

9. FULL APPLICATION – RETROSPECTIVE CHANGE OF USE OF LAND FROM AGRICULTURE TO A YARD/STORAGE AREA FOR THE ADJACENT STEEL FABRICATION BUSINESS GRANTED UNDER CLUED NP/SM/0712/0783 AND LANDSCAPING SCHEME, PITCHINGS FARM, WHITEFIELDS LANE, WATERHOUSES (NP/SM/1014/1059, P6121, 409314 350796, 2/1/2015/KW/CF)

APPLICANT: MR IAN HARVEY

Site and Surroundings

Pitchings Farm is situated in a relatively remote position in open countryside around 900m north-east of Waterhouses and 1.4km south-east of Waterfall on the upper slopes on the western side of the southern end of the Manifold Valley. The property comprises a detached farmhouse with a complex of modern buildings to the west, which were initially used for agricultural purposes in connection with the farm holding. These buildings and the immediate yard areas around them are now used mostly in connection with a business known as 'Ian Harvey Fabrications Ltd', which is run from the property.

Ian Harvey Fabrications

This business operates primarily as a steel fabrication business but the business activities carried out on site include welding, cutting, spray painting, shot blasting, manufacture of steel buildings, manufacture of cattlegrids and concrete products, vehicle maintenance and fabrication repairs. The current applicant started operating the business from Pitching Farm without planning permission in 1996 and the business has subsequently grown. The business now employs 9 full time staff and 4 part-time staff; the majority of which are said to live within or on the boundary of the National Park.

Alongside the steel fabrication business, the applicant and his family also run a sheep flock which has also recently expanded following additional land being rented in the locality and near Ashbourne. However, whilst the steel fabrication business has expanded, planning permission has not been sought or obtained for the change of use and land at buildings at Pitchings Farm from agriculture to a general industrial use (i.e. a use falling within B2 of the Schedule to The Town and Country Planning (Use Classes) Order 1987, as amended).

Lawful Development Certificate

In 2011, the Authority received complaints about the business activities taking place at Pitchings Farm and this resulted in the current applicant submitting an application for a Lawful Development Certificate (LDC) for an existing use of the land. The LDC application was submitted by the applicant primarily because he was able to demonstrate the steel fabrication business had been operating for more than 10 years from Pitchings Farm, and was therefore an established use of the land that was immune from enforcement action.

Subsequently, an LDC was granted on 25 November 2013 for an existing use of some of the land and buildings at Pitchings Farm by the steel fabrication business. The land at Pitchings Farm that was considered in 2013 to have a lawful use for the purposes of steel fabrication, and the various ancillary activities noted above, extends to approximately 3116.50m² and comprises a workshop, a range of outbuildings, a modern steel portal framed building and yard areas to the west of the farm house.

However, two additional steel frame buildings at Pitchings Farm that were erected without the benefit of planning permission were omitted from the LDC application because at the time of the application these buildings had not been substantially completed for more than four years and were therefore not immune from enforcement action at that time. Similarly, a surfaced yard area created without planning permission along the western and southern boundaries of the land

included in the LDC was omitted from the LDC application and remains unauthorised. Hence the submission of the current application, which seeks retrospective planning application for the retention and use of the yard area in connection with the steel fabrication business at Pitchings Farm.

Proposal

The current application seeks planning permission for the retention of the yard area to the west and south of the land that was deemed to be in a lawful use for the steel fabrication business in 2013, and the continued use of this yard area in association with the established steel fabrication business. The current application also includes proposals for a landscaping scheme around the outer perimeter of this yard area.

The yard area (subject of the current application) is currently used for the storage of components and finished materials and for the parking of vehicles and the loading/unloading of materials into and out of the buildings on the western side of the business complex. This yard area extends to approximately 1558m² whereas the land deemed to be in a lawful use by the steel fabrication business extends to approximately 3116.50m².

The proposed landscaping scheme comprises:

- creation of a southern boundary hedge with a single hedgerow tree;
- erection of a fence across the south-west entrance boundary, including the installation of a new cattle grid;
- creation of a western boundary hedge with hedgerow trees; and
- extra screening provided with hedgerow trees of 1.75m – 2.0m tall oak and standard beech.

The species mix for the proposed hedgerow would be: 60% hawthorn; 20% blackthorn; 10% hazel; 5% field maple; and 5% holly.

RECOMMENDATION:

That the application be APPROVED subject to the following conditions:

- 1. The concrete hardstanding and yard areas hereby permitted shall be used solely for the outside storage of materials/loading and unloading of materials, parking/manoeuvring of staff/customer and service/delivery vehicles and for no other purposes (including any other purpose in Class B2 or B1 of the schedule to the Town and Country Planning (Use Classes) Order 1987 or in any order revoking and re-enacting that order).**
- 2. Submit and agree amended landscaping scheme including additional planting in front of the fencing along the south-western corner either side of the entrance gates.**
- 3. Amended landscaping scheme to be completed within the current planting season.**

Key Issues

- whether the principle and the scale of the development complies with the terms of Core Strategy policy E2 and Local Plan policy LE4;

- whether retention of the development would intensify the established employment uses of land at Pitchings Farm and/or generate unacceptable levels of vehicular movements; and
- whether the proposed development is otherwise acceptable in physical landscape terms, and therefore in compliance with Core Strategy policies GSP1, GSP2, GSP3, and L1, and Local Plan policies LC4.

History

February 1993 – GDO consent granted for the erection of an 18.2m x 12.2m implement shed.

July and September 2011 – two separate enquiries received from local residents raising concerns that the metal fabrication business had been operating from the site for some years. The main concerns related to the number and extent of HGV's using the narrow lanes between Waterhouses and Pitchings Farm, together with the creation of unauthorised passing places along the lane.

25 November 2013 – LDC granted in respect of the existing use of land and buildings immediately to the west of the farmhouse by the steel fabrication business operating from Pitchings Farm.

Several detailed representations were received from local residents at the time the LDC was being considered, which strongly challenged the lawfulness of the activities taking place at Pitchings Farm. However, the LDC application was also accompanied by compelling supporting evidence from third parties that demonstrated the business had been operating for a period in excess of 10 years in the manner described by the LDC issued in 2013.

Consultations

County Council (Highway Authority) – No response to date.

District Council – No response to date.

Parish Council - No objections to these plans being passed because the Parish Council do not see these plans causing any detrimental effect to the surrounding area.

Representations

Two letters of representation have been received from local residents. One of these is a comprehensive letter of strong objection and the other letter endorses the representations made in the detailed objection letter. This letter also objects to this rubber stamping of the applicant's unregulated activities, which have a huge impact on the village of Waterfall and Waterfall Lane. It states that a few trees will not help and urges that relocation to a proper site is required.

The detailed letter of objection makes the following points:

- Important that the case officer considers the planning history of the site, specifically the papers including Enforcement and Legal Services consideration of the Certificate of Lawfulness, their previously submitted evidence and statutory declarations relating to the case and more recently photographs of the type of HGV traffic generated.
- The tenor of the submitted application seems to be more about the landscaping scheme than the change of use of the land to yard areas and that this change of use is a foregone conclusion because of the issuing of the Certificate of Lawfulness.
- The application forms do not clearly identify the proposed use as B2 General Industry.

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- The application form refers only to 'Commercial Use' of the land and not what particular aspect of the B2 use the land will contain.
 - The application form states that the site cannot be seen from a public footpath, which is clearly not the case.
 - No opening hours are stated, when unsocial hours are a concerning feature of this business.
 - The supporting statement emphasises the farm diversification aspect of the family enterprise, which is not the case as the application in his own declaration during the consideration of the Certificate of Lawfulness stated that there was a rough proportion of 70% fabrication use and 30% agricultural/residential use.
 - The applicants have used the pre-application discussions with the Authority's Landscape Officer relating to the landscaping scheme to infer that the Authority is in agreement with the proposals and that a landscape scheme overcomes any difficulties. This is, however, in conflict with the Sandford principle which gives greater priority to the conservation and enhancement of the natural beauty within the National Park.
 - The use of the planting scheme demonstrates that what it seeks to envelop is damaging to the local landscape. Additionally, the form of geometric enclosure is inconsistent with the local landscape characteristics and their setting as required by GSP2.
 - The proposed retrospective change of use to yard areas is the most significant part of the submitted proposal. This should be seen as a major extension to the principle business use, which was in itself unauthorised for many years. To grant an approval would only serve to embed an unacceptable use in an inappropriate location.
 - The agent suggests that use of this land will have no impact on traffic when logically it increases the capacity of the site to store and manufacture their products and its loss would limit that capacity and activity across the board.
 - The applicants chose to achieve their development of the site by stealth and would have succeeded completely had it not been reported to the Authority by members of the public. To approve the application would be damaging to public confidence in the planning system generally and to the reputation of the National Park Authority as a guardian of the National Park and the public interest.
 - The development would be contrary to policy GSP1 as it is unsustainable and the majority of the workforce has to commute to the site.
 - Contrary to GSP3 as it adversely impacts on the living conditions and amenities of the community and uses Whitefields Lane which is signed as "Unsuitable for HGVs". The proposal is not an agricultural or land management business that conserves or enhances the valued characteristics of the landscape, nor does it constitute agricultural diversification.
 - Contrary to the DS1 Development Strategy policies as it is not development in or on the edge of a rural settlement – it is in open countryside. Paragraph 13.17 of the Core Strategy refers to successful businesses whose increased scale of operation is not in keeping with the National Park. This states that a small scale business may be established on a farm, but as it grows and increase employees, deliveries etc. it should consider moving to a more sustainable location in a town or village.

- Contrary to Core Strategy policies E2, E2B, and D. These policies only encourage small scale business if there is a link to agriculture as the primary business. There is no link in this case. Business uses in more remote areas of the countryside will not be permitted and proposals to accommodate growth and intensification need to be considered carefully in terms of the impact.
- Contrary to T1A and T1E, proposed change of use will not conserve or enhance the valued characteristics of the National Park and impacts in environmentally sensitive areas should be minimised.
- No transport plans have been submitted and the supporting information is silent about traffic generation and vehicle type and movement related to the area of land for which a change of use is required.
- The Parish Council's response of no objections is contrary to their comments on the Staffordshire Moorlands Development Framework where they were recorded as being adamant that they did not want any development that increased traffic on Waterfall Lane.
- The use is not sustainable and has outgrown its site. It is timely to send the strongest signal that further growth beyond the Certificate of Lawful Use will not be allowed.

This letter is available to view on the public file.

Main Policies

Relevant Core Strategy policies include: DS1, GSP1, GSP2, GSP3, L1, E2, T1 & T4

Relevant Local Plan policies include: LC4, LE4, LT2 & LT9

In this case, policy DS1 and E2 of the Core Strategy and saved Local Plan policy LE4 are especially relevant because the current application concerns the expansion of an existing business in a location outside of a named settlement. These policies are relatively supportive of employment uses, especially where they are related to the diversification of an existing farming business, but stress employment uses are only permissible where they do not compromise landscape conservation objectives and where they are not unneighbourly.

DS1, E2 and LE4 are supported by a wider range of design and landscape conservation policies in the Development Plan including policies GSP1, GSP2, GSP3 and L1 of the Core Strategy and saved Local Plan policy LC4, which seek to safeguard the valued characteristics of the National Park by promoting sustainable developments that would be of a high standard of design and sensitive to their landscape setting.

Traffic management and vehicular movements associated with the existing employment uses at Pitchings Farm have been raised in representations. Core Strategy policies T1 and T4 and saved Local Plan policies LT2 and LT9 presume against developments that would result in traffic generation particularly where it would result in the more intensive use of minor roads by heavy goods vehicles and large vehicles transporting goods.

It is considered that these policies in the Development Plan are consistent with the more recent national planning policies in the National Planning Policy Framework ('Framework') taking into account the following paragraphs from the Framework which are considered to be of particular relevance to the current application.

Paragraph 14 of the Framework states that at the heart of national planning policy is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-making.

Paragraph 17 of the Framework states, amongst other things, that a set of 12 core land-use planning principles should underpin both plan-making and decision-taking. Amongst these 12 core principles is that planning should proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs. Planning should also contribute positively to the living conditions of existing communities.

Paragraph 28 of the Framework states, amongst other things, that planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy, local and neighbourhood plans should, amongst other things, support the sustainable growth and expansion of all types of businesses and enterprise in rural areas, both through the conversion of existing buildings and well-designed new buildings.

Paragraph 34 of the Framework states plans and decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. However this needs to take account of policies set out elsewhere in this Framework, particularly in rural areas.

Finally, Paragraph 115 of the Framework states that great weight should be given to conserving landscape and scenic beauty in National Parks, along with their wildlife and cultural heritage.

Assessment

Issue 1 - Whether the principle and the scale of the development complies with the terms of Core Strategy policy E2 and Local Plan policy LE4.

Alongside local and national planning policies, the presence of the LDC is a highly relevant material consideration in the determination of the current application. This is because the LDC granted in 2013 confirms that the steel fabrication business which is operated from Pitchings Farm is now lawful. Therefore, the current proposals to retain the additional yard area now used by the business should be regarded in a similar way to proposals to expand an existing business rather than the creation of a new business in open countryside.

In these respects, the most relevant policies in the Development Plan are E2 of the Core Strategy and saved Local Plan policy LE4, which generally support the sustainable growth and expansion of all types of businesses and enterprise in rural areas in accordance with national policies in the Framework. Therefore, the retention of the yard area is considered to be acceptable in principle and could be approved providing there was no overriding conflict with the more detailed provisions of E2(D) and LE4(b) in the first instance.

E2(D) says proposals to accommodate growth and intensification of existing businesses in the open countryside will be considered carefully in terms of their impact on the appearance and character of landscapes. LE4(b) says outside named settlements, expansion of existing industrial and business development will not be permitted unless:

- i. it is of a modest scale in relation to the existing activity and/or buildings, and does not extend the physical limits of the established use;
- ii. it does not harm and wherever possible secures an enhancement to the amenity and valued characteristics of the area and the appearance of the site; and
- iii. new or extended buildings are clearly justified and proper consideration has been given to the possibilities of using appropriate existing buildings to meet the needs of the business.

The yard area (subject of the current application) is currently used for the storage of components and finished materials and for the parking of vehicles and the loading/unloading of materials into and out of the buildings on the western side of the business complex. This yard area extends to approximately 1558m² whereas the land deemed to be in a lawful use by the steel fabrication business extends to approximately 3116.50m².

In these respects, the proposals do not include any new buildings but do significantly extend the physical limits of the land that is in lawful use for the steel fabrication business at Pitchings Farm (as described by the LDC). Notwithstanding this, it is not considered that the provision of this additional yard area has resulted in a more intensive use of the site, or in itself, generated additional vehicle movements. Therefore, the acceptability of the retention of the yard area could be seen to rest on its impact on the character and appearance of the surrounding landscape. However, this conclusion is strongly challenged in representations made by two local residents.

Issue 2: Whether retention of the development would intensify the established employment uses of land at Pitchings Farm and/or generate unacceptable levels of vehicular movements; and

The main vehicular access to Pitchings Farm from the primary road network (i.e. the A532 Ashbourne – Leek road) is along Waterfall Lane past Waterhouses Primary School and then through the main group of residential properties at Waterfall until it reaches Whitefields Lane. Whitefields Lane is about 1.1km in length and is generally unsuitable for use by large vehicles because it is so narrow and winds around several sharp bends.

There is a further access lane from the A532 at Waterhouses via Rocester Lane which links into Whitefields Lane and a more intensive use of Rocester Lane by the business might help to direct traffic to and from Pitchings Farm away from Waterfall Lane, the primary school at Waterhouses and the main group of residential properties at Waterfall. However, Rocester Lane is equally unsuitable for heavy use by large vehicles primarily because of the narrow and winding nature of the first 300m section of the southern end of the lane in the vicinity of its junction with the A523 and the narrow bridge crossing close to this junction.

Whitefields Lane is also a popular route for walkers and the local residents of Waterhouses and Waterfall. There is also a public footpath which passes through the farm itself, which links into a wider network of public footpaths in the Waterhouses/Waterfall area to the west of the site. This public footpath then provides pedestrian access to the southern end of the Manifold Valley.

Therefore, there are good grounds on which to consider the steel fabrication business at Pitchings Farm does not benefit from good access to the primary road network; increasing numbers of large vehicles using Whitefields Lane to distribute goods to and from the business would conflict with the strategic objectives of T1 and T4 of the Core Strategy and saved Local Plan policies LT2 and LT9; and an intensification of the use of Whitefields Lane by large vehicles arising from the retention of the yard area would harm the general amenities of the local area and the current application would be contrary to the specific provisions of E2(D) and LE4(b).

However, the impacts of the provision of the additional yard area and its relationship with the business activities carried out at Pitchings Farm were very carefully considered in the determination of the recent LDC application. This has a particular relevance to the planning merits of the current application because the LDC may not have been granted in 2013 if the additional yard area had in its own right been considered to have resulted in a material intensification and increased traffic movements to and from the site.

Despite the additional yard area being omitted from the LDC application, this development was a relevant consideration in the determination of the same application because it had expanded the amount of land that had been in an employment use at Pitchings Farm since 1996. If the additional yard area had then changed the way the business operated by facilitating a substantial intensification of the activities carried out by the steel fabrication business which subsequently

established 'lawfulness' around 2008, for example, then the LDC may have been refused. This is because the use of the land by the pre-existing steel fabrication business would have undergone a material change of use in the ten years immediately prior to the time of the LDC application taking into account the additional yard area was created and taken into use less than ten years ago.

In the event, it was determined that the creation and use of the additional yard area was 'ancillary' to the activities carried out by the steel fabrication business in the land and buildings to the more immediate west of the farm house at Pitchings Farm. As such, the Authority's position in 2013 was that the additional yard area was unauthorised but its creation, and subsequent use, had not made such a substantial difference to the way the established steel fabrication business has operated from Pitchings Farm that the LDC application should be refused.

In the determination of the LDC in 2013, the creation and subsequent retention of the additional yard area was also not found to generate additional vehicular movements that would exacerbate or intensify the impacts of the established use of the site. In this light, the amount of vehicular movements along Whitefields Lane might be undesirable in planning terms, as noted above, but the issues associated with vehicle movements to and from Pitchings Farm would only weigh heavily in the determination of the current application if the creation of the extended yard area could be shown to generate more traffic than vehicular movements associated with the established use of the site as described by the LDC. To date, there is no evidence that firmly demonstrates this is the case.

In these respects, an LDC application is primarily determined on the strength of the evidence presented by the applicant rather than the planning merits of the case. Consequently, demonstrating a development is immune from enforcement action through an LDC application can result in development being deemed to be lawful that might not necessarily comply with policies in the Development Plan. It is also not possible to attach planning conditions to an LDC in the same way planning conditions can be imposed on a planning permission.

It is therefore considered that the vehicular movements associated with the extended yard area in representations are actually attributable to the established use of the site (as described by the LDC) and would not change if this application were to be refused and the hardstandings were to be removed. Consequently, whilst the objections to these proposals on highway safety grounds, and concerns about the impacts of large vehicles using the minor road network and the subsequent disturbance to the amenities of the local area are understandable, these objections do not form the basis for sustainable reasons for refusal of the current application.

It is therefore concluded the acceptability of the current application rests on the impact of the hardstanding on the character and appearance of the surrounding landscape taking into account the size and scale of the additional yard area and its siting along the southern and western perimeters of the 'original' yard at Pitchings Farm.

Issue 3 - Whether the proposed development is acceptable in physical landscape terms, in compliance with Core Strategy policies GSP1, GSP2, GSP3, and L1, and Local Plan policies LC4.

Policy E2(D) of the Core Strategy and saved Local Plan policy LE4(b) both emphasise a 'landscape first' approach to economic development outside named settlements. This approach is supported by the wider range of design and conservation policies in the Development Plan including policies GSP1, GSP2, GSP3 and L1 of the Core Strategy and saved Local Plan policy LC4. These policies are otherwise consistent with national planning policies in the Framework that require development to be of a high standard of design that is sensitive to the locally distinctive character of its surroundings and afford great weight to landscape conservation objectives in the National Park.

By virtue of its location and close proximity to the Manifold Valley, the landscape setting of Pitchings Farm is influenced by different landscape character types but is typical of the White Peak and its underlying geology. The priority landscape conservation objectives for the White Peak are to protect and manage the distinctive and valued historic character of the settled, agricultural landscapes, whilst seeking opportunities to enhance the wild character and diversity of remoter areas.

In these respects, whilst Pitchings Farm is quite visible in its landscape setting from a range of public vantage points, it does not look very different from a typical working farm despite the commercial activities taking place on site. In this context, the extended yard area and associated activities such as outdoor storage are not especially conspicuous or visibly intrusive when seen from distant vantage points. It is therefore considered retention of the extended yard area would not result in substantial harm to the character of the wider landscape setting of Pitchings Farm.

However, the hardstanding encroaches into open fields on the western and southern side of the existing group of buildings and is clearly visible from the nearby footpaths some of which pass through Pitchings Farm. From closer vantage points, the visual impact of the extended yard area is much more obvious and because it is not effectively contained by any legible landscape feature, boundary treatment or buildings; it does not contribute positively to the appearance of the site and its setting. The adverse visual impact of the additional yard area is further exacerbated by the range of activities carried out on the yard such as outdoor storage that are less typical of the character and appearance of a traditional working farm.

The landscaping scheme submitted with the application seeks to address these concerns and proposes hedge plantations along the western and southern perimeters of the yard areas and the provision of fencing at the south-west corner where the existing access enters the industrial complex. This mixed hedge plantation is to be interspersed with hedgerow trees. This type of hedge planting and the species mix proposed would be characteristic of the surrounding area, particularly along field and lane boundaries.

Although the proposed hedge plantations do not follow pre-existing field boundaries, they would not disrupt any historic field patterns of special interest and they would otherwise be reasonably well related to the existing development. In particular, the proposed planting would mitigate the impact of the yard area and more effectively screen the activities taking place on this area. However, there is a 'gap' in the planting shown on the submitted plans at the entrance to the site but this could be dealt with by an amended plan to produce an acceptable scheme that would fully meet the requirements of policies GSP1, GSP2, GSP3 and L1 of the Core Strategy and saved Local Plan policy LC4.

Conclusion

It is therefore concluded that an amended landscaping scheme would make the retention of the additional yard area acceptable in design and landscape conservation terms despite the size and scale of the development. As such, the current application would also accord with the 'landscape first' provisions contained in E2(D) and LE4(b) subject to appropriate planning conditions securing amended plans and the provision of the landscaping scheme in the first available planting season.

However, significant weight must be placed on the LDC and the findings made by the Authority in the determination of the LDC application to support a recommendation of approval for the current application. In the first instance, the LDC confirms that the proposals comprise the expansion of an established business rather than the creation of a new business in open countryside and are therefore acceptable in principle. Secondly, the positive decision on the LDC application relied heavily on the conclusion that the extended yard area did not result in a material intensification of the established use of the land.

In particular, this conclusion on the LDC application supports the view that vehicle movements are attributable to the established use of the site and retention of the extended yard area would not in itself perpetuate or exacerbate conflict with transport policies, highway safety interests, or any harmful impacts upon the amenities of the local area associated with large vehicles going to and from the site. In these respects, it would also be reasonable and necessary to limit the use of the extended yard area by condition to ensure that the retention of the yard area would not result in a subsequent intensification of the site.

Accordingly, the current application is recommended for approval subject to conditions securing an amended landscaping scheme to be carried out in the first available planting season, and a restriction on the use of the extended yard area to ensure the retention of the extended yard area would conform with the relevant policies in the Development Plan and national planning policies in the Framework.

Human Rights

Any human rights issues have been considered and addressed in the preparation of this report.

List of Background Papers (not previously published)

Nil