



Application No: 146566

Location: Land South of, Holmwood Farm, Brook Hall Road, Fingringhoe, Colchester, CO5 7DG

Scale (approx): 1:2500

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7.3 Case Officer: Simon Osborn Due Date: 01/05/2015

MAJOR

Site: **Land south of Holmwood Farm, Brook Hall Road, Fingringhoe, Colchester, CO5 7DG**

Application No: **146566**

Date Received: 30 January 2015

Agent: Guy French, Whirledge and Nott

Applicant: C M Cock

Development: Change of use of lakes to recreational fishing and formation of hardstanding car park.

Ward: Pyefleet

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it is classed as a major application on the basis of the site area and a number of objections have been received.

2.0 Synopsis

- 2.1 The key issues explored below are the principle of recreational fishing of the lake and the implications of the proposal for users of the farm track cum bridleway. It is recommended that approval be granted for the proposal.

3.0 Site Description and Context

- 3.1 The application site extends to 1.65 hectares and forms part of the land within Holmwood Farm. The site includes a lake with a small car park on its northern side, accessed by means of a farm track, which is also used as a public footpath and bridleway. Access onto the farm track is gained from South Green Road, close to the entrance to the Fingringhoe Wick Nature Reserve. The surrounding landscape is gentle and undulating with a patchwork of fields, woods and trees.

4.0 Description of the Proposal

- 4.1 The application seeks to regularise the use of the lake for recreational fishing purposes and the creation of hardstanding for a small car park that can accommodate up to about 8 cars. A pair of gates has been constructed where the car park access meets the farm track/ bridleway and there are also some woodchip pathways around the lakes.

- 4.2 The lake is operated by a fishing syndicate, with 16 active members, which is privately run and not open to the general public. The site is restricted to 16 pegs although the use of these is restricted to ensure the retention of fishing stocks and to avoid over-fishing. The agent states the use is relatively benign and usually has only 1 or 2 cars at any one time at the lake.

5.0 Land Use Allocation

- 5.1 Agricultural/ recreational land
Coastal Protection Belt

6.0 Relevant Planning History

- 6.1 Various historic minerals consents have been granted by Essex County Council
- 6.2 Application 142446 for a proposed solar farm was refused by the Council on land to the south and east of the application site within the land edged in blue.

7.0 Principal Policies

- 7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National planning Policy Framework (NPPF) must also be taken into account in planning decisions and sets out the Government's planning policies are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.
- 7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (adopted 2008, amended 2014) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:

UR2 - Built Design and Character
ENV1 - Environment
ENV2 - Rural Communities

- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (adopted 2010, amended 2014):

DP1 Design and Amenity
DP8 Agricultural Development and Diversification
DP10 Tourism, Leisure and Culture
DP17 Accessibility and Access
DP19 Parking Standards
DP21 Nature Conservation and Protected Lanes
DP23 Coastal Areas

8.0 Consultations

- 8.1 ECC Highways stated it had no objection to the proposal subject to the following notes and informatives:
- (a) The public's rights and ease of passage over Bridleway no4 (Fingringhoe) shall be maintained free and unobstructed at all times to ensure the continued safe passage of the public on the definitive right of way. Any unauthorised interference with the route will constitute a contravention of the Highways Act 1980,
 - (b) Whilst it is recognised that landowners have the ability to grant access to their property by third parties, the use of the Bridleway by vehicles is, in highway terms, classed as exceptional use. As such the responsibility to rectify any damage caused to the bridleway surface by these vehicles would remain with the landowner,
 - (c) All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works. The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org or by post to: Essex Highways, Colchester Highways Depot, 910 The Crescent, Colchester, CO4 9QQ.
- 8.2 The Ramblers Association stated, "We believe this application should not be considered until the diversion of bridleway Fingringhoe number 4 from out of the fishing lake onto the used track is completed. (It was noted as part of the recent solar panel application on adjacent land). The additional traffic in the quiet lanes and the mix of heavily laden fishermen's cars with walkers and horses on the track is also a concern."
- 8.3 Natural England made no comments.
- 8.4 The RSPB made no comments.
- 8.5 Environmental Control made no comments.

In addition to the details reported above, the full text of all consultation responses is available to view on the Council's website.

9.0 Parish Council Response

- 9.1 The Parish Council has stated that it has no objection to the proposals provided the public rights of way which pass through this area are not obstructed and are still able to be used unhindered by dog walkers and horse riders.

10.0 Representations

10.1 7 representations in support of the proposal and four of objection. Those in favour stated the works to the pond had improved the appearance of the area. Those in opposition made the following points:

1. The route to the fishing lakes is used by local people for quiet country walks who should not have to worry about traffic
2. There have been an increase in the number of speeding vehicles down the narrow country lanes.
3. The bridleway should only be used by light vehicles.
4. The use of the fishing lakes should remain unrestricted.

The full text of all of the representations received is available to view on the Council's website.

11.0 Parking Provision

11. The application includes provision of a small car park that can accommodate up to about 8 cars. There is no adopted parking standard for this form of use.

12.0 Open Space Provisions

12.1 There is no requirement for the provision of open space in connection with this application.

13.0 Air Quality

13.1 The site is outside of any Air Quality Management Area and will not generate significant impacts upon the zones.

14.0 Development Team and Planning Obligations

14.1 This application is classed as a "Major" application and therefore there was a requirement for it to be considered by the Development Team. It was considered that a Planning Obligation was not appropriate for the use and development proposed.

15.0 Report

15.1 Policies ENV1 and DP23 look to conserve and enhance the natural environment of the Borough. In the Coastal Protection Belt development will not be permitted that would adversely affect the open and rural character of the undeveloped coastline. There are a number of adopted policies that look favourably upon farm diversification proposals (DP8) and leisure proposals (ENV2 and DP10) where these proposals are of an appropriate scale and compatible with local character and the natural environment.

- 15.2 The use of the lake for private recreational fishing purposes is considered to be one of the uses that would normally be appropriate for a rural area such as this. The lake was formed between 1966 and 1973 as part of remedial works to the former mineral workings on the land. The current tenant took occupation of the lake and surroundings in 2014 and has improved the fish habitat and management of the surrounding vegetation, and a number of the representations refer to the improvements that have been made. The physical changes around the lake, including the construction of the car park are generally ancillary to the proposed use and in any case are well-screened from public view by existing vegetation features.
- 15.3 The main concern raised by representations to the proposed use relates to the access to the lake by private vehicles. The access to the farm track that ultimately leads to the lake is along narrow country lanes from the direction of Fingringhoe village. These lanes include South Green Road, which is a Protected Lane. At the eastern end of South Green Road one track leads into the Fingringhoe Wick Nature Reserve and Visitor Centre, whilst another track leads toward the fishing lake and ultimately connects into Brook Hall Road and Holmwood Farm. This track is used by walkers and horseriders, as well as vehicles going to the lake and any farm traffic. The track is a bridleway (part of Fingringhoe No. 4).
- 15.4 Policy DP21 states that protected lanes will be protected from development that would adversely affect their physical appearance or would give rise to a material increase in the amount of traffic using them. The agent has stated that an average of 10 vehicles per week is expected as a maximum in association with the use of the lake for recreational fishing purposes. The proposal will therefore result in more private cars using the lane; however, it is anticipated that much of the traffic using the road is associated with the visitor centre at the Fingringhoe Wick Nature Reserve. No objection to the proposal has been received to the proposal from the Highway Authority.
- 15.5 The track from South Green Road to the fishing lake is about 400 metres in length. The Ramblers Association and some of the representations raise concern at potential conflict between the vehicles of the fishermen and horseriders and walkers. These concerns are understood and noted. However, the countryside is there for the enjoyment and livelihood of many different groups, not just walkers and horseriders. Fishing is a legitimate countryside activity and the use of the lake for these purposes is a form of diversification for an agricultural business.
- 15.6 The Highway Authority in their response stated: (a) the public's rights and ease of passage over Bridleway no4 (Fingringhoe) shall be maintained free and unobstructed at all times to ensure the continued safe passage of the public on the definitive right of way. Any unauthorised interference with the route will constitute a contravention of the Highways Act 1980, (b) whilst it is recognised that landowners have the ability to grant access to their property by third parties, the use of the Bridleway by vehicles is, in highway terms, classed as exceptional use. As such the responsibility to rectify any damage caused to the bridleway surface by these vehicles would remain with the landowner. These two points were recommended as informatives and are not an objection to the proposal.

- 15.7 The official route of Bridleway No. 4 (Fingringhoe) only follows the farm track for part of its route and much of it lies a little to the west of the actual farm track. This apparently came to light during the consideration of application 142446 for the proposed solar farm. The official route not only crosses farmland, but also fenced in woodland, across the long established lakes and also across the car park that forms part of this application. Paragraph 8.5 of the report for application 142446 included the following response from the Public Rights of Way section of Essex County Council: "Most of the northern end of Bridleway is unavailable, being underwater or running through fenced in wooded areas. An application to divert the Bridleway has been made but it is unlikely this will be dealt with before next summer. In the meantime although the official line of the PROW should be made available, given the physical constraints this is not very likely!"
- 15.8 The Ramblers Association stated this application should not be considered until the diversion of the bridleway from out of the fishing lake onto the used track is completed. However, that would result in considerable delay in the determination of this application. In practice the route shown on the definitive map is impossible to use because much of it is underwater. And, in the unlikely event that the landowner was ever required to reinstate the line of the footpath, the change of use of the application site for fishing purposes and the ancillary car park would not prevent this. It is considered therefore that there are no issues relating to the diversion that would impose a justifiable impediment to the determination of this application.

16.0 Conclusion

- 16.1 The change of use of the lake to recreational fishing purposes and the creation of a small car park associated with this use is considered to be an acceptable activity in a countryside location such as this. The use of the lake for these purposes will result in a number of vehicles using a farm track and bridleway. It is appreciated that this may lead to some occasional conflict with walkers and horseriders. Nonetheless, the countryside is there for the enjoyment and livelihood of many different groups. The proposed use is considered to be small-scale and appropriate for this location in accordance with the Council's adopted planning policies.

17.0 Recommendation

- 17.1 APPROVE subject to the following conditions

18.0 Positivity Statement

- 18.1 The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

19.0 Conditions

1 - Time Limit for Full Permissions

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2 - *Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted drawings (location plan, site plan and block plan of car park).

Reason: For the avoidance of doubt as to the scope of this permission and in the interests of proper planning.

3 - *Premises Only for a Specific Use

The site shall be used for recreational fishing purposes only as defined in the Use Class Order and for no other purpose (including any other purpose in Class D2 of the Schedule to the Town and Country Planning (Use Classes) (Amendment) Order 2005, or in any provision equivalent to that class in any statutory instrument revoking or re-enacting that Order, with or without modification.

Reason: For the avoidance of doubt as to the scope of the permission as this is the basis on which the application has been considered and any other use would need to be given further consideration at such a time as it were to be proposed.

4 - Non-Standard Condition/Reason

The use of the site for recreational fishing purposes shall be limited to 16 pegs and for members of the fishing syndicate only as described in the Planning Statement submitted with the application and supplementary email sent on 24 February 2015.

Reason: For the avoidance of doubt as to the effect of this permission and to ensure that the level of activity is appropriate for the character of the area and the surrounding roads and bridleways.

5 - No External Light Fixtures

No external lighting fixtures shall be constructed, installed or illuminated at any time.

Reason: To ensure that there are no undesirable effects of light pollution

20.0 Informatives

(1) The public's rights and ease of passage over Bridleway no4 (Fingringhoe) shall be maintained free and unobstructed at all times to ensure the continued safe passage of the public on the definitive right of way. Any unauthorised interference with the route will constitute a contravention of the Highways Act 1980.

(2) Whilst it is recognised that landowners have the ability to grant access to their property by third parties, the use of the Bridleway by vehicles is, in highway terms, classed as exceptional use. As such the responsibility to rectify any damage caused to the bridleway surface by these vehicles would remain with the landowner.

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