

# 18/02132/FUL

**Applicant** Peter Avey

**Location** Hill Top Farm Cliffhill Lane Aslockton Nottinghamshire NG13 9AP

**Proposal** Construction of area of hardstanding. (retrospective)

**Ward** Cranmer

## THE SITE AND SURROUNDINGS

1. Hill Top Farm consists an agricultural holding including an element of agricultural contracting, located to the northern end of the ribbon development that runs along Cliffhill Lane away from the centre of Aslockton. The site contains a number of agricultural style buildings which are located around a yard complex. Open Agricultural land lies to the north, east and west of the holding, with the residential properties of Cliff Holme and Cliff Holme Mews to the south, along with a large parkland area.
2. The individual area subject this application lies to the north west of the main agricultural holding yard, and forms part of an agricultural field. Boundaries of this land to the north and west are open to the fields, with a hedgerow to the south marking the edge of the parkland within the ownership of the nearest properties and a concrete wall to the east marking the edge of the agricultural yard.

## DETAILS OF THE PROPOSAL

3. This application seeks planning permission for an engineering operation to create a hardstanding area of some 10m by 26m (260m<sup>2</sup>). The hardstanding area has been created by laying a compacted hardcore layer on the area which would be free draining given its permeable nature.
4. The proposed hardcore area would maintain the agricultural use of the land. The agent has reasoned that the hardstanding is required to prevent a boggy area outside the gate to the agricultural holding, with the area also to be used in part for the storage of farming implements when they are not in use on the site.
5. The application was accompanied by additional supporting information which was submitted on behalf of the applicant. Additional information was submitted on 8<sup>th</sup> November 2018 with an associated 14 day consultation following. The agent has since submitted further comments that seek to clarify issues made in public representations, but that do not materially change the nature of the development as considered.

## SITE HISTORY

6. 17/01883/FUL - Erection of two storey dwelling and detached garage – Permitted. This application relates to part of the site frontage along Cliffhill Lane and has not yet been implemented.

7. 15/02728/AGRIC; 09/00626/AGRIC & 97/01182/AGRIC are all agricultural prior notifications for new buildings on the site which have been approved through the years, with all buildings currently present on site.
8. 80/06245/HIST - Change of use from agricultural building and stock yard to agricultural contractors yard and premises - Granted

## **REPRESENTATIONS**

### **Ward Councillor(s)**

9. The Ward Councillor (Cllr M Stockwood) first commented in objection to the application stating that the development would severely impact the neighbouring property.
10. Councillor Stockwood commented again following the additional information submitted on behalf of the applicant, maintaining her objection and commenting as follows; *“As previously stated the activities already being carried out on this hard standing impact on the neighbouring property such as to spoil the enjoyment of the owners of their garden in the summer and the noise of machinery being used outside of previously agreed”*.

### **Town/Parish Council**

11. Aslockton Parish Council first commented on the application stating they neither object nor did not object but would like to make some points regarding inaccurate information and other aspects of the application:
12. *“Section 4 of the form: the site area is 260 sq. metres not 26 Section 5: we understand from the owner of the land that the proposal is for the construction of a hardstanding area for the storage of agricultural implements. Section 6: the proposal will result in a loss of agricultural land.*
13. *Sections 7 and 11: state that the material will be consolidated free draining hardcore and that surface water will be disposed of through a Sustainable Drainage System. However, no details have been provided for the SUDS so is it to be assumed that any surface water will permeate through to the land below the hardcore?*
14. *Section 9: states that vehicle parking is not relevant so we assume that motorised vehicles will not be parked on this area but only the implements as mentioned in Section 5.*
15. *Section 10: we consider it to be of paramount importance that the trees and hedges adjacent to the site be preserved in their current state.”*
16. Following the submission of the additional information Aslockton Parish Council commented further, raising no objection and stating; *“Aslockton Parish Council discussed the revised application on Monday 19<sup>th</sup> November and councillors agreed that the various issues raised on the original application by the neighbours, neighbour’s solicitors, APC, Environmental Health and the Borough Councillor M Stockwood had now been addressed.*

*APC thanks the applicant for clarifying points raised regarding the original application and, in light of the information provided, has no objections.”*

### **Statutory and Other Consultees**

17. The Rushcliffe Borough Council Environmental Health Officer initially commented on the proposal requesting additional information regarding the use and activities proposed on the land. Following the submission of the additional information the consultee noted the use of the land would remain agricultural. In light of this the consultee stated the hardstanding would not significantly change the potential for off-site impacts due to noise, dust, odour etc. The consultee concluded there were no objections to the development but suggested the applicant be advised that the application site could not be used for activities connected with the contracting business which operates from part of the site.

### **Local Residents and the General Public**

18. Three sets of public comments were received (two in relation to the initial consultation and one following submission of additional information), all in objection to the application and all from or made by solicitors on behalf of the direct neighbours to the site at Cliff Holme and Cliff Holme Mews. The concerns raised in response to the initial consultation can be summarised as follows:
  - a. The application form is incorrect in stating a site area of 26sqm. It should be 260sqm.
  - b. The application form states there are no trees or hedges on land adjacent the site that could influence the development. This is incorrect as the site lies adjacent a copse on neighbouring land. This needs to be acknowledged and considered.
  - c. Until recently the hardstanding has been used to store quantities of rubble and hard core.
  - d. It is assumed no change of use is proposed and that the use would be in connection with the wider agricultural land. It is understood there is an alleged need for storage but why can't the existing barns on site be used for this.
  - e. The neighbours do not oppose agricultural operations however this proposal is excessive and currently without justification.
  - f. The introduction of such a vast hardstanding into the countryside is wholly unacceptable and the sheer size and stark incongruous appearance are visible from the neighbouring boundary. The development is visually intrusive and detrimental to the neighbour's residential amenity.
  - g. The gate to the hardstanding is understood to be the only gate to the field and therefore all equipment will have to use the access and travel through the agricultural contractors' yard (both authorised and unauthorised). There is a historic condition on the contractors use over

power tools and machinery which will be very difficult to monitor with the passing machinery.

- h. The greater use of this access would cause noise and dust pollution issues to the neighbouring properties garden.
- i. The hardstanding results in the loss of agricultural land which should be resisted without justification.
- j. There are concerns the hardstanding will be used in relation to the contractor's yard as a replacement for land lost when the approved dwelling (as referenced in planning history) is built.
- k. Given a lack of supporting information and ongoing/outstanding unauthorised extensions to the agricultural contractor's business on the site they urge the council that in the event permission is granted (which is strongly opposed) conditions should be attached restricting the use to agricultural only and not in relation to the contractor's business.
- l. The indication of the date when works completed is incorrect as it was constructed in February.
- m. The applicant has said there are no important habitats or biodiversity features. We have a stocked lake within 100 metres of this hard standing and it will effect nesting bird life in the trees and fish within the lake.

19. Following the additional information submitted 8th November 2018 the following summarized comment was received:

- a. The applicant has sought to argue that the neighbour's residential amenity is not a relevant consideration. The applicant relies on a historic application (90/00263/E1P) for landscaped parkland and an assertion that the land adjacent the site is open countryside. This historic application is now irrelevant and it is nonsensical to argue that this land is open countryside as it has been used as residential gardens since the neighbours purchased the property in 2006. Residential amenity considerations do therefore apply.
- b. The size of the neighbour's garden is irrelevant and should be afforded protection.
- c. The use of the hardstanding to prevent a boggy access is understood and the neighbour's do not and cannot object to the agricultural use. There is still little justification for the expanse of hardstanding.
- d. It is still the case that the expanse of hard standing fails to safeguard and enhance the character and appearance of the landscape.
- e. The Environmental health officer's additional comments are noted, raising no objection, we therefore trust that in the event of an approval the council will condition the hardstanding to only be used in relation to the agricultural use and not the agricultural contracting business.

20. Following a further response from the agent to the additional comments summarized above, the solicitor acting on behalf of the neighbours indicated a desire to further respond on the matter. Should any comments be received prior to the Committee meeting, they will be issued as a late representation.

## **PLANNING POLICY**

21. The Development Plan for Rushcliffe consists of the 5 saved policies of the Rushcliffe Borough Local Plan (1996) and the Rushcliffe Local Plan Part 1: Core Strategy.
22. Other material considerations include the National Planning Policy Framework (NPPF) (Revised 2018), the National Planning Practice Guidance (NPPG) and the Rushcliffe Borough Non Statutory Replacement Local Plan (NSRLP) (2006).
23. Any decision should therefore be taken in accordance with the Rushcliffe Core Strategy, the NPPF and NPPG and policies contained within the Rushcliffe Borough Non-Statutory Replacement Local Plan where they are consistent with or amplify the aims and objectives of the Core Strategy and Framework, together with other material planning considerations.

## **Relevant National Planning Policies and Guidance**

24. The NPPF (Revised 2018) contains the presumption in favour of sustainable development. Sustainable development has 3 overarching objectives; economic; social and environmental.
25. Section 15 of the NPPF; Conserving and enhancing the natural environment, is also of relevance. This states in paragraph 170 that planning policies and decisions should contribute to and enhance the natural and local environment by inter alia protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils; and recognising the intrinsic character and beauty of the countryside and the wider benefits of natural capital and ecosystem services.
26. Section 6 of the NPPF; Building a strong and competitive economy is also of relevance where it deals with supporting a prosperous rural economy. Here, in paragraph 83, it states planning decisions should, inter alia, enable the development and diversification of agricultural and other land based rural businesses.

## **Relevant Local Planning Policies and Guidance**

27. Under the Rushcliffe Local Plan Part 1 - Core Strategy, there are two policies that relate to the proposal. 'Policy 1: The Presumption in Favour of Sustainable Development', states "*When considering development proposals the council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework*". The proposal should also be considered under Policy 10; 'Design and Enhancing Local Identity' which states that all new developments should be designed to make a positive contribution to the public realm and reinforce valued local characteristics. The policy goes on to state that outside

of settlements, development should conserve, or where appropriate enhance or restore landscape character.

28. Whilst not a statutory document, the policies contained within the Rushcliffe Borough Non-Statutory Replacement Local Plan should be given weight as a material consideration in decision making. The proposal falls to be considered under the criteria of Policy GP2 (Design and Amenity Criteria) of the Rushcliffe Non-Statutory Replacement Local Plan. Of particular relevance is GP2(d) whereby development should not have an overbearing impact on neighbouring properties, nor lead to a loss of amenity. The scale, density, height, massing, design and layout of the proposal all need to be carefully considered, and should not lead to an over-intensive form of development.
29. The proposal also falls to be considered under policy EN20 (Protecting of open countryside) which states that within the open countryside planning permission will not normally be granted except for, inter alia, rural activities including agriculture and forestry. The proposal should ensure that in line with Rushcliffe NSRLP policy EN19 (impact on the Green Belt and Open Countryside) a) "*there will be no significant adverse impact upon the open nature of the Green Belt or open countryside, or upon important buildings, landscape features or views*".

## **APPRAISAL**

30. The main issues in the consideration of the proposal are the principal of development in the open countryside and design and amenity considerations.
31. To provide context, Schedule 2, Part 6 of The Town and Country Planning (General Permitted Development) (England) Order 2015; sets permitted development rights for agricultural sites. These permitted development rights include: 'any excavation or engineering operations, which are reasonably necessary for the purposes of agriculture within that unit'. Under usual circumstance the hardstanding, the subject of the current application, would fall within the permitted development right.
32. In this instance however, attention is drawn to the site history which included an agricultural prior notification in 2015 that was allowed. This prior notification allowed the construction of a grain store and fertiliser store with a floor area of some 361.76m<sup>2</sup>, whilst a hardstanding area was constructed to the front of these buildings as approved measuring some 514.592m<sup>2</sup>, for which no prior approval notification was required. These works were completed in August 2016.
33. The development under consideration was completed in May 2018, just under 2 years after completion of the adjacent hardstanding. The area of the new hardstanding is 260m<sup>2</sup> and, therefore, the works on the unit (within 90m of each other), would be over 1000m<sup>2</sup> in total, thereby not meeting condition A.1(e) of that class. As such the reason this development requires planning permission is because the amount of development on site in the past 2 years has exceeded the permitted allowance.
34. In principle, this site sits in the open countryside, and the development proposed represents an engineering operation to facilitate the existing agricultural use. In line with policy EN20 of the NSRLP, this form of

development would, in principle, be acceptable in this open countryside location.

35. Questions over the justification for the area have been raised in comments. The applicant has responded in stating the land would be solely for an agricultural use. The hard surfacing is purportedly required largely to facilitate access and egress from the agricultural fields into the farmyard. When visiting the site it was noted that the surfacing was difficult to identify in parts given it was covered in mud from the fields. As such there is no reason to doubt this comment and the justification would seem reasonable in context.
36. The southern part of the surfaced area is located away from the access but the applicant has suggested the area would also be used in part for the storage of agricultural implements for use on the land. Again when visiting site a number of small ploughs were visible on the land and the storage of such implements would seem justified and reasonable when considered in context that this southern section does not step further into the field than the section used more for access.
37. The Environmental Health Officer has raised no objection based on the premise that the use is only agricultural, and not in relation the agricultural contractors business that is run from the neighbouring land. The neighbour's concerns over the agricultural contractors use on parts of the site are also noted. Given there would appear to be a level of mixed use occurring from the site, it would seem prudent to ensure the land, the subject this application, would only be used in relation to agriculture, and not the contractor's business. This condition would be deemed necessary to clarify the extent of any permission.
38. Furthermore, also noted are the neighbour's concerns regarding intensification of use of the farmyard and contractors yard and impacts this may have on noise and dust pollution. The hardstanding itself would not alter the intensity of use of the farmyard with the access gate from the farmyard to the proposed hardstanding an existing situation. This would therefore not be considered to represent a material concern. Similarly, this would not impact the ability of persons to monitor compliance with conditions attached to the 1980 permission for the original contractor's yard on part of the site.
39. The site does not occupy a prominent location, and is not visible from any public vantage point with mature trees on land to the south and existing agricultural buildings to the north east which prevent any view from Cliffhill Lane. Furthermore, the proposed surfacing is rural/rustic in character being a simple hardcore layer to the ground. Such surfacing would not be considered as an over urbanising feature such as that created by more permanent surfaces like tarmacadam or concrete.
40. Although noting the comments from the neighbour that the surfacing would represent a 'stark' and 'incongruous' feature, the surfacing and works are at ground level, and not out of context for an agricultural area. Furthermore, mature trees and planting on the neighbouring land adjacent the site screens any long distance views any users may acquire, with the works likely only visible if walking directly adjacent the boundary with the site by users of the adjacent land. As such it is not considered that the works create any

incongruous feature at odds with the predominant agricultural character of the area.

41. It should be noted that a certain amount of agricultural infrastructure is required to facilitate the working of the land. The proposed area of hardstanding would, therefore, be supporting the rural enterprise and would conserve the local landscape character.
42. With regard to residential amenity, the comments and concerns of both the neighbour and the Ward Councillor are noted. The land to the north, west and east is largely open countryside save for the agricultural buildings related to this application. To the south east lie the properties of Cliff Holme and Cliff Holme Mews with their associated curtilage. Directly south and south west lies a mature landscaped area that was approved as 'parkland' under a 1990 permission (90/00263/E1P). The layout of this parkland remains largely as approved. As parkland, it is considered that the area does not enjoy any residential amenity rights that would be afforded to the curtilage of a residential property, instead, this is a matter of general amenity.
43. It is noted that the neighbour considers the area to form part of their residential garden, as they have used it as such since they moved to the site in 2006. Notwithstanding the statement, consideration can only be given to the permitted use of the site as parkland, and should the neighbour be using it as residential garden to the dwellings on site, then this would represent an unauthorised use.
44. The closest part of Cliff Holme Mews lies some 50m from the application site, beyond a copse of trees and further planting. The development proposed does not include any change of use of the land and as such it cannot be considered that the development would cause any harm to the amenities of the neighbouring residents.
45. Notwithstanding the exact use of the neighbouring land, previous appeal decisions from the Planning Inspectorate have clarified that the most sensitive part of any residential garden is the section closest to the house, which tends to be used the most. An Inspector went further to clarify that elements further from the house can be afforded more limited protection. It is, therefore, considered that, notwithstanding the use of the neighbouring land, given the development proposed solely represents an engineering operation with no associated change of use, the development would not raise any undue concerns for impact on the amenities of properties and land to the south of the site.
46. With regard to the neighbouring trees, the hardcore surface extends just up to the boundary hedgerow, retaining a gap from the stems and, therefore, not damaging the hedge. The hardcore surface would not, therefore, be considered to cause any harm to the long term viability of the boundary hedge or trees within the neighbouring site. Given this, and notwithstanding the concerns from the neighbour with regard to the stocked pond on the adjacent site, it is not considered that the development would raise any issue of harm to local biodiversity or ecology.
47. The surface for the hardstanding would be permeable and, therefore, would not have any drainage implications. Queries over the seepage of



contaminants from the land are noted, however, the use of the land would not change from existing, and the size of the area would not provide any great scope for any intensification of use that would cause concerns for increased contamination beyond the existing situation.

48. Given this application is retrospective, no time limit for commencing development or finishing materials conditions are considered necessary. An additional condition to prevent any lighting being constructed to serve the site is considered prudent given the open countryside and rural location, in line with section (d) of policy EN19 of the NSRLP.
49. After examining the above proposal and assessing it against the policies set out in the development plan for Rushcliffe, the scheme is considered acceptable. Having regard to these factors, it is recommended that planning permission is granted.
50. The application is retrospective and no pre-application advice was undertaken. Negotiations have taken place during the consideration of the application to address concerns/objections raised in letters of representation submitted in connection with the proposal. Following the submission of additional information to support the application and address queries and concerns raised in representations, the scheme is considered acceptable.

## **RECOMMENDATION**

It is **RECOMMENDED** that planning permission be granted subject to the following condition

1. The area of hardstanding hereby approved as indicated on the submitted block plan and location plan shall be used solely for agricultural purposes and shall not be used in relation to the agricultural contractor's business that operates from the adjacent site at any time.

[To clarify the extent of the permission and to comply with policy GP2 (Design & Amenity Criteria) of the Rushcliffe Borough Non Statutory Replacement Local Plan]

2. No security lighting or flood lighting shall be installed/erected on the site, edged red on the approved plan, at any time.

[To protect the amenities of the area and to comply with policies GP2 (Design & Amenity Criteria) & EN19 (impact on the Green Belt and Open Countryside) of the Rushcliffe Borough Non Statutory Replacement Local Plan].