

**Representation to Planning Appeal - Reference: APP/L2820/C/20/3253535
Lyndon Thomas, Birchfield Spring Nursery, Rushton Road, Desborough**

Comments from:

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Submitted on behalf of the Council by Graham Thomson, Town Clerk
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Summary

Desborough Town Council supports the Local Planning Authority in issuing the enforcement notice for the various uses to which this site has been put and for the same reasons. Should the Inspector decide to quash the enforcement notice, Desborough Town Council objects to the grant of planning permission.

Background

Whatever the rights and wrongs, consent was granted for a "fish farm". It was quickly noted that the site was not being used as intended and there was a higher number of heavy vehicle movements to and from the site than warranted by the consent. Although the site itself is in Rushton Parish, it is on one of the main routes into Desborough and has an open pleasing aspect, or it did until the development of this site. Desborough Town Council is most concerned that the use, if allowed to continue - whether that is with consent granted by the Inspector or without consent, would form a dangerous precedent for the destruction of other rural sites following the razing of this open rural site. The LPA's representation notes the various legislation and policies and we do not propose to repeat the LPA's case.

Industrialisation

The use originally proposed (two fishing lakes) might not have led to the impression of industrialisation but the use as enacted by the appellant certainly does. The appellant has not safeguarded the green infrastructure as required. The almost constant vehicle movements to and from the site (sporadically at all hours of the day and night, and also weekends and Bank Holidays) has not only caused the appellant to be regarded as a bad neighbour but also leads to the inevitable conclusion that the site is a heavy industrial site. This uncontrolled disturbance to tranquil life in Desborough and Pipewell results in the destruction of the environment enjoyed by residents. It should be noted that the appellant's vehicle Operator Licence having been revoked by the Traffic Commissioner is now a restricted licence with additional conditions including the days and times that vehicles may operate. There have been many recorded instances of these conditions being breached. Complaints have been made about the noise, smell, and fumes emanating from the site which would be the type expected (but not accepted) from large industrial uses.

Vehicles using the site

The very large vehicles using the site and travelling to and from it cause shaking, noise, vibration, actual damage, mud and dust on the road, and especially traffic problems owing to the routes taken through the parish roads of Desborough. Pedestrians and drivers who

have had the misfortune to be on Desborough's roads at the same time as a vehicle connected with the site would testify to the apparent lack of concern for road safety of the appellant's vehicles and their drivers. Desborough Town Council is extremely concerned that if these uses are allowed to continue as they have in the past, but with consent, then life in this rural area would become not only intolerable but downright dangerous. Furthermore, the precedent set would lead to the potential for uncontrolled industrialisation and development in open, rural, areas throughout the LPA's area.

Impact on the locality

The Inspector will by now be well aware of the recent history of this site but may not be so aware of the amount of time Officers, Councillors, and residents have spent trying to mitigate the impact of the uses to which the site has been put. There have been countless reports of shaking, noise, vibration, actual damage, mud and dust on the road, and blocked drains leading to flooding all caused by the site works and vehicles using the site, and also other nuisances such as materials being transported onto and from the site, and materials being burned on site (whatever their origin) leading directly to complaints of noxious smells and thick "toxic" smoke. Each complaint has to be registered, most are investigated, and in many cases the appropriate agency has to attempt to take action. For example, if the road surface becomes dangerous then the Highway Authority must take action to clear it or make it safe. This is at the cost to the public purse and is therefore funded by local residents, not the appellant.

Road surface dangers

One particular concern has been the very real danger to life and limb caused by the operator of the site and their agents and employees. Specifically, vehicles leaving the site bring unreasonable amounts of mud onto the road network spreading some distance from the site. This renders the road surface dangerous in dry weather and extremely treacherous in the wet. The surface water drainage system is ineffective at clearing water and the drains appear to be blocked or otherwise incapable of removing surface water which leads to puddling across at least the westbound carriageway (in rainy weather) and almost the entire road (in persistent or heavy rain). The combination of the mud brought onto the road by vehicles using the site and the blockages of the drainage system make driving past the site a dangerous manoeuvre.

The road network in Desborough was not designed or constructed to be capable of sustaining such heavy vehicles as use the site as often and for such a prolonged period of time. The Highway Authority will be able to give details of the number of complaints about the road surface being damaged, especially but not limited to Rushton Road, Dunkirk Avenue, and High Street.

Machinery on site

Turning now to the contents of the site, the storage and use on site of large industrial plant and machinery is incongruous in the open countryside, and detracts from the open rural nature of the area. Even when compared with a traditional countryside farm the vehicles, plant and machinery on site are heavy industrial rather than agricultural in appearance.

Residential development

It should be noted that the residential element of the consent was ancillary to and dependent on the main use approved. Since that main use has not been fulfilled the residential use is not as permitted. Should an application be made for residential development in this location, Desborough Town Council would object on the grounds, amongst others, that the development would be contrary to Policy 7 and RA5; that the

development would be unsustainable in that location being distant and isolated from the facilities of both Pipewell and Desborough, there being no public transport, there being no overriding housing need, and that the number of dwellings with consent in the LPA's area and in Desborough already exceeds the JCS housing requirements.

Open Countryside

The site is in open countryside of gently rolling ridges and valleys. This development has created an impression of heavy industry in the rural hinterland between Pipewell and Desborough. The use is out of keeping with the character of the Ise Valley and the surrounding rural area.

There is no other industry let alone heavy industry in the vicinity; and the use, if allowed to continue, opens the possibility of other industrial development on adjacent sites or even the appellant's site. Other than the very traditional Desborough industries of shoe manufacturing and lingerie, almost all the industry in Desborough is to the north of the town. The industrialisation of the south east of the town near a nature reserve is more than unwelcome it is setting a precedent that open countryside is not worthy of protection.

The site now has some shielding from the road but there is no mistaking the industrialised nature of the site from the site entrance and from the many many heavy vehicle movements.

Environmental protection

Desborough Town Council is particularly concerned about the pollution caused by the excessive vehicle movements particularly given the apparently poor maintenance of the appellant's fleet evidenced by the low MOT pass rate (see Traffic Commissioner). The emissions from the vehicles are particularly noticeable at key junctions. On site, the Council is very troubled by the extraction, importation, and storage of materials. The Council is deeply concerned by the absence of any protection from the extraction or depositing of mixed inert and non-inert materials, and we do not know what materials are being exchanged and what damage the land-filling is causing or will cause. In the absence of lawful consent and controls, these worries extend to the safety of residents along the routes of the appellant's vehicle fleet. The Council is anxious to know precisely how local amenity is being protected, and how the local ecology is protected from contamination.

Grounds for appeal

Desborough Town Council considers that the grounds for appeal are simply a salami-style, straw-grasping exercise.

- Ground A: If an application was made now for the current use, the Town Council would object very strongly. Many of the grounds for the objection are set out in this document. If the Inspector deems it appropriate to quash the enforcement notice and to consider granting consent for the development and usage of the site Desborough Town Council would request conditions such as those set out below.
- Ground B: It is patently obvious that there have been multiple breaches of planning control throughout the history of the "fish farm" and any assertion otherwise is, plainly, absurd.

- Ground C: To suggest that the use does not constitute a breach is to ignore completely what the consent was and what the use is and has been. The use clearly includes use as a minerals transfer site and not at all the peaceful trout fishing lakes which received consent. The original application specifically stated that the site would not be a waste management development and that there would be no hazardous substances for use or storage.
- Ground D: Enforcement action has been taken in various forms against the appellant in relation to the operation of this site from early in the life of the fish farm's consent. The appellant's strategy seems to be to delay as long as possible, to then agree to any conditions necessary to stop the enforcement action, then carry on as before. The LPA and other public authorities will be able to furnish the Inspector with details of each act of enforcement action.
- Ground F: The enforcement action is the minimum required to mitigate the severe effects of the activity on and from the site.
- Ground G: The appellant has had sufficient time to comply with the various enforcement notices and with the current one. The appellant has been on notice that enforcement action was being taken and was warranted and therefore has had ample opportunity to make preparations to comply.

Application for consent

Should the Inspector deem it appropriate to quash the enforcement notice and to consider granting consent for the development and usage of the site, Desborough Town Council would object in the strongest possible terms. Were a new application to be made for the uses as exhibited by the appellant Desborough Town Council expects that there would be hundreds of objections in addition to its own. The Town Council does not believe that the current uses can ever be made acceptable and safe. However, if the Inspector does consider consent to be appropriate then Desborough Town Council seeks **enforceable** conditions to mitigate the impact and would wish to discuss these with the LPA, the appellant, and the Inspector.

Conclusion

Desborough Town Council strongly opposes the appeal and equally strongly supports the LPA in the enforcement action. The various Court appearances have teased the residents of Desborough that things would get better and life would become more bearable, only for those hopes to be destroyed by the appellant's subsequent actions. If the Inspector dismisses the appeal and endorses the enforcement action then Desborough Town Council would ask that the Inspector's decision encompasses the site itself and is not restricted to the named appellant.