DELEGATED DECISION REPORT

DET/2019/0015 **Valid 21/06/2019**	**NEW HALL FARM** **DINGLE LANE** **RUSHTON SPENCER**	**RE-INSTATE TRACK FOR COWS AND VEHICLES** **(AGRICULTURAL/FORESTRY DETERMINATION)**

MAIN ISSUES

- siting
- means of construction

DESCRIPTION OF SITE

The section of track proposed would be in a field edge position against the westerly boundary of the field which is part of New Hall Farm. Parallel with the proposal on the other side (west side) of the field boundary is an existing track which runs due north to join Beat Lane. This existing track leads from Fold Farm, a private dwelling unconnected with the application. It is understood, and map evidence supports, that the track between Beat Lane and Fold Farm previously continued southwards past the gable end of Fold Farm to join the farmstead of New Hall Farm. The location is within the Green Belt.

PROPOSAL

It is understood that New Hall Farm has an 'agricultural right of way' along the route between Beat Lane and the farmstead save that this right was given up over part of the way in a property exchange with Fold Farm. The proposal is to establish a 'bridging' link by way of the new track within the field in place of the section over which rights were given up. North of this link access would re-join the pre-existing track and lead out on to the public road at Beat Lane. It is this section of track over which New Hall Farm is understood to have the agricultural right of way. From the southerly end of the proposed new track section the understanding is that the route of the original track lies within the ownership of New Hall Farm. This section is not especially evident in the field but appears largely grassed over with some indication of vehicle wheel tracks only.

In the application form the proposed track section is described as having a width of 5m and being formed of concrete railway sleepers. On further inquiry from the LPA the applicants have said the sleepers would be laid over a bed of crushed brick and or quarry stone 'waste' from the nearby Bridestones. The application is specifically for a 51m length of track. It is stated that the track would be used for both the dairy herd and vehicles to and form the farm.

RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

Core Strategy Development Plan Document (Adopted 2014)

S01 Spatial Objectives
SS1 Development Principles
SS1a Presumption in Favour of Sustainable Development
SS6c Other Rural Areas Area Strategy
DC1 Design Considerations
DC2 The Historic Environment
DC3 Landscape and Settlement Setting
R1 Rural Diversification
NE1 Biodiversity
T1 Development and Sustainable Transport

Local Plan Submission Version (February 2018)

SS1 Development Principles
SS1a Presumption in Favour of Sustainable Development
SS10 Other Rural Areas Area Strategy
DC1 Design Considerations
DC2 The Historic Environment
DC3 Landscape and Settlement Setting
NE Biodiversity and Geological Resources
T1 Development and Sustainable Transport

Local Plan process

The Council agreed to publish the Local Plan Submission Version for representations in February 2018. At this point, the Council agreed that the Local Plan was "sound". Formal representations were then invited from residents, businesses and other stakeholders to provide them with the opportunity to support or challenge the soundness or legal compliance of the Local Plan. This stage in the process followed three previous public consultations since 2015 which had informed the preparation of the Local Plan alongside a comprehensive evidence base.

In June 2018, the Council subsequently agreed to submit the Local Plan Submission Version to the Secretary of State for examination. An examination in public was held in November 2018 to determine whether the Local Plan is sound and legally compliant. Subject to the findings of the appointed inspector, the Local Plan is expected to be adopted later in 2019. At that point, it will supersede the adopted Core Strategy and become part of the statutory development plan for the District.

In this context, the Council's position on the weight to be given to the policies contained in the Local Plan Submission Version in terms of the three criteria set out in Paragraph 48 of the NPPF is as follows:

- The stage of preparation: the Local Plan is now at an advanced stage of preparation as the Council has submitted it to the SoS for examination;
- The extent to which there are unresolved objections to relevant policies: this varies depending on the policy in question. Where reference is made in this report to any emerging policies the level of outstanding objections to each policy will be noted and recommendation made as to the amount of weight to be given to the policies at this stage in the process;

- The degree of consistency of policies with the NPPF: given that the Council has submitted a Local Plan that it considers to be sound, all policies are deemed to be consistent with the NPPF.

National Planning Policy Framework July 2018
Paragraph(s) 1 – 14;
Section(s) 4 – Decision making; 11 – Making effective use of land; 12 – Achieving well designed places; 13 – Protecting Green Belt Land; 15 – Conserving and enhancing the natural environment; 16 – Conserving and enhancing the historic environment.

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS
None specific to the proposal site. Gable Stones to the north against Beat Lane was permitted under 78/5607 as a farm workers dwelling for New Hall Farm and is currently occupied as such.

CONSULTATIONS

Publicity
Site Notice expiry date: 15th August 2019
Neighbour consultation period ends: N/A
Press Advert: N/A

Public Comments
Detailed objections have been raised by the occupiers of Fold Farm with submissions made on their behalf by Ken Wainman, planning consultant of SGA Planners:

- Development had already begun before the prior notification was submitted and therefore the prior notice procedure is not legitimate
- The track is not "reasonably necessary" for the purposes of agriculture within the unit – and this is a fundamental requirement for the prior notice procedure under GPDO(2015) schedule 2 part 6
- New Hall Farm has two accesses from the farmstead on to Dingle Lane and has other means of reaching land north of Beat Lane from fields within their ownership
- The farm has long functioned apparently effectively and successfully without a surfaced track being necessary here
- Creation and vehicular use of the track would be injurious to the amenities of the residents of Fold Farm – no objection to the cow herd
- The access to the public highway which would be relied upon at Beat Lane is not safe especially due to a 'blind horizon' to the immediate west
- Impacts on drainage from Fold Farm

Staffordshire County Council Highways
Following clarification of proposals and extent of land holding, this appears to be the surfacing of a new section of track to replace a removed section of track. The bulk of

the track appears to be historic and long standing and leads to an existing access on to Beat Lane.

While this is an existing access in current use, visibility is poor and this approval should not be construed as encouraging the use of this track to access the residential use of the farm house. Primary access for this should remain off Dingle Lane. This response is based on additional information received 04/09/2019 and 10/09/2019 and supercedes previous response dated 16/07/2019. There are no objections on Highway grounds to this proposal.

OFFICER COMMENTS

Principle of Development

Under GPDO(2015) schedule 2 part 6 any excavation or engineering operation on agricultural land reasonably necessary for the purposes of agriculture within the agricultural unit (of 5 ha or more) can take place as permitted development subject first to the LPA being notified. The LPA has the option then to determine that the application should be subject to LPA approval in terms of "the siting and means of construction". The LPA made such a determination in this case.

The LPA has no doubt that this is a full functioning dairy farm and that the site is part of a farm well in excess of the 5ha minimum.

The case for the track is that the farm includes extensive fields north of Beat Lane – land plans have been provided in evidence of this – which are used both to graze the dairy herd and to harvest grass for winter feed. It is becoming common practice for farms to extend hard surfaced tracks in the vicinity of farmstead buildings where dairy cows make twice daily walks to and from the fields during the grazing season. This is with the aim of improving cleanliness and hygiene in the milk production by avoiding having the cows walk through what can become quagmires leading to mud encrusting legs and udders.

It was not obvious to the LPA that work had commenced before the notice was submitted. Some top soil clearance had taken place but no track construction had occurred and no materials had been brought to the location. For the avoidance of doubt the applicant rolled the top soil back into place.

Design

In design the use of ex-railway concrete sleepers will be functional and the grey surface not dissimilar to the grey of limestone chippings otherwise commonly used in track surfacing. This is not a publicly visible location so little in the way of wider landscape impact should arise from the materials or their siting. In terms of the setting of Fold Farm which although not a designated heritage asset is clearly a character stone vernacular building from at least 19th C origins, and likely earlier, a concrete sleeper track at this close proximity might reasonably be judged to bring some harm and clash with the overall aesthetic and character of the location.

Amenity
A key, indeed the main, consideration and potential concern in the proposed siting is the possible impact on the amenities of the occupiers of Fold Farm. The passage of cows along the track is unlikely to be disturbing or otherwise undermining of neighbour amenity. However the potential for the track to be used by vehicular traffic poses a significant concern. The scope for the LPA to attach conditions to in some way control the use and avoid impacts of traffic is unlikely to be effective and the applicants have not been willing to put any agreed limitations forward in response to these concerns.

It is concluded that the impacts on amenity have the potential to be significantly harmful at the close proximity proposed.

It is understood that Fold Farm septic tank and drain flows are in the field to the east and the track would cross the drainage route. Clearly the applicants would need to ensure the track construction did not interfere with this drainage but this is principally a private matter between the parties.

Highway Safety
Whilst the HA does not object it does so out of an understanding or expectation that there should not be an intensification of the access to / from Beat Lane. As noted above this ultimately could not be controlled under the terms of the prior notice procedure and no limits could be effectively imposed.

CONCLUSION / PLANNING BALANCE
The application should be refused for reasons of harm to the amenities of the occupiers of Fold Farm and for reasons of highway safety given that the LPA cannot attach meaningful or effective restrictions to limit usage and ensure highway safety under the prior notification procedure.

In terms of siting and design it is found that the proposed tack would be harmful to the amenities and setting of Fold Farm on account of its proximity to the house and garden and the potentially unrestricted nature of the traffic contrary to CS policies SS1, SS1a, SS6c, and DC1, and emerging LP policy DC2 and CS policy R1 and the NPPF.

In terms of siting the proposed track is found to have the potential to bring a significant increase in vehicular usage of the access to Beat Lane posing an unacceptable risk to highway safety contrary to SS1, SS1a, DC1, TC1 and the NPPF.

OFFICER RECOMMENDATION : Refuse

Case Officer: Arne Swithenbank
Recommendation Date: 12th September 2019

X 

Signed by: Ben Haywood

On behalf of Staffordshire Moorlands District Council