



Appeal Decision

Site Visit made on 9 March 2021 **by John**

Dowsett MA, DipURP, DipUD, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th May 2021

Appeal Ref: APP/F4410/W/20/3264461 Levels Lane Plantation, Thorne Road, Blaxton, Doncaster DN9 3AX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Nadeem Shah against the decision of Doncaster Metropolitan Borough Council.
 - The application Ref 19/02127/FUL, dated 5 September 2019, was refused by notice dated 5 June 2020.
 - The development proposed is described as: Erection of a portacabin for 24hrs site security and 2 wide angle CCTV cameras.
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Decision

1. The appeal is allowed, and planning permission is granted for the erection of a portacabin for 24hrs site security and 2 wide angle CCTV cameras at Levels Lane Plantation, Thorne Road, Blaxton, Doncaster DN9 3AX in accordance with the terms of the application, Ref 19/02127/FUL, dated 5 September 2019, subject to the conditions in the attached schedule.

Procedural matter

2. In its statement of case, the Council sets out that Policy ENV17 of the Doncaster Unitary Development Plan 1998 (the UDP) which is cited on the decision notice was included in error. This policy relates to the protection of designated areas of special landscape value and the Council have confirmed that the appeal site is not within such an area. This policy is, therefore, not relevant to the current appeal.

Main Issue

3. The main issue in this appeal is whether the proposal is a suitable form of development in the countryside, having regard to the provisions of the development plan.

Reasons

4. The appeal site is part of a wider area of land that has previously been used for sand and gravel extraction, although that use is currently dormant. The quarry site appears to have been partially restored, whilst in other areas it has regenerated naturally. Evidence of the former use is visible in the form of areas

of hardstanding and other remnant structures, particularly in the vicinity of the appeal site. This wider site is located just to the north east of the village of Blaxton and is largely surrounded by agricultural fields with some areas of plantation woodland. The site is primarily accessed from the A614 via Levels Lane. Levels Lane is gated just beyond its junction with the A614 although pedestrian access can be gained by way of a stile to the Public Right of Way

footpath that runs along Levels Lane for part of its length before turning east and eventually bearing south to join Bank End Road.

5. The proposed site cabin would be located on an area of concrete hardstanding adjacent to Levels Lane some distance from the gated access point. The cabin itself would measure 7 metres by 4 metres and would accommodate an office, kitchen area, and toilet facilities. The two proposed closed circuit television cameras (CCTV) would be located within an area of grass verge adjacent to Levels Lane shortly beyond the current gates. The Planning Statement submitted with the application indicates that these would be mounted on 4 metre high poles.
6. The appeal site lies within an area designated as a Countryside Policy Area (CPA) by Saved Policy ENV 2 of the UDP which seeks to, among other matters, safeguard the countryside from encroachment; provide opportunities for outdoor sport and recreation; retain land in agriculture, forestry, and nature conservation uses; and help sustain rural communities and a diverse rural economy. Saved Policy ENV4 of the UDP sets out that within the CPA development will not normally be permitted other than for certain defined purposes. It adds that development meeting the criteria of the policy will be expected to not prejudice the purposes of the CPA, not create or aggravate highway or amenity problems, and to be sited and designed to minimise its effect on the character, landscape, and nature conservation value of the local environment.
7. Policy CS3 of the Doncaster Core Strategy 2012 (the Core Strategy) reiterates the protection of the CPA, but is supportive of proposals which would be appropriate to a countryside location and would protect and enhance the countryside for the sake of its intrinsic character and beauty. Policy CS3 also sets out development types that would generally be acceptable in the CPA.
8. The appellant states that the security cabin and CCTV installation are required to provide security at the site and, in particular, to address issues of unauthorised access to the site by off-road motorcyclists as well as to address issues of flytipping and trespass.
9. The majority of the wider site is not currently in any form of active use, although I note from the appellant's submissions that adjoining landowners have access via Levels Lane and that the gated access cannot always necessarily be kept secured. Reference has been made to a proposal for a recreational use of the wider site but there is no evidence before me that this scheme is progressing.
10. This notwithstanding, I observed when I visited the site that there was evidence in the form of tyre tracks indicating that there had been past motorcycle activity on those parts of the wider site adjacent to the hardstanding area where it is proposed to site the security cabin. The Preliminary Ecological Appraisal (PEA)

submitted with the planning application also records evidence of motorcycle activity elsewhere on the site, noting that this has potential to create eroded tracks and cause damage to the heathland habitat and wetland areas adjacent to water bodies on the site. Whilst I accept that some of this damage may have resulted from a previous unauthorised motocross use of the land, it was clear from my site visit that there has also been more recent activity since the enforcement notice requiring this use to cease took effect in early 2019. I also noted the presence of rubbish and detritus on those parts of the wider area adjacent to the appeal site, although the origins of this are unclear. However, due to the nature and topography of the site and its relatively isolated position

away from the population centre of Blaxton, it is likely to be an attractive location for both unauthorised off-road motorcyclists and fly-tipping. Whilst the evidence of unauthorised use and access included in the appellant's statement only covers a limited time period, from my observations at the site, I am satisfied that this is a regular and ongoing situation.

11. The submitted PEA also notes that much of the former quarry is designated as a local wildlife site under two separate designations. The hardstanding area where it is proposed to site the cabin lies outwith, but adjacent to, the designated local wildlife site. Although not a statutory designation, these nonetheless recognise that the former quarry area has an ecological value and is locally important in this respect. The PEA records that the quarry site supports a population of Great Crested Newts, a European Protected Species, and several other species and habitats that are locally important.
12. Although, as the Council points out, there is not a current use of the site that requires 24 hour security, the unauthorised activities identified by the appellant and for which there is some supporting evidence would, if not curtailed, cause further harm to the ecological interest of the site. This would also degrade the quality of the countryside, which the policies in the development plan seek to protect.
13. The proposal does not fall within the lists of acceptable uses set out in Saved Policy ENV4 or Core Strategy Policy CS3. However, the wording of these policies is such that these are not closed lists that preclude any development which is not explicitly mentioned. The policies are, however, clear in that they seek to guide most new development to built-up areas and to protect the appearance and rural character of the countryside from encroachment by development.
14. The specified purpose of the appeal proposal is to prevent, as far as practicable, unauthorised access and use of the former quarry site, particularly by off road motorcyclists, but also from trespass and fly tipping. I saw when I visited the site that the former quarry covers a very large area and has an extensive perimeter. I also noted that there are other points, notably on Wroot Road and via the Public Right of Way from Bank End Road, in addition to Levels Lane where it may be possible to access the site. However, Levels Lane is the principal access point.
15. The Council has suggested that whilst the CCTV installation is considered acceptable in isolation and may be a useful addition to the site, this could be monitored remotely without the need for a presence on the site. The Council

also suggest that site security could be improved by additional signage and additional fencing or carried out by mobile patrols. I am not persuaded that additional signage would be an effective deterrent to persons intent on entering the site and whilst improved security fencing would assist in controlling access, this could not block the route of the public footpath. The appellant states that mobile patrols are ongoing but cannot be present at the site at all times and so have a lesser deterrent effect.

16. Although the CCTV installation could be monitored from an off-site location, this would be less effective due to the travelling time required for personnel to reach the site dependent on the monitoring location. Whilst the CCTV would only monitor the approach from Levels Lane, an on-site presence would additionally be able to react quickly to audible signs of unauthorised access and use of the land if this had been gained from other access points and would, in my view, be a more effective solution.
17. The Council accept that the proposed pole mounted CCTV cameras would have a negligible visual effect on the countryside due to being located amongst, and seen in context with, the trees adjacent to Levels Lane. The Council also accept that the proposed security cabin would be small in scale and the siting would be such that it would not be readily visible and would cause minimal physical disruption to the ecology of the site. From the submitted drawings and supporting information, and from what I saw when I visited the site, I do not have any reason to reach a different conclusion on these points. The proposed cabin would be located outside the boundary of the identified Local Wildlife Sites and in an area where it would be partially screened by vegetation and roadside bunds adjacent to the existing hardstanding area.
18. The Council is, however, concerned that allowing the appeal proposal would create a precedent for further developments of incidental buildings without justifiable need in other countryside areas. Nevertheless, each proposal must be considered on its merits and have regard to the site specific circumstances and the nature of the proposal. No specific examples of the type or location of other potential developments have been given and a generalised fear of precedent is not sufficient grounds to warrant refusing planning permission.
19. Whilst the appeal proposal does not fall within one of the categories of development identified by Saved Policy ENV4 of the UDP and Core Strategy Policy CS3, these categories are not closed lists that preclude any development not specifically included. It is also common ground that the appeal proposal would have a minimal visual effect on the appearance of the countryside which is a key factor that both policies seek to secure. The Council's ecologist has not raised any objections to the proposal, subject to an appropriate condition being imposed to ensure that any potential effects on Great Crested Newts which may be present at or near the appeal site are mitigated during the construction period. As the proposed security cabin would be located on part of a large area of existing hardstanding, there would be no loss of land in agriculture, forestry, or nature conservation uses. The proposal would help curtail unauthorised activities at the wider former quarry site that are harmful to its ecological value. In this context, I do not find any conflict with the requirements of the development plan or the requirements of the National Planning Policy Framework

(the Framework) which seeks to ensure that new development contributes to, and enhances, the natural environment.

20. The appeal proposal is for the siting of a relocatable building for use as the security cabin. Buildings of this type are not suitable as a permanent development because their construction results in a limited lifespan. In addition, to allow the effectiveness of the proposed security measures and on-site presence to be properly assessed, it is appropriate to limit the time period for which planning permission for the security cabin is granted. This can be done by way of a planning condition.
21. I therefore conclude that the proposal is a suitable form of development in the countryside, having regard to the provisions of the development plan. It would not conflict with the relevant requirements of Saved Policies ENV2 and ENV4 of the UDP, Core Strategy Policy CS3 or the requirements of the Framework.

Other Matters

22. I have had regard to the representations made by the Parish Council and by other parties. However, none of the points raised lead me to a different overall conclusion.

Conditions

23. I have had regard to the list of conditions that were suggested by the Council. In order to provide certainty in respect of what has been granted planning permission, I have attached a condition specifying the approved drawings.
24. The submitted PEA identified the presence of Great Crested Newts in the near vicinity of the appeal site and that it is likely that they may be present when the development is constructed. In order to ensure that appropriate mitigation is put in place to ensure that the development does not harm a protected species, it is necessary to require the submission and implementation of a method statement for the construction period. As this method statement would be required for the entirety of the construction period, it is also necessary that this be a pre-commencement condition.
25. The proposed security cabin is a relocatable structure and its design and construction are such that it is not suitable as a permanent building. For this reason, it is necessary to include a condition that makes the permission for this building temporary. Whilst the Council suggest that permission should only be granted for one year, to allow for lead in time and also time for the precommencement condition to be discharged, and in order to allow a reasonable period of time to assess the efficacy of the security arrangements, I have increased this to a period of two years.
26. The planning application form states that surface and foul drainage from the development is to be to the mains sewer. No details of the drainage arrangements or connection points were included with the application. As the cabin is to provide kitchen and w.c. facilities, it is necessary for these details to be submitted for approval and subsequently implemented. As building is a relocatable structure these details should be provided before it is brought into use.

27. The submitted drawings do not indicate the height of the proposed mounting poles for the CCTV installation, although the supporting information sets out that these will be 4 metres high. To ensure that the development is implemented as proposed, it is necessary to include an additional condition restricting the height of the camera mounting poles to the 4 metres stated in the supporting documents. Whilst this condition was not suggested by the Council it is, nonetheless, reasonable to include it.

Conclusion

28. There are no material considerations that indicate the application should be determined other than in accordance with the development plan. For the above reasons, I conclude that the appeal should be allowed.

John Dowsett

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan 002 rev A and General Arrangement Plan 001 rev B.
- 3) Notwithstanding the provisions of condition 2 and the description of the proposed development, the security cabin as shown on Site Location Plan 002 rev A and General Arrangement Plan 001 rev B hereby permitted shall be for a limited period, being the period of 2 years from the date of this decision. On the expiry of that period, the building hereby permitted shall be removed and the land restored to its former condition in accordance with a scheme of work that shall first have been submitted to, and approved in writing by, the local planning authority. Said scheme shall be submitted for approval not later than four weeks prior to the expiry of the permission for the cabin. The building shall be removed, and the land restored, within 2 months from the date of the local planning authority's approval of the restoration scheme.
- 4) No development shall take place until a method statement drawn up by a suitably experienced and licenced ecologist for the reasonable avoidance of any impacts upon great crested newts has been submitted to, and approved in writing by, the local planning authority. The content of the method statement shall include:
 - a) The ecologist shall set an appropriate time frame for construction activities so as to avoid periods when great crested newts will be active within the area of the proposed development.
 - b) A pre-commencement toolbox talk to be delivered to the contractors in order to explain the potential presence of great crested newts, their legal protection, roles and responsibilities, the proposed method of

working, basic identification of great crested newts and procedures should great crested newts be found.

- c) The working methods associated with traffic movements, storage, and siting of the security cabin ensuring that no excavations take place.
- d) A diagram of the working area, fully annotated to indicate the working methods measures being undertaken.
- e) The licensed ecologist will attend ensure that the siting of the security camera poles is carried out with minimal disturbance of hardstanding, made-up ground or naturally occurring substrates avoids any harm to great crested newts.
- f) In the unexpected event that great crested newts are discovered, the licenced ecologist must be informed so that he/she can take appropriate action to avoid harm to any great crested newts.

The works shall be carried out strictly in accordance with the approved details and any proposed deviation from this shall be subject to early consultation with the local planning authority.

- 5) The development hereby granted shall not be brought into use until details of the foul and surface water drainage systems and all related works necessary to serve the development have been submitted to, and approved in writing by, the Local Planning Authority. These works shall be carried out in accordance with the submitted details prior to the first use of the development.
- 6) The mounting/support poles for the closed circuit television cameras hereby approved shall not exceed 4 metres in height (excluding the camera) when measured from the existing surrounding ground level.