

Committee: **Regulatory  
Planning Committee**

Date: **18 December 2019**

Report by: **Director of Communities, Economy and Transport**

Proposal: **Variation of Condition 2 (Approved drawings) of  
planning permission RR/741/CM seeking retrospective  
permission for amendments to the layout and fencing at  
the pumping station at Fourteen Acre Lane.**

Site Address: **Three Oaks Wastewater Pumping Station, Fourteen Acre  
Lane, Three Oaks**

Applicant: **Southern Water Services Ltd**

Application No. **RR/834/CM**

Key Issues:           **(i) Purpose of the development**  
                              **(ii) Effect on amenity**  
                              **(iii) Effect on High Weald AONB**

Contact Officer: **Jeremy Patterson – Tel: 01273 481626**

Local Member: **Councillor Carl Maynard**

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## **SUMMARY OF RECOMMENDATIONS**

**1. To grant planning permission subject to the completion of a variation to the s106 Agreement dated 30 June 2016 between East Sussex County Council, Southern Water Services Limited and Gordon Harrison and the s278 Agreement dated 7 June 2018 between the same parties and to conditions as set out in paragraph 8.1 of this report.**

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## **CONSIDERATION BY DIRECTOR OF COMMUNITIES, ECONOMY AND TRANSPORT**

### **1. The Site and Surroundings**

1.1 The development to construct a first time sewerage scheme in the village of Three Oaks involves two sites at either end of the village, the treatment works site off Butcher's Lane to the south-west and the pumping station site in Fourteen Acre Lane to the north-east. However, although a new planning permission will be required to be issued for the overall development,

if approval is granted, this application only considers proposed changes to the development involving the pumping station site.

1.2 The pumping station is located in Fourteen Acre Lane, a short distance to the north-west from its junction with Butcher's Lane. It stands opposite the residential property of Willow Stream. Other residential properties are located nearby along Fourteen Acre Lane to the north-west and to the south-west in Willow Stream Close. The site is within the High Weald Area of Outstanding Natural Beauty (AONB).

## **2. Site History**

2.1 A first time sewerage scheme was granted planning permission (ref. RR/741/CM) in July 2016 following the completion of a legal agreement to carry out highway works and is subject to conditions. As previously noted, the development involves two sites: the treatment works adjacent to Sailors Stream off Butcher's Lane and the pumping station at the upper end of the village in Fourteen Acre Lane. Works have commenced at the treatment works site but most of the development has yet to be undertaken. The pumping station site is complete for operational purposes.

## **3. The Proposal**

3.1 This planning application has been submitted following a review of the development by the applicant, which arose as a result of concerns raised by a local resident regarding the size and location of the kiosk at the pumping station. The applicant found discrepancies between the approved drawings and the development as-built, in relation to the footprint of the operational compound and its associated fencing.

3.2 The pumping station site is about 100 square metres in area and includes below ground chambers containing submersible pumps. Above ground, it comprises a fenced compound, including areas of hardstanding, covered hatches, a kiosk housing control equipment and a lay-by allowing vehicular access. The pumping station was constructed between February 2018 and June 2019 and is operational. All proposed changes fall within the original planning application boundary under permission RR/741/CM.

3.3 The current proposal is seeking retrospective planning permission (as the development has already been undertaken) to vary Condition 2 of planning permission RR/741/CM, which refers to the approved drawings. This relates specifically to a change of use to a small area (43 square metres) of land adjoining the existing fenced compound, so that it can also be included as operational land, and the associated fencing arrangements, which involve an extension to the 1.8 metres high weld mesh security fencing and the 1.2 metres high post and rail boundary fencing.

#### 4. **Consultations and Representations**

4.1 Rother District Council raises no objections, subject to the landscaping of the area after the removal of the temporary construction compound.

4.2 Guestling Parish Council expresses disappointment that not enough attention has been paid to this development in the AONB. Policies WMP23a and WMP25 of the Waste and Minerals Plan, regarding design and amenity respectively, have been ignored. Hedgerows and a timber screen have not been implemented.

4.3 Flood Risk Management ESCC has no comments.

4.4 High Weald AONB Officer notes that the development is considered to be of poor visual quality and detrimental to the character of the High Weald AONB. The proposed mitigation measures will improve this impact subject to the following: (i) The High Weald Colour Study should be used to select the colour of the timber screen around the kiosk and the close board fencing so that they are appropriate to the setting of the High Weald AONB landscape; and (ii) Native, locally sourced plants should be used for the additional hedgerow to support wildlife and avoid contamination.

4.5 Local representations: Three local residents object to the proposal for reasons which can be summarised as follows: (i) The development is not the same as originally approved; (ii) The loss of visual amenity; (iii) The effect on property values; (iv) The effect on the AONB; and (v) The use of vehicles on the lay-by has become a commercial parking area.

#### 5. **The Development Plan and other policies of relevance to this decision are:**

5.1 East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan 2013: Policies: WMP10 (Management of waste water and sewage sludge); WMP23a (Design principles); WMP25 (General amenity); WMP27 (Environment).

5.2 Rother Local Plan Core Strategy 2014: Policies: OSS4 (General development considerations); RA3(v) (Development in the countryside); EN1 (Landscape stewardship).

5.3 The National Planning Policy Framework (NPPF) 2019

The NPPF is a material consideration in the determination of planning applications but does not change the status of the Development Plan as the starting point in decision making. Parts 12 (Achieving well-designed places) and 15 (Conserving and enhancing the natural environment) are relevant.

#### 5.4 The High Weald AONB Management Plan 2019-2014

In broad terms, the Plan defines the natural beauty of the AONB and identifies the key components of the High Weald. It then sets objectives for these components and identifies actions that could conserve and enhance the AONB. Objective S3, which refers to the use of the High Weald Colour Study, is relevant.

### **6. Considerations**

#### **Purpose of the development**

6.1 Under planning permission RR/741/CM, approval was granted for a pumping station in Fourteen Acre Lane to manage waste water flows from the higher, north-eastern side of the village into the valley to the south-west. According to the applicant, the detailed design of the development, which followed the permission, led to an extension of the approved operational area in order to incorporate a safer layout of equipment and access hatches to below ground structures. These health and safety requirements also affected the type of kiosk which was required and resulted in a larger unit being installed than was originally anticipated.

6.2 The principle of the development has been established under planning permission RR/741/CM and the current proposal is similar in purpose to the approved scheme. Changes in health and safety standards have led to changes to the layout of the compound, including the associated fencing, as well as the specification of plant. In operational terms, the development is essential to meet the requirements of the first time sewerage scheme and, as such, is supported by Policy WMP10 of the Waste and Minerals Plan in managing waste water.

#### **Effect on amenity**

6.3 Policy WMP25 of the Waste and Minerals Plan requires, *inter alia*, that proposals should have no unacceptable effect on the standard of amenity appropriate to the established land uses of the local and host communities likely to be affected by the development. Policy OSS4 of the Rother Core Strategy also requires development not to unreasonably harm the amenities of adjoining properties.

6.4 The pumping station, as built, is a stark development in close proximity to residential properties in Fourteen Acre Lane. Representations from the occupiers of Willow Stream opposite the site, together with two other residents from the village and the Parish Council, refer to the development not being in accordance with what was approved, the detrimental visual impact, and the intrusion of vehicles parking in the lay-by.

6.5 There is little doubt that the development is visually intrusive in the immediate locality, particularly to the occupiers of Willow Stream, which has resulted in an adverse effect on amenity. This impact appears to be centred

on the size and location of the kiosk, which is larger and in a more prominent position than originally foreseen. However, this type of kiosk is permitted development, which means it is able to be constructed without the need to inform the planning authority, despite the potential advantages of doing so. Given the nature of the public response to the development, the applicant has proposed mitigation, involving hedgerow planting within and outside the compound fence, timber screening around three sides of the kiosk and close boarded fencing on the inside of the front gates. With appropriate design and colour, the timber screening and close boarded fencing will make the compound less visually intrusive, although effective screening will only be likely to be achieved once the hedgerows have matured.

6.6 Although it is acknowledged that that the kiosk does have an adverse effect, the County Council, as Waste Planning Authority (WPA), is unable to control this part of the development, as it does not require express planning permission. Despite that, the proposed mitigation and recommended conditions should reduce the effects of the overall development, particularly in the longer term.

6.7 Although the current scheme is different compared to the scheme under permission RR/741/CM, this has come about following a more detailed design process by the applicant, which can only be carried out nearer to the time of construction. The extension to the operational area and its associated fencing, which require express planning permission and are the subject of this application, are not considered to result in an adverse visual effect.

6.8 In terms of the use of the lay-by for parking, this facility is necessary to allow the use of the pumping station by the applicant. Providing the site is being used appropriately, the WPA is unable to restrict its use.

### **Effect on AONB**

6.9 Policy WMP27 of the Waste and Minerals Plan seeks to conserve and enhance the local character and environment of the High Weald AONB. Policy RA3(v) of the Rother Core Strategy aims to ensure that all development in the countryside is of an appropriate scale and will not adversely impact the landscape character of the countryside, while Policy EN1 requires the protection and wherever possible enhancement of the landscape character of the AONB. Part 15 of the NPPF also seeks to protect and enhance valued landscapes with great weight being given to AONBs in relation to landscape and scenic beauty. The High Weald AONB Management Plan seeks to conserve and enhance natural beauty within the AONB.

6.10 Overall, the development is visually intrusive and does nothing to protect and enhance the landscape and character of the AONB. Despite that, the development represents essential infrastructure to facilitate the first time sewerage scheme for the village and the applicant is proposing to reduce the

effect of the development through mitigation. While, in principle, the proposed mitigation is supported, further detailing is required regarding the species to be planted and the type of timber screen and close boarded fencing to be used around the kiosk and front gates, respectively, e.g. using a 'hit and miss' style (i.e. alternately fixed boards) barrier would be more beneficial than an even structure. Moreover, the colour of the structures will be important and the High Weald Colour Study, recommended by the AONB Unit, should be used to identify the most appropriate colours for this location and a condition has been included to this effect.

## **7. Conclusion and reasons for approval**

7.1 In accordance with Section 38 of the Planning and Compulsory Purchase Act 2004 the decision on this application should be taken in accordance with the Development Plan unless material considerations indicate otherwise.

7.2 The proposal is to vary Condition 2 of planning permission RR/741/CM to allow a change to the layout of the operational area at the pumping station by extending the fenced compound. Although the development has already been carried out, the slightly enlarged compound and fencing is unlikely to have a significant visual effect in the locality. However, the installation of a kiosk does have an adverse visual effect but as this is permitted development, no planning controls to affect its location or size can be imposed. Despite that, the applicant is proposing to mitigate the overall development and recommended conditions seek to enhance and secure this mitigation. The development requiring express planning permission is considered to be acceptable and accords with Policy WMP10 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan 2013 and the policies in the Development Plan and the NPPF to protect the AONB. The kiosk, which does not require express permission but has the greatest visual effect, can be mitigated with appropriate materials and colours, although effective screening would likely only occur once the hedging becomes established.

7.3 In determining this planning application, the County Council has worked with the applicant and agent in a positive and proactive manner. The Council has also sought views from consultees and neighbours and has considered these in preparing the recommendation. This approach has been taken positively and proactively in accordance with the requirement in the NPPF, and as set out in the Town and Country Planning (Development Management Procedure) (England) Order 2015.

7.4 There are no other material considerations and the decision should be taken in accordance with the Development Plan.

## **8. Recommendation**

8.1 To recommend the Planning Committee to grant planning permission subject to the completion of a variation to the s106 Agreement dated 30 June 2016 between East Sussex County Council, Southern Water Services Limited

and Gordon Harrison and the s278 Agreement dated 7 June 2018 between the same parties and to the following conditions:

1. The development hereby permitted shall be carried out in accordance with the drawings listed in the Schedule of Approved Plans.

Reason: For the avoidance of doubt and in the interests of proper planning.

2. Notwithstanding the planting and landscaping details submitted for the pumping station site, further details of the planting scheme shall be submitted to the Director of Communities, Economy and Transport for written approval within one month of the date of the planning permission. The approved details shall be carried out in full during the first available planting season following approval.

Reason: To secure appropriate landscaping at the site in the interests of the amenity of the locality and the landscape character of the AONB, in accordance with Policies WMP25 and WMP27 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan 2013.

3. Within one month of the date of the planning permission, the applicant shall submit details in writing to the Director of Communities, Economy and Transport for written approval for the design of the proposed close boarded fencing on the front gates and the timber screen around the kiosk at the pumping station including a timetable for their installation. The details shall demonstrate that the High Weald Colour Study (2017) has been used to assist in the identification of colours for the structures at the pumping station site in Fourteen Acre Lane. The approved details shall be carried out in full.

Reason: In the interests of visual amenity and the landscape of the High Weald AONB, in accordance with Policies WMP25 and WMP27 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan 2013.

4. Planting and landscaping works at the treatment works site off Butcher's Lane shall not be carried out except in accordance with the following documents:

- (i) Technical Note, dated 23 March 2017, Atkins;
- (ii) Landscape Proposals Plan, ref: 5105602\_WA\_611 Rev G;
- (iii) Arboricultural Implications Assessment, ref: 7637/D/001 Version 1.1, Johns Associates; and
- (iv) Tree Protection plan, ref: 7637\_S1\_4\_3.2 Rev A, Johns Associates.

Reason: To ensure appropriate planting and landscaping of the site and protection of retained trees and woodland, in accordance with Policy WMP27 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan 2013.

5. Notwithstanding the terms of Condition 4 and prior to any further works at the treatment works site off Butcher's Lane, the applicant shall submit details in writing to the Director of Communities, Economy and Transport for approval which demonstrates that the High Weald Colour Study (2017) has been used to assist in the identification of colours for the structures at the treatment works site. The approved details shall be carried out in full.

Reason: In the interests of visual amenity and the landscape of the High Weald AONB, in accordance with Policies WMP25 and WMP27 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan 2013.

6. Any trees, shrubs or other plants which are planted as part of the landscaping requirements which within a period of five years die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar species, unless otherwise agreed in writing with the Director of Communities, Economy and Transport.

Reason: To secure appropriate landscaping at the site in the interests of the amenity of the locality and the landscape character of the AONB, in accordance with Policy WMP27 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan 2013.

7. The measures detailed in the documents listed under Condition 6 (Habitats and species) of planning permission RR/741/CM as set out in the letter from East Sussex County Council to Paris Smith, dated 21 November 2016, shall be implemented in full.

Reason: To secure appropriate protection of species, including mitigation and compensation for loss of habitat, in accordance with Policy WMP27 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan 2013.

8. No further works shall take place at the treatment works site including the access onto Butcher's Lane until details have been submitted to the Director of Communities, Economy and Transport for written approval on how traffic will be managed at the site and within the locality. The approved details shall be implemented in full.

Reason: In the interests of highway safety and the amenity of persons in the locality, in accordance with Policies WMP25 and WMP26 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan 2013.

9. The new access from Butcher's Lane to the treatment plant shall be undertaken in the position shown on drawing number 121875-C-800011 Rev D approved under planning permission RR/741/CM and shall be constructed and laid out in accordance with the HT407 diagram, dated

22 September 2015, and all works undertaken shall be executed and completed with the agreement of the Highway Authority prior to the commencement of the use of the development hereby permitted, unless otherwise agreed in writing with the Director of Communities, Economy and Transport.

Reason: In the interests of the safety of persons and drivers of vehicles entering and leaving the access and using the highway, in accordance with Policy WMP26 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan 2013.

10. The proposed gate at the new access to the treatment works off Butcher's Lane shall be positioned at least 10 metres back from the edge of the highway.

Reason: To enable a vehicle to wait clear of the highway while the gate is being operated in the interests of highway safety, in accordance with Policy WMP26 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan 2013.

11. The development shall not be used until a turning space for vehicles has been provided and constructed in accordance with drawing number 121875-C-800011 Rev D and the turning space shall thereafter be retained for that use and shall not be used for any other purpose, unless otherwise agreed in writing with the Director of Communities, Economy and Transport.

Reason: To provide for a sufficient turning area within the site for safety reasons, in accordance with Policy WMP26 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan 2013.

12. No machinery shall be operated, no process shall be carried out and no deliveries taken to or despatched from the development sites on land off Butcher's Lane and Fourteen Acre Lane during the period of construction other than between the hours of 07.30 to 18.30 Mondays to Fridays inclusive and 07.30 to 13.00 on Saturdays, unless otherwise agreed in writing with the Director of Communities, Economy and Transport. There shall be no working at these sites on Sundays or Bank and Public Holidays, unless otherwise agreed in writing with the Director of Communities, Economy and Transport.

Reason: To safeguard the amenity of persons in the locality, in accordance with Policy WMP25 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan 2013.

13. All construction activities shall be managed in accordance with British Standard 5228-1: 2009 (code of practice for noise and vibration control on construction and open sites - Part 1: noise) or such updated British Standard as may be issued in place of British Standard 5228-1: 2009.

Reason: To ensure that the relevant British Standard trigger levels are not exceeded in the interests of protecting the amenity of persons in the locality, in accordance with Policy WMP25 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan 2013.

14. The operational noise rating level shall, at all times, be below 30 dBLAeq (freefield), determined at the nearest noise sensitive receptors, namely Sailor's Stream Cottage in Butcher's Lane and the Willow Stream residential property in Fourteen Acre Lane, and in accordance with British Standard 4142: 2014.

Reason: In the interests of protecting the amenity of persons in the locality in accordance with Policy WMP25 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan 2013.

15. Within 3 months of first commencement of the operational use of the wastewater treatment works, a noise monitoring report shall be submitted to the Director of Communities, Economy and Transport for approval. The report should demonstrate that the development complies with the noise restriction of Condition 14. If the development does not comply, the report should propose further measures for noise mitigation and a timetable of implementation to reduce noise to meet the restriction of Condition 14.

Reason: To safeguard the amenity of the occupiers of nearby residential properties in accordance with Policy WMP25 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan 2013.

16. No further development shall take place at the treatment works site until details of surface water management at the treatment works off Butcher's Lane have been submitted to and approved in writing by the Director of Communities, Economy and Transport which shall include:

- (i) Detailed hydraulic calculations which should take into account the connectivity of the different drainage features. They should show a 'like for like' discharge rate between the existing and proposed 1 in 1, 1 in 30 and 1 in 100 rainfall events, including an allowance for climate change;
- (ii) Provision for catchpits upstream of cellular storage structures to prevent sediment build-up; and
- (iii) Specifications of the measures to line any surface water storage facilities to prevent groundwater ingress.

Prior to the development being brought into use, the approved details relating to points (i) to (iii) above shall be implemented in full, unless otherwise agreed in writing with the Director of Communities, Economy and Transport.

Reason: To reduce the risk of flooding, in accordance with Policy WMP28a of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan 2013.

17. No further development shall take place at the treatment works site until a management and maintenance plan for the entire drainage system associated with the development has been submitted to and approved in writing by the Director of Communities, Economy and Transport. The approved plan shall be implemented in full.

Reason: To secure the proper management and maintenance of the drainage system to reduce the risk of flooding, in accordance with Policy WMP28a of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan 2013.

18. The affected part of the Guestling 32a public footpath shall be accommodated on land to the south of Butcher's Lane in accordance with drawing number 121875-C-200001 Rev D.

Reason: To secure an appropriate specification for the footpath which will be affected by the development in accordance with Policy WMP25 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan 2013.

19. No artificial external lighting, including floodlighting, shall be installed or used in relation to construction and operations other than in accordance with details first submitted to and approved in writing by the Director of Communities, Economy and Transport. Such details should include reference to guidance from the Bat Conservation Trust.

Reason: In the interests of the amenity of the locality and the local natural environment, in accordance with Policies WMP25 and WMP27b of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan 2013.

20. Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015, or in any amendment thereof, no development shall take place under Part 13 Class B (d), unless otherwise first agreed in writing with the Director of Communities, Economy and Transport.

Reason: In the interests of the amenity of the locality and the High Weald AONB, in accordance with Policies WMP25 and WMP27 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan 2013 and Policies OSS4 and EN1 of the Rother Local Plan Core Strategy 2014.

## **INFORMATIVES**

1. The Applicant's attention is drawn to the need to obtain:

Ordinary Watercourse Consent from East Sussex County Council, as Lead Local Flood Authority, regarding any works affecting the cross section of the stream or the flow of water.

2. The Applicant's attention is drawn to the provisions of:-

The Badgers Act 1992 and The Wildlife and Countryside Act 1981, as amended, in exercising any activities associated with the development.

#### Schedule of Approved Plans

Site Location Plan 121875-C-800010 Rev A, Pumping Station Overall Layout JN.497390.0C2901 Rev E, Pumping Station Elevations JN.497390.0Z0714 Rev C, Proposed Wastewater Treatment Works Elevation 121875-C-800012 Rev 0.4, Standby Generator Kiosk 121875-C-800018 Rev 01, Proposed SAFF Blower and MCC Kiosk Plan 121875-C-900016 Rev 01, Proposed SAFF Blower and MCC Kiosk Elevations 121875-C-800017 Rev 03, Topographical Land and Drainage Survey SDS 202830.04 Rev C, Proposed Sewerage Layout (Sheet 1 of 2) 5105602/WA/210 Rev D, Proposed Sewerage Layout (Sheet 2 of 2) 5105602/WA/211 Rev D, Proposed Wastewater Treatment Works Site Plan 121875-C-800011 Rev D, Proposed Wastewater Treatment Works Elevation (West) 121875-C-800013 Rev B, Landscape Proposals Plan 5105602\_WA\_611 Rev G, Tree Protection 7637\_S1\_4\_3.2 Rev A, Site Plan 121875-C-200001 Rev D

RUPERT CLUBB

Director of Communities, Economy and Transport  
10 December 2019

#### **BACKGROUND DOCUMENTS**

Application RR/834/CM

Planning permission RR/741/CM

The Development Plan

The National Planning Policy Framework 2019

The High Weald Management Plan 2019