

Application No: 16/5015N

Location: Baroda, ANNIONS LANE, WYBUNBURY, CW5 7LP

Proposal: Retrospective application for an importation of soil, filling of pond and levelling of land.

Applicant: Ronald Blackburn

SUMMARY

The application proposes the infilling of a hollow in the land with inert construction and demolition waste. Policy 1 of the Cheshire Replacement Waste Local Plan (CRWLP) requires that proposals to maximise opportunities for waste to be managed in accordance with the waste hierarchy of reduction, re-use, recycling and composting and using waste as a source of energy. In the case of this proposal the waste would be used to bring an area of land back to a condition that would allow its use as a garden, as such it is considered to be acceptable in principle.

It is not considered that the development will have a detrimental visual effect upon the surrounding open countryside as the land will be levelled.

The development will not have a detrimental impact of the amenity of neighbouring residential dwellings.

The proposal would have a neutral economic and social sustainability role due to the retrospective nature of the application.

RECOMMENDATION

Approve subject to conditions

REASON FOR REFERRAL

This application had been referred to the Southern Planning Committee by Cllr Janet Clowes for the following reasons:

- 1) Inadequate detail of drainage and flood mitigation. The planning statement refers to manhole covers, land drains and a proposed SUDs system but there are NO details of any of these in the planning documents. It is suggested that this is an area of historic hard-standing for a previous coal yard. In fact this area has always been a green field / garden area with the historic coal yard and other brown field uses situated to the rear of the property behind the in0-filled site.

- (2) Confusion regarding location - The Planning Statement refers to road names that don't exist in Wybunbury (See 2.3 which refers to an access off 'Kidderminster Road'. The only access in and out of this site is off Annions Lane.
- (3) Further detail is required regarding landscaping of the in-fill site and ecological mitigation. The loss of a significantly sized pond will always involve a loss in terms of ecological value and impact. The retrospective nature of this application requires that a suitable and reasonable degree of mitigation is included in the landscaping and other conditions to be imposed on this site.
- (4) Hydrology concerns regarding impact on other properties and ponds on property adjacent to this site.
- (5) Clarification required regarding the significant damage to the highway (Annions Lane) that was caused by HGVs accessing and exiting the Baroda site during the in-fill process. (See highways reports).
- (6) Clarification that the infill materials are suitable, inert materials that will not cause future subsidence, contamination or other local negative impacts.

PROPOSAL

This application seeks retrospective planning permission for the importing of soiling, filling of pond and levelling of land.

SITE DESCRIPTION

The application site is within the open countryside and found in between two dwellings off Annions Lane, Wybunbury. As it now stands the actual site area of the former pond has been levelled and seeded bringing it back into use as a garden for Baroda

To the south and north of the site are open fields, with residential dwellings to the east and west and some sort of yard/storage area to the south east. Mature hedges bordered the site and a copse of mature trees lies just to the north west.

The site area is now levelled and seeded with grass and is generally flat.

RELEVANT HISTORY

No history for the actual site but adjacent:

7/1857 – Dwellinghouse and double garage – approved 1976

P93/0376 – Certificate of Lawful Use for use as a single residential unit with coal storage/delivery yard – positive certificate 2004

NATIONAL & LOCAL POLICY

National Policy

NPPF

Development Plan

The Development Plan for this area is the Borough of Crewe and Nantwich Replacement Local Plan 2011.

The relevant saved policies are:

BE.1 – Amenity
BE.2 – Design
BE.3 – Access and Parking
BE.4 – Drainage, Utilities and Resources
BE.5 – Infrastructure
BE.6 – Development on Potentially Contaminated Land
NE.2 – Open Countryside
NE.5 - Nature Conservation and Habitats
NE.9 – Protected Species
NE.17 – Pollution Control

The Cheshire Replacement Waste Local Plan

Policy 1: Sustainable Waste Management
Policy 12: Impact of Development Proposals
Policy 14: Landscape
Policy 17: Natural Environment
Policy 19: Agricultural Land Quality
Policy 29: Hours of Operation
Policy 32: Reclamation

National Planning Policy for Waste

Cheshire East Local Plan Strategy – Submission Version (CELP)

The following are considered relevant material considerations as indications of the emerging strategy:

MP1 - Presumption in favour of sustainable development, PG1 - Overall Development Strategy, SD1 - Sustainable Development in Cheshire East, SD2 - Sustainable Development Principles, IN1 – Infrastructure, SE1 – Design, SE2 - Efficient use of land, SE3 - Biodiversity and geodiversity, SE4 - The Landscape, SE5 - Trees, Hedgerows and Woodland, SE6 - Green Infrastructure, SE9 - Energy Efficient Development, SE12 - Pollution, Land contamination and land instability, SE13 - Flood risk and water management.

CONSULTATIONS

Environment Agency – No comments received at time of writing, comments will be presented as an update.

Flood Risk - Further response awaited at time of writing the report. This will be provided either in an update report or at the committee meeting

Ecology – No objection. The retrospective application to infill the pond has prevented ecological appraisal of the nature conservation value of the pond and its potential to support legally protected species. However as the pond was relatively new, and given its large size and location, its former value would have been expected to be limited.

Wybunbury Parish Council – Object for the following reasons:

- Inadequate drainage and flood mitigation
- Confusing location, named roads aren't in Wybunbury
- Ecological mitigation
- Hydrology and impact on other properties
- Damage to highway caused during works
- Clarification of materials used for infilling

REPRESENTATIONS

Several letters of representation have been received which object to the proposal for the following reasons:

- Material used
- Intrusion into the open countryside
- Work started without permission
- Noise and disturbance caused by the works
- Loss of ecology

APPRAISAL

Principle of Development

The site lies within in the Open Countryside and Green Gap as designated by the Borough of Crewe and Nantwich Replacement Local Plan 2011, where policy NE.2 states that only development which is essential for the purposes of agriculture, forestry, outdoor recreation, essential works undertaken by public service authorities or statutory undertakers, or for other uses appropriate to a rural area will be permitted.

This application is retrospective with the issues being the effect on the open countryside, drainage and flooding and the type of material used to fill the former pond.

Historically clay has been removed from the site to make bricks, this left a depression in the field which was excavated further during the 1980s creating a pond to help with the drainage of the site.

The pond has recently been filled in and the site levelled. The general principle of this operation is acceptable taking into consideration the effect on the open countryside, drainage/flooding and the types of materials used.

The application proposes the infilling of a hollow in the land with inert construction and demolition waste. Policy 1 of the Cheshire Replacement Waste Local Plan (CRWLP) requires that proposals

to maximise opportunities for waste to be managed in accordance with the waste hierarchy of reduction, re-use, recycling and composting and using waste as a source of energy. In the case of this proposal the waste would be used to bring an area of land back to a condition that would allow its use as garden/paddock, as such it is considered to be acceptable in principle.

Materials to be imported

The application states that the materials imported on to the site were inert and comprise sub soils, clay and stone. The definition of inert waste at regulation 7(4) of the Landfill Regulations states that inert waste:

- Will not undergo significant physical, chemical or biological transformations;
- Will not dissolve;
- Will not burn;
- Will not physically or chemically react;
- Will not biodegrade;
- Will not adversely affect other matter with which it comes into contact in a way likely to give rise to environmental pollution or harm human health;
- Has insignificant total leachability and pollutant content;
- Produces a leachate with an ecotoxicity that is insignificant (if it produces a leachate)

The control of the processes or emissions is regulated by the Environment Agency and the two systems should complement, but not duplicate each other.

It is considered that there would not be significant adverse impacts caused by the inert waste importation, on the ecology and the visual amenity of the area.

Sustainability

The National Planning Policy Framework definition of sustainable development is:

“Sustainable means ensuring that better lives for ourselves don’t mean worse lives for future generations. Development means growth. We must accommodate the new ways by which we will earn our living in a competitive world. We must house a rising population, which is living longer and wants to make new choices. We must respond to the changes that new technologies offer us. Our lives, and the places in which we live them, can be better, but they will certainly be worse if things stagnate. Sustainable development is about change for the better, and not only in our built environment”

The NPPF determines that sustainable development includes three dimensions:- economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:

an economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time

to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;

a social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being;

an environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy

These roles should not be undertaken in isolation, because they are mutually dependent.

Economic and Social Role

As the application is retrospective and the works have been carried out, it is considered that there will be a neutral effect in this instance.

Environmental role

Drainage and Flooding

The Cheshire East Flood Risk Team has been consulted as part of the application process. As part of the works consent would have been required for the pumping away of the water within the former pond, this does not appear to have been sought. However, consents are not issues retrospectively.

The applicant has submitted a plan to show the drainage layout of the site, further comments from the flood Risk team are awaited and will be presented as an update.

Importing of Waste

In order to fill the former pond quantities of waste have been imported on to the site. The submitted documentation and waste transfer notes show that inert waste has been used to fill the pond, this waste consists of clay, sub soils and stone.

The importation of waste is regularised by the Environment Agency through a waste exemption certificate and as such the material used in the infilled activities is considered by the Environment Agency to be acceptable for use.

The National Planning Policy for Waste makes it clear that planning authorities should focus on the use of the land and whether this is appropriate and should assume the relevant pollution control regimes regulated by the Environment Agency are properly applied and enforced.

As such, it is considered that the importation of inert subsoils for the infilling of the land is appropriate in this instance and would not generate any adverse impacts in relation to pollution of groundwater or surface water.

The Waste Hierarchy

The National Planning Policy for Waste states that when dealing with waste:

- **Prevention** - the most effective environmental solution to reduce the generation of waste, including the re-use of products.
- **Preparing for re-use** – products that have become waste can be checked, cleaned or repaired so that they can be re-used.
- **Recycling** – waste materials can be reprocessed into products, materials, or substances.
- **Disposal** – the least desirable solution where none of the above options is appropriate.

This is a retrospective application and whilst it would be preferable that a planning application was submitted prior to the development being carried out, it has been demonstrated that the materials used it will not have an adverse environmental impact.

Protected Species

The site has mature trees to the north west which have not been affected by the development.

With regards to protected species the Council's Ecologist does not offer any objection to the application as the works that have been undertaken have prevented the appraisal of the ecological and conservation value of the pond in terms of its potential to support protected species.

However, as the pond was relatively new and with its location and relative large size the Ecologist considers that its ecological value would have likely been low.

With the above in mind, it is considered that the proposed development will not have a significantly detrimental effect upon Protected Species or ecology in the wider context.

Design and Open Countryside

The application site lies within the open countryside therefore any development has to minimise the potential impact on this.

The site formerly comprised of a pond within a garden/paddock area between two residential dwellings. Following the infilling of the pond the site has been levelled and returned to grass. As such, there has been no actual built development and it is considered that there has been no detrimental visual harm to the openness of the surrounding open countryside.

Trees and Landscape

There is a copse of mature trees to the north west corner of the site, however these do not appear to have been or will be affected by the development.

Once the infilling of the former pond was complete, the land was levelled, seeded with grass and restored to its previous state. This is considered appropriate to the site and the former use.

The surrounding area is generally relatively flat as is the application site, with this in mind it is not considered that there is a conflict between the two.

In terms of landscape impact, the infilling of the pond has not lead to a detrimental impact on the landscape or character of the application site.

Residential Amenity

In terms of neighbouring residential amenity it is accepted that the traffic and noise generated during the works would have had an impact on the amenity of neighbouring residential properties. However, this has happened and cannot be considered as part of the determination of this application. Furthermore, issues such as traffic and noise can be controlled by other agencies.

With regards to the actual application only the potential impact from the development can be considered. In this case it is not considered that the site and the infilled pond as it now stands will have any future detrimental impact on the amenity of neighbouring dwellings.

As a result of the above, it is considered that the proposed development would adhere with Policy BE.1 of the Local Plan.

Highway Safety

In terms of highways safety and the overall impact on the road network, the traffic and vehicles movements associated with the works have already occurred and now finished.

With regards to this application it is not considered that there will be any further highways issues raised.

As such, it is considered that the proposal adheres with Policy BE.3 of the Local Plan.

Conclusion

In conclusion, the materials that have been deposited on the site are inert and have been considered to be acceptable by the Environment Agency, therefore the proposal would be highly unlikely cause contamination to the land. The appropriate restoration of the land has not caused harm to the visual amenities of the area.

Furthermore, the development will not raise any neighbouring residential amenity concerns.

Therefore, the application is recommended for approval.

Planning Balance

The waste used for the infilling of the former pond is considered to be acceptable by the Environment Agency. Furthermore, it is considered that the restoration of the site is compatible with the surrounding area and will not raise any landscape concerns or cause any visual harm to the surrounding open countryside.

RECOMMENDATION

APPROVE without condition

Informatives:

1. NPPF

