Water Management
IN1: Infrastructure
IN2: Developer Contributions

Cheshire Replacement Waste Local Plan (CRWLP)

Policy 1: Sustainable Waste Management
Policy 12: Impact of Development Proposals
Policy 14: Landscape
Policy 15: Green Belt
Policy 17: Natural Environment
Policy 18: Water Resource Protection and Flood Risk
Policy 22: Aircraft Safety
Policy 23: Noise
Policy 24: Air Pollution; Air Emissions Including Dust
Policy 25: Litter
Policy 26: Odour
Policy 27: Sustainable Transportation of waste
Policy 28: Highways
Policy 29: Hours of Operation
Policy 32: Reclamation
Policy 36: Design

Macclesfield Borough Local Plan (MBLP)

NE11: Nature Conservation
GC1: Green Belt
DC8: Landscaping
DC9: Tree Protection
DC32: Equestrian Facilities

The saved Local Plan policies are consistent with the NPPF and should be given full weight.

The High Legh Neighbourhood Plan has only reached Regulation 14 stage and therefore carries no weight.

CONSULTATIONS:

Highways: The application is acceptable subject to a condition limiting the duration of the importation works.

Environmental Health: No objection subject to conditions/informatives relating to noise, hours of operation, dust management and imported materials being chemically suitable for its proposed use.

Environment Agency: No objection.

Flood Risk: No objection subject to conditions.

High Legh Parish Council: None received at the time of report writing.

REPRESENTATIONS:

Neighbour notification letters were sent to adjoining occupants and site notices posted.

At the time of report writing no comments have been received relating to this application.

APPRAISAL

The key issues to be considered in the determination of this application are set out below. They are the principle of the development, sustainability, green belt, highways, amenity, landscape, trees, ecology and flood risk.

Sustainability

Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

An environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy;

A social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and

An economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right

time to support growth, innovation and improve productivity; and by identifying and coordinating the provision of infrastructure.

ENVIRONMENTAL OBJECTIVE

Green Belt

The site lies entirely within the Green Belt and the proposal is for an engineering operation, which is not inappropriate development, subject to it preserving openness and not conflicting with the purposes of including land within it.

Policy PG3 states that the erection of new buildings is inappropriate in the Green Belt. However, a number of exceptions to this are listed which largely replicate those detailed within the NPPF paragraphs 145 and 146. Of relevance to the exceptions detailed within these paragraphs are;

- Provision of facilities for outdoor sport, outdoor recreation and for cemeteries, as long as it preserves the openness of the Green Belt and does not conflict with the purpose of including land within it.
- Engineering operations

Paragraph 134 of the NPPF defines the Green Belt as serving five purposes:

- a) to check the unrestricted sprawl of large built-up areas;
- b) to prevent neighbouring towns merging into one another;
- c) to assist in safeguarding the countryside from encroachment;
- d) to preserve the setting and special character of historic towns; and
- e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

The proposals would not be in conflict with these purposes.

Planning Policy Guidance (PPG) identifies that a number of matters should be taken into account when considering the impact of development on openness. These include, but are not limited to:

- openness is capable of having both spatial and visual aspects – in other words, the visual impact of the proposal may be relevant, as could its volume;
- the duration of the development, and its remediability – taking into account any provisions to return land to its original state or to an equivalent (or improved) state of openness; and
- the degree of activity likely to be generated, such as traffic generation.

The land is used in connection with the existing equestrian business at Hunters Moon and is therefore related to outdoor sport. Currently the land suffers from very poor drainage and water logging, making it difficult to be safely and effectively used by the horses.

The proposals are for the importation of soils and inert building materials in order to re-grade the land and improve the drainage from it. The reason this is necessary is because below the sandy silt topsoil, the underlying material is gravelly clay and combined with the undulations

in the ground levels, mean that water pools and cannot drain away. The works would raise the levels in the centre of the site, and this would then allow the water to drain away to the sides of the site.

Other land drainage methods were considered before this was decided on as the optimal solution. BRE (Building Research Establishment) soakaway testing was undertaken on site and this confirmed that the underlying ground has a very low permeability. As such it was considered that the installation of drainage systems such as soakaways, French drains and detention basins would not be feasible on this site.

In addition, the site is located approximately 200m away from the nearest watercourse, across third party land, to which the applicant does not have access. The fall on the third-party land is relatively minimal and it was therefore not considered possible to discharge surface water run off directly to a watercourse.

Levels within parts of the central area of the site would increase by up to 3m to a maximum of 62m AOD (Above Ordnance Datum).

Southward, eastward and westward slopes from the central area will increase in gradient to up to 1 in 10, in comparison with the existing 1 in 30 and 1 in 60 gradients. Norther gradients (over half the site) would remain similar to existing levels, between 1 in 59 and 1 in 110.

The increases in height and gradient to form a 'dome' in the centre of the site are necessary to ensure that water is directed to the site boundaries effectively. The height and gradient could possibly be reduced by a small amount, but this would have a very limited impact on the visual impact of the development.

Appropriate or Inappropriate Development?

In the case of this development, the applicants agent does not consider it to be inappropriate development due to the limited impact on openness, especially when seen in the context of the surrounding undulating landscape. This is noted by Officers and it could easily be concluded that it is appropriate. Inspectors at appeal have taken different views as to whether this type of development constitutes inappropriate development or not and it is very much the case that circumstances may be different on other sites due to the nature of landforms and amounts of material being imported. As a result each site has to be considered on its merits.

However, even a limited impact on openness would still be an impact that would require it to be considered as inappropriate development requiring consideration of very special circumstances to be demonstrated to outweigh the harm to Green Belt and any additional harm from the development itself.

These other impacts are considered in detail below

Waste Management

The proposal would provide a means of managing 60,000 cubic metres of inert material in a sustainable manner. It would divert the material from being disposed of at a landfill and would enable it to be utilised in land improvement works which would accord with the waste

hierarchy. This supports the broad principles of the NPPW and accords with CELPS policy SE11. Additionally the updated Cheshire East Waste Needs Assessment 2019 predicts that by 2025, there is likely to be a capacity gap in the authority for deposit of inert material to land, and this facility will therefore help contribute to addressing that predicted gap in provision.

Landscape

The submitted Site Plan indicates that there is a pond towards the southern part of the application site, within the area shown for improvement. The Tree Location and Constraints Plan shows that there are hedgerows along each boundary along with a number of hedgerow trees and that in addition there are hedgerows within the site with hedgerow trees as well as a number of additional ponds along the eastern boundary. The Proposed Final Contours Plan appears to indicate that the loss of the internal hedges amounts to approximately 530m of hedgerow along with a number of trees.

The submitted Landscape and Visual Appraisal Study indicates that there will be replacement trees and hedges and provides a list of hedge and tree species. As originally submitted, it was not clear if replacement hedgerows would be planted in the same locations as those hedgerows being removed, what protection would be offered to the boundary hedges and trees, with offset distances and whether ponds would be retained. The same study indicated that acoustic bunds would be placed along the western, south western and south eastern boundaries for the duration of the works. Further information on what these bunds will be constructed from was required, along with heights of proposed bunds and exact location and lengths.

This information has now been provided and the Council's Principal Landscape Architect now has no objection to the proposals.

The bunds are to protect nearby residential properties from noise and would be removed when the proposed development is completed. This should be controlled by condition.

In terms of the overall landscape and visual impact, it is considered that once the site is restored to equestrian use, the impacts would be very limited and not harmful to the landscape character of the area.

The proposals are therefore compliant with the requirements of Policy SE4 of the CELPS and Policy DC8 of the MBLP.

Trees & Hedgerows

The application is supported by an Arboricultural Impact Assessment by Wardell Armstrong. The report has evaluated the direct and indirect effects of the development on trees and hedgerows on the site. Three 'U-category' trees which are not suitable for retention by virtue of their poor condition have been identified on the site.

The AIA has considered the levels changes near trees and identified that 3 individual trees (T16, T17 & T19) will be located within the area where the ground levels will be raised. The report recommends that the trees are retained to decline and become standing dead as opposed to being removed. Ground levels changes are also proposed in close proximity to

other trees sited along existing field boundaries however it has been proposed that all swales and ground levels changes will be sited outside the root protection areas (RPA's) of these trees and hedgerows. The Proposed Ground Levels Increase Plan is noted to have been amended to correspond with the Tree Protection Plan submitted within the AIA.

A total of 350 linear metres of hedgerow area is shown to be removed, however a total of 395 linear metres of species rich hedgerow is indicated to be planted atop the raised levels but in the location of the removed hedgerow. A total of 13 heavy standard native species trees are proposed within the hedgerow in mitigation for the inevitable loss of three trees within the same area.

The submitted AIA and proposed mitigation are considered broadly acceptable. Hedgerow 1 and part of Hedgerow 2 are to be removed. These are species poor and do not qualify for ecological reasons under the Hedgerow Regulations. Replacement hedgerow would be planted along the same line following the works. This would be species rich and therefore improve the biodiversity on the site and maintain the historic landscape feature.

The proposals are therefore considered to be acceptable and in compliance with Policy SE5 of the CELPS and Policy DC9 of the MBLP.

Ecology

Submitted Ecological Assessment

The Phase One Habitat Survey undertaken to inform the submitted ecological assessment was undertaken October, a poor time of year for surveys of this kind. However due to the nature of the habitats present it is considered that this is not a significant concern.

Hedgerows

Hedgerows are a priority habitat and hence a material consideration. The proposed development would result in the loss of the interior hedgerows with a corresponding loss of biodiversity.

The landscaping plan shows replacement hedgerow planting designed to reinstate that lost in their original location. In order to ensure that the loss of the existing hedgerow is adequately compensated for it must be ensured that the replacement planting is undertaken and managed to ensure it delivers a higher value hedgerow than that lost. This can be dealt with by means of a condition in the event that planning consent is granted.

Trees

Three trees are present within the interior of the site, these should be retained to decline and become standing dead as opposed to being removed as advised in the AIA.

Barn Owl

Evidence of barn owl activity was recorded on site. However, further survey work as found that none of the buildings or trees on site are likely to support roosting/breeding barn owls.

The submitted ecological assessment states that suitable barn owl foraging habitat occurs on site. The site is however mostly improved grassland which would be of relatively limited value for barn owls. The limited value of the grassland habitats on site has been confirmed by the updated ecological survey. The loss of hedgerows from the site would however potentially result in the loss of suitable foraging opportunities. This would result in a minor adverse impact

Bats

Only a single tree has been identified on site with significant potential to support roosting bats. This tree would be retained as part of the proposed development. Roosting bats are therefore not reasonably likely to be directly affected by the proposed development.

Great Crested Newts

No evidence of this protected species was recorded during the submitted surveys. It is therefore considered that this species is not reasonably likely to be affected by the proposed development.

Common Toad

This priority species is present at the on-site pond. It is considered that the proposed development would have an adverse impact upon this species as a result of the loss of low value terrestrial habitats.

The submitted Great Crested Newt survey report includes measures to minimise the risk to amphibians during the infilling process. In the event that planning consent is granted it is recommended that these measures be secured by means of a condition.

The proposed additional ponds would provide a significant benefit for this species. If planning consent is granted it is recommended that a condition be attached which requires the submission of a detailed design for the ponds. This can be dealt with by means of the suggested habitat creation and management plan strategy condition.

Birds

A breeding bird survey has not been completed. The application site is likely to support nesting birds potentially including species considered to be priorities for nature conservation which are a material consideration for planning. The potential residual impacts of the development on nesting birds would be dependent upon the extent of habitat such as hedgerows and trees lost to the proposed scheme and the extent of compensatory planting provided. The biodiversity metric (discussed below) shows that the site would deliver an overall benefit for biodiversity which in the long term is also likely to be benefit breeding birds.

If planning consent was granted standard conditions would be required to safeguard nesting birds.

Badger

The updated survey did not record any evidence of badger on site.

An outlying badger survey was however recorded adjacent to Pond WB6 during the submitted newt survey. This pond is located outside but adjacent to the red line of the application site. Updated information was sought from the applicant's ecological consultant which confirm that there are no Badger setts at this part of the site.

Biodiversity Net Gain

In accordance with Local Plan policy SE3(5) all development proposals must seek to lead to an overall enhancement for biodiversity. In order to assess the overall loss/gains of biodiversity an assessment undertaken in accordance with the Defra Biodiversity 'Metric' version 2 has been undertaken and the submitted with the application.

The Metric calculation as submitted, shows that the proposed development would deliver an overall gain for biodiversity. The biodiversity metric has been completed satisfactorily for the most part. The Councils Ecologist advises of the following amendments in the Habitat Creation Section of the metric:

Urban bioswale is a low distinctiveness habitat and so should only be expected to achieve 'poor' condition.

Lowland meadows in fairly good condition, as currently proposed, is a difficult habitat to create and so the metric calculation takes account of the likelihood of this to fail. It should be changed target habitat to 'other neutral grassland' in 'moderate' condition. Whilst this is a lower value habitat there is greater confidence in its likely success of the delivery, so the metric attributes a greater benefit to it.

Ponds in good condition as currently proposed are difficult to achieve so target condition is reduced to moderate.

The result of these changes are that the biodiversity benefit arising from the scheme increases to +13.17%. The biodiversity metric as submitted anticipated a 11.38% increase. The scheme overall therefore delivers a notable benefit for biodiversity.

If planning consent was granted a condition requiring the submission of a Habitat Creation Method Statement and 30 year management and monitoring plan would be required to ensure the delivery of the proposed habitat creation works.

The proposal is therefore in compliance with Policy SE3 of the CELPS and Policy NE11 of the MBLP

Flood Risk

The majority of the site is located within flood zone 3, however the applicant has outlined appropriate measures within the Flood Risk Assessment. These include the use of swales at the western and southern boundaries to intercept surface water run-off, which would then convey the run-off to the pond at the southern site boundary. This will contain check dams to provide additional storage during extreme storm events.

The Council's Flood Risk Manager and the Environment Agency have assessed the proposals and have no objection subject to conditions requiring compliance with the details contained within the Flood Risk Assessment, submission of a detailed drainage strategy and provision of a groundwater monitoring scheme.

The proposals are therefore considered to be in compliance with Policy SE13 of the CELPS

SOCIAL ROLE

Highways

The application site is located in High Legh and is bounded by the M6 to the east and Swineyard Lane to the north. The site currently has a gated access from Swineyard Lane and is in operation as equestrian use.

It is proposed to import some 60,000 tonnes of inert material to the site to regrade the land for equestrian use.

It is indicated that the material will be imported over a 6 month period with the hours of operation being 08.00 – 18.00 Mon-Fri and 08.00 – 13.00 on Saturdays. The forecast traffic generation is some 170 movements spread over the day or 18 per hour. There is no information submitted regarding distribution but there are two routes to access the site, one using the A50 linking to J20 M6 and the other through to Barleycastle Lane.

The level of HGV movements per hour is not high and is at a level that can be supported on traffic impact grounds. The important issue regarding highways is that there should not be an indefinite consent, should the works not be completed. Therefore, it is recommended that a condition is included that requires the work be completed within 6 months.

Having regard to the access improvements that are proposed to accommodate HGV vehicles, a swept paths analysis has been submitted and is acceptable.

In summary, the application is acceptable subject to a condition limiting the duration of the importation works.

Amenity

Given the isolated rural nature of the site there are relatively few residential properties in close proximity to the application site and the predominant noise sources in the area are the M6 and M56 motorways.

Noise would be generated for HGV movements, tipping and then crushing/grading by bulldozer.

In support of the application, the applicant has submitted an acoustic report. The report recommends noise mitigation measures including acoustic screen/baffle mounds at a recommended height of 3 metres to be located at the Western, South Western & South Eastern boundaries of the site and a Noise Management Plan, designed to achieve BS8233:

2014 and WHO guidelines; to ensure that future occupants of the properties/occupants of nearby properties are not adversely affected by noise from the proposed development.

The reports methodology, conclusion and recommendations are considered to be acceptable by Environmental Protection. A condition should be imposed requiring compliance with the recommended mitigation measures.

The materials to be imported would be inert and the Contaminated Land team has no objection to the above application subject to conditions controlling the types of material to be brought onto the site.

Public Rights of Way

The site has no public rights of way within it but there are some in close proximity (High Legh FP23 and 30). The standard informative requiring no interference with the public rights of way should be included should the application be approved.

ECONOMIC OBJECTIVE

The Framework includes a strong presumption in favour of economic growth.

Specifically, in relation to the rural economy the Framework identifies that planning policies and decisions should enable the development and diversification of agricultural and other land based rural businesses.

The NPPF makes it clear that planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt.

CONCLUSIONS AND PLANNING BALANCE

The proposal is for engineering works that are considered to be not inappropriate development in the Green Belt subject to preserving openness and not conflicting with the purposes of including land within it. In this case there would be a very limited impact on openness which has required consideration of the harm and very special circumstances.

Very Special Circumstances

In considering the circumstances of this scheme the harm to the purposes of land within the Green Belt are acknowledged as being limited, with the greatest impact being the raising of the central section of land by approximately 2m to create a 'dome' to allow natural drainage to take place. This will be visible but there is no objection to the impact on the wider landscape as the undulating topography will remain and once the grass has recovered it will unlikely be perceptible.

Other harm caused by the development whilst the works are being carried out would be an impact from stockpiles of material, plant, machinery and HGV movements. However, these impacts would be temporary and the land would be restored to an appropriate rural appearance.

There will also be the loss of existing established hedgerows and trees from the site. However, it is noted that new hedgerows will be planted afterwards and the Council's ecologist highlights that there will be an increase in biodiversity on the site.

Therefore, other drainage options have been explored which is why this is considered to be the most suitable solution is the infilling with imported material, to create a more permeable matrix than the existing ground.

The improvement in the drainage of the land, allowing it to be used productively by the existing equestrian business would be a significant circumstance to provide weight. This is not just a scheme to import material as there is an economic purpose to it.

The predicted capacity gap, identified in the updated Cheshire East Waste Needs Assessment, in Cheshire East, for the deposit of inert material to land would also be seen as a benefit – albeit this could apply to various sites around the Borough so limited in being a very special circumstance.

It is finely balanced whether this is appropriate or inappropriate due to the limited harm. However, taking a precautionary approach to that assessment it is considered that for the reasons advanced above there are very special circumstances which outweigh the harm and any perceived conflict with the preservation of openness.

The scheme therefore represents a sustainable form of development and the planning balance weighs in favour supporting the development.

RECOMMENDATION

Approve subject to the following conditions:

- 1. Time limit**
- 2. Approved plans**
- 3. The mitigation recommended in the acoustic report shall be implemented in full prior to each phase of the proposed development**
- 4. Provision of a site specific dust management plan**
- 5. (a) Any soil or soil forming materials to be brought to site shall be tested for contamination and suitability for use prior to importation to site.
(b) Prior to first use, evidence and verification information (for example, laboratory certificates) shall be submitted to, and approved in writing by, the LPA.**
- 6. If, during the course of development, contamination not previously identified is found to be present, no further works shall be undertaken in the affected area and the contamination shall be reported to the Local Planning Authority as soon as reasonably practicable (but within a maximum of 5 days from the find). Prior to further works being carried out in the identified area, a further assessment shall be made and appropriate remediation implemented in accordance with a scheme also agreed in writing by the Local Planning Authority.**
- 7. Tree retention**
- 8. Tree protection**
- 9. Arboricultural method statement**

10. Service/drainage layout (trees)

11. The existing hedges which are shown as being retained on the approved plans shall not be cut down, grubbed out or otherwise removed without the written consent of the Local Planning Authority. Any hedges removed without such consent or which die or become severely damaged shall be replaced with hedging plants of such size and species as may be agreed with the Local Planning Authority. Any hedges dying or becoming seriously diseased within five years of the completion of the development shall be replaced with hedging plants of such size and species as may be agreed with the Local Planning Authority.

12. Following commencement importation shall cease after 6 months

13. Development to be carried out in accordance with the Flood Risk Assessment

14. Submission of an overall detailed strategy/design to limit surface water run-off

15. Provision of a groundwater monitoring scheme

16. The hours of deliveries at the site shall be restricted to the following:

07:30 to 18:00 hours Monday to Friday

07:30 to 14:00 hours Saturday

No working on Sundays or public holidays

17. Implementation of amphibian mitigation measures

18. Safeguarding of nesting birds

19. Submission of a habitat creation and ecological monitoring method statement and 30 year management plan

20. The acoustic bunds shall be removed within 2 months of completion of the development

Informatives:

Public rights of way

In order to give proper effect to the Board's intentions and without changing the substance of the decision, authority is delegated to the Head of Planning, in consultation with the Chair (or in their absence the Vice Chair) of the Strategic Planning Board, to correct any technical slip or omission in the wording of the resolution, between approval of the minutes and issue of the decision notice.

