



Denby Footpaths Group

Appeal reference: APP/M1005/W/20/3265602

Site Address: Garner Holdings Ltd, 1 New Winnings Court, Ormonde Drive, Denby Hall Business Park, Denby, Derbyshire DE5 8LE

Description of development: Extension to Denby Hall Business Park comprising the construction of new B1, B2 and B8 use units

Application reference: AVA/2019/0463

Appellant's name: Mr Roger Hartshorn

Denby Footpaths Group are against the appeal proposals.

Responses were made to the original application and again to the revised application and submitted to Amber Valley Borough Council. All comments made in these two statements are still valid. Comments to the revised and final application submitted to Amber Valley Borough Council are included in Appendix 2.

Below are additional comments from Denby Footpaths Group.

1. The history of the appeal site as given is only recent activity and no mention is made of the long established farm and agricultural use before this time. The site can be traced back to when it was a Medieval Deer Park, the boundary of which is protected today and in close proximity to the site. (HER 24731)¹ It was classified as ancient woodland in Burdetts map of Derbyshire in 1791.
2. The site was fully restored following opencast proceedings to its agricultural status. This can be seen in fig 1 in Appendix 1. This is in stark contrast to the image of the site during opencast operations, used by the appellant in the application.
3. Historically, opencast sites are returned back to their pre open cast state, in Derbyshire this is predominantly agriculture or open landscape. Most opencast is preceded by deep mining and this cannot be classified as industrial activity in the same way that the proposed development will be. The restoration deals with any issues arising from mining activity. The proposed development will be continuous and have an impact on the local community indefinitely.
4. Restored opencast sites leave a lasting legacy for both the local area and the wider region. Communities bear the impact during operations with the safe knowledge that land will be returned to its natural state and even enhanced with additional amenity features.² The application site has enjoyed over 20 years free of development allowing nature to return, establish and flourish.
5. Other opencast sites in Derbyshire have now been restored in line with the Derbyshire County Council Mineral Extraction plan. Some have become amenity sites for the benefit of the wider public. An example is Lodge Farm at Smalley which ended in 2016 and has since become a woodland.³ This is a project which has engaged young people for the benefit of the local area.⁴ All opencast sites in Denby

¹ https://www.heritagegateway.org.uk/Gateway/Results_Single.aspx?uid=MDR4700&resourceID=1023

² <https://www.banksgroup.co.uk/core/uploads/Banks-Mining-Restoration-Brochure.pdf>

³ <https://www.globalcitizen.org/en/content/coal-mine-woodland-trust-wildlife-trees-derby/>

⁴ <https://www.woodlandtrust.org.uk/press-centre/2019/05/young-people-to-plant-first-trees-of-pioneering-new-forest/>



Parish are now restored and remain undeveloped. (Ryefield, Morrell's Wood, Robey Fields and Carringtons, are the most recent).

6. Destruction of this restored opencast site goes against all the principles and policies set out in the Derbyshire and Derby Mineral Local Plan.⁵ Has this been taken into account by Amber Valley Borough Council in considering the application?
7. NPPF 205 e) states that mineral planning authorities should provide for restoration and aftercare. Has this been considered by the borough council in reaching a decision? Development into an industrial park does not seem like 'aftercare'.
8. NPPF 137 c) states that before concluding that exceptional circumstances exist to justify changes to Green Belt, the borough council should be informed by discussions with neighbouring authorities about whether they could accommodate some of the identified need for development. Whilst this was carried out within Amber Valley, has a wider exercise been carried out? There are many more suitable sites that could accommodate the development which are nearer to better transport links and do not fall in green belt. One example is the newly developed St Mowden Business Park in Derby.⁶
9. Previous plans submitted indicate that a much larger area is needed for development than the scaled back version in this application. Release of greenbelt and allowing this development sets a precedent for further development on the adjacent land to the north and west which falls under the same ownership.⁷ Phase 2 (removed) was for 98,758 sqm. Development should be in a location that offers opportunity for further expansion and is thus more economically viable. No guarantees have been given that future expansion at the Denby site will not proceed resulting in even greater loss of greenbelt.
10. The Corporate Social Responsibility Policy of Linear (the trading name for HL Plastics)⁸ states that it 'will proactively protect the environment through practices and policies' and 'avoid harming local people and wildlife'. A development of this size at the cost of loss of greenbelt in a rural location does not meet these objectives.
11. Whilst the Appellant wishes to reduce traffic movement between sites, being located and consolidated next to improved transport links would reduce traffic movements further and take them out of a rural setting. Derby Road is classified as a 'B' road, not a primary route.
12. Whilst the development will provide for mitigation works to the junction of Steam Mill Lane and A610, much of the traffic will be using the road through Kilburn to access the A38. Local residents believe that Derby Road (B6179) will not sustain this and there is no guarantee that traffic movements will be directed through Marehay. It is evident that residents in Marehay do not want traffic using this route. At the Planning Board meeting on 18.01.2021 in consideration of application AVA/2020/0853, Cllr Ron Ashton made a request to the appellant via Jonathon Jenkins, asking for an assurance that all lorries are sent through Kilburn rather than Marehay/Ripley.

⁵ <https://www.derbyshire.gov.uk/site-elements/documents/pdf/environment/planning/planning-policy/minerals-local-plan/chapter-12.1-restoration.pdf>

⁶ <https://search.savills.com/property-detail/gb039618339>

⁷ Site Plan as proposed - Phase One High Lane Design March 2019 Drawing SP01

⁸ <https://www.liniar.co.uk/wp-content/uploads/2020/03/Liniar-CSR-Policy.pdf>



13. The Appellant is seeking to relocate operations from Cotes Park. The Cotes Park site is 60,000 feet square and the proposal will be for this plus an additional 215,375 square feet for warehousing. Planning application AVA/2014/0679 was given 'to allow the company's conservatory roof division, which is presently located in a 60,000sqft rented industrial unit at Cotes Park, Alfreton, to relocate'.⁹ Can the same economic argument be used to meet special circumstances for release of green belt as in a previous application? Did the company relocate?
14. 'The Appellant submitted a detailed LVIA, whose findings were not challenged by the Council'.¹⁰ Comments were made by Denby Footpaths Group in their revised response, namely that it does not consider a wide enough radius and that not all visibility points were included in the report. The site will be visible from points sitting on the edge of the Derwent Valley World Heritage Zone and in Denby Parish. Fig 2 in Appendix 1 shows this location, 2100m from the site. Fig 3 in Appendix 2 shows a photograph of the view.
15. Statement of Case 2.53 states that the economic ramifications of Covid-19 inform the Planning Balance. Mr Hartshorn puts the case for Corona virus being a reason for manufacturers and buyers choosing the UK.¹¹ A counter argument is put forward that the pandemic has made people more aware than ever of the value of open local amenity, green space. A point echoed by Campaign For Rural England in their Regeneration Manifesto published in June 2020. " Lockdown has given us a new era of awareness, a new recognition of the regenerative possibilities close at hand. Our recent poll found that two-thirds of people think protecting and enhancing green spaces should be a higher government priority after coronavirus" ¹² One way to do this is by " Enhancing our Green Belts, our countryside next door", according to their manifesto. The importance of green space is echoed by The Ramblers Association in their report 'Our Chance to Improve Access to Nature'.¹³ This report also highlights two amendments (21 and 28) to the Environment Bill recently debated by MPs which call for the Government to include steps to increase public access to, and enjoyment of the natural environment. Much has been written about the benefit of walking and being in the countryside during the pandemic, an article highlighting this is in The Guardian, 'Nature got us through lockdown'.¹⁴
16. Economic reasons also benefit the Appellant which Denby Footpaths Group do not consider justify development on greenbelt. Land release at Firs Works through relocation to Denby allows profitable onward development at Firs Works, Heage. (AVA/2019/1170) Rent savings resulting from relocating from Cotes Park. The site for proposed development is already in the ownership of the Appellant.
17. Whilst the case law and appeal cases cited in the Statement of Case pertain to greenbelt, they do not relate specifically to NPPF Para137 Part 13. (An exception is the development at Pinewood Studios which was determined to be in the interest of the UK film industry and located next to the M5).

⁹ Design and Access Statement and Business Case Prepared by Parker Design Associates Ltd. July 2014

¹⁰ Statement of Case 2.34 Planning Design December 2020 (3065 18 12 20)

¹¹ Garnalex Business Plan document 102924 AVA/2019/0463 AVBC.gov.uk

¹² https://www.cpre.org.uk/wp-content/uploads/2020/06/June-2020_Regeneration-manifesto.pdf

¹³ <https://www.ramblers.org.uk/news/latest-news/2021/january/our-chance-to-improve-access-to-nature.aspx>

¹⁴ <https://www.theguardian.com/books/2020/oct/03/nature-got-us-through-lockdown-heres-how-it-can-get-us-through-the-next-one>



18. It is the Group's opinion that the very special circumstances put forward by the Appellant to justify the development do not outweigh the accumulation of all other factors and the harm to the green belt that would be sustained by allowing this development to go ahead.



Appendix 1



Fig 1: Extract from Bing maps taken on 23.08.2016 showing the restored site before any development.



Fig 2: Location marking vantage point on Openwood Road as it joins Denby BW8.



Fig:3 Indicative view.



APPENDIX 2

Consultation response from Denby Footpaths Group to Revised Planning Application AVA/2019/0463 Land To The West Of Denby Hall Business Park Derby Road Denby Ripley Derbyshire. Extension to Denby Hall Business Park.

Public Rights of Way

Public rights of way on the site will be adversely affected by the development. They will run through the industrial park between large warehouses where currently they are through grassland, woodland and open countryside. (With the exception of a section of BW90 which was diverted in a previous application and is already next to a warehouse).

Visual amenity is compromised and enjoyment vastly reduced.

No consideration is given to the environmental nuisance from noise, lighting and pollution which will be experienced by users of the rights of way.

The two existing bridleways along with the proposed bridleway to the south of the development will be detrimentally affected by the access road running through the site. All users will be faced with HGVs and the prospect of trying to cross safely. This has now been addressed by the applicant in the response from Planning Design on 12.06.2020. We trust that the proposals as detailed will be a condition of planning.

One bridleway (BW90) will be diverted according to the plan, part of which has previously been diverted. There is no detail as to how this will be carried out and to what extent the diverted route will be protected from noise from the two warehouses it will run between.

The revised plan shows several proposed new bridle paths. However, we would propose alternative creations that would be of more value and use to the local community.

- Of significant importance is the development of the Ripley to Little Eaton Greenway. This is an ideal opportunity to develop the section across this land. It must be a condition of planning should it be granted.
- Of further importance is the path known as the 'Aglite Road' which was restored as a right of way with stiles and access. This path has been continually used for over twenty years without interruption. It is not shown on the plan presumably as it is not on the definitive map. It runs from the access on Street Lane at SK 38628 47502 to meet BW89 at SK 38969 47781. This should be created as an official public footpath.
- An extension of bridleway 90 to the north of the site to meet Denby footpath 82 (Border Bank) and an upgrade of Denby 82 to bridleway status. (Historically there was a right of way here prior to it being stopped up during opencast operations and not restored). This would form a valuable link to Street Lane and give a connection from Street Lane to Marehay if used in conjunction with the following creation:



- There is currently a clearly defined and well used path (not definitive) which leaves bridleway 90 to the east, meeting Ripley footpath 105. There is clear evidence that it is currently used by horse riders and is desirable. An upgrade of Ripley 105 to bridleway status would create the link to Upper Marehay Road. (Ripley 105 is already a surfaced route with a more than adequate width).

With regards to the applicant's proposed bridleways:

- A legal upgrade in status of footpaths 16,18,17 and 19 would be required to enable the proposed bridleways to meet them.
- The proposed route to the south and east of the development would be of more value if an access to Station Road was created.
- If the Greenway is developed, the proposed section to the south would be superseded. The Greenway would then meet the proposed bridleway running north to south alongside the main highway.
- The proposed bridleway heading north alongside the main highway goes off the indicative plan and so no comment can be made about its destination or use.

Footpath 17 at the south of the site where it meets BW89 BW90 and FP18 is regularly flooded and often deep in mud. This has been brought to both the applicant's and Highways Authority's attention but no action taken. Drainage in this area must be improved to make the rights of way accessible all year round.

Signage boards showing revised and newly created rights of way could be placed at key access points onto the site.

Traffic/Transport

The pavement and cycle paths along Derby Road will be crossed by the new road accessing the site and thus road safety is compromised. It will be almost impossible to cross the road in the vicinity of the Pottery with the increased traffic generated. The pedestrian crossing detailed in the design is vital for road safety. Presumably the speed limit in this area will be reduced as necessary for the pedestrian crossing.

Provisions for pedestrian safety at the new road junction have now been addressed by Planning Design in their response of 12.06.2020.

The additional traffic generated by the development will put increased and unnecessary pressure on Derby Road. A recent planning application for one dwelling at the College with access onto Derby Road was refused on highways grounds stating that 'any increase in vehicular traffic would increase conflict with more vulnerable highways users ie pedestrians' (AVA/2018/0373)

No consideration is given to the combined impact of this development along with traffic flows generated from the Land North of Denby proposal. The two schemes must be considered together to get a full assessment of the impact on Derby Road and its users.



The Setting

The applicant plays heavily on the fact that this is historically an industrial site and that development is therefore appropriate.

Opencast operations were only a moment in time in the site's long history which can be traced back to 1266 when it was a deer park. The opencast operations were followed by remediation which restored the land to open countryside, woodland and agricultural use. It was never intended to be redeveloped following restoration for industrial use. The site is now restored and over the past 20 years nature has returned to the site. The ecological and arboricultural surveys support this. Local residents who suffered through the opencast years with the promise of restored green belt do not want to see this lost once again to industrial development.

A mile post is situated in close proximity to the new access road. This is a listed heritage asset and must be protected.

Heritage information boards could be placed in key positions on the site.

Green Belt.

Denby Footpaths Group object to loss of green belt land and do not consider that there are 'exceptional circumstances' to justify this unprecedented scale of development in a small rural setting.

Previous development by the same applicant led to loss of 5.46ha of green belt only a couple of years ago under AVA/2014/0679 which was much to the detriment of the local setting. Whilst the site has been reduced to approximately 16ha it is still a significant loss of green belt and exceeds the recommended buffer of 13.5ha set by AVBC in the Submission Local Plan 2019.

In the recent Green Belt Review carried out by Amber Valley BC, this parcel of green belt (parcel 58) was evaluated as critical under purpose 1 and major under purpose 2 and 3 thus demonstrating the need to retain it as part of the countryside and critical to check the unrestricted sprawl of large built-up areas.

In the Submission Local Plan March 2019, Amber Valley BC acknowledge that ' 6.4.16 A potential site has been submitted for new business and industrial development, following the Council's decision to undertake the Green Belt Review. This site lies immediately to the west of Denby Hall Business Park and is within the Green Belt. Although the site could help to support the Strategic Objective in the Local Plan, to foster economic development by improving the quality and accessibility of employment land and infrastructure within the Borough, the scale of the proposals (35 hectares) would significantly exceed the extent of the recommended buffer in the Study (13.5 hectares). Together with the conclusions of the Green Belt Review in respect of the land parcel within which the site is located, which rate the parcel's importance to the relevant purposes of the Green Belt as critical or major, the Council does not consider that there are 'exceptional circumstances' to justify an amendment to the Green Belt boundary to delete the site from the Green Belt and to include it as an Economic Growth Site'.



Vacant warehousing is still available at Denby Hall Business Park, one unit is 11148m². Given that the New Production Facility for LB Plastics Limited extends to 7293 m², could it not be put in the existing unit.

It should be a condition of planning that the remaining land falling within the site boundary is protected from all and any future building development.

Visual Impact

The Landscape and Visual Impact Assessment does not extend out far enough at 2.5km and thus does not acknowledge the full extent of the visual impact. The site can be seen clearly from Bargate and Holbrook and from public footpaths 35 and 33 as well as those stated in the report.

The assessment only takes into account the summer months. Given the deciduous nature of the trees and hedgerows which form the boundaries, the site will be clearly visible throughout several months of the year.