

Committee: **Regulatory  
Planning Committee**

Date: **24 June 2015**

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

Proposal: **Proposed manege for exercising horses and formed on raised level area from imported inert waste material (soil, crushed concrete and brick).**

Site Address: **Kilwood Farm, Potmans Lane, Catsfield  
East Sussex, TN39 5JL**

Applicant: **Mr G. Verity**

Application No. **WD/752/CM**

Key Issues: (i) **Need for the development**  
(ii) **Effect on landscape & Ancient Woodland**  
(iii) **Effect on amenity**  
(iv) **Traffic considerations**

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

Local Member: **Councillors Bentley, Field and Keeley**

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## **SUMMARY OF RECOMMENDATIONS**

**1. The Committee is recommended to refuse planning permission for the reasons 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 application site is at Kilwood Farm, Potmans Lane, Catsfield, and is approximately 0.4ha in area. It comprises part of a grassed field, which is used for grazing and slopes down, southwards, into a small wooded valley, which is bordered by a stream. The woodland forms part of Kiln Wood, which is Ancient Woodland. The application site adjoins existing barns and fodder storage areas and a track provides access into the Farm from Potmans Lane, about 280 metres to the south. The local landscape is characterised by scattered ponds, hedgerows, woodland and mature trees, although overhead power lines traverse the site.

1.2 Kilnwood Farm is in close proximity to other farms in the surrounding area, including Messens Farm, which is located to the south-west. Residential properties are present along the southern part of Potmans Lane with occasional properties beyond Messens Farm to the north. The access to Kilnwood Farm off Potmans Lane is approximately 700 metres to the north of the A269. Although the proposed site of the manege lies within the administrative area of Wealden District Council, part of the access to the Farm off Potmans Lane falls within the administrative area of Rother District Council.

## **2. The Proposal**

2.1 The proposal is to import waste soils and inert materials (such as crushed concrete and brick) to build up land levels on the application site to accommodate a level area for a manege. The applicant anticipates that the volume of material required would be about 3,000 cubic metres once compacted, although further material would need to be imported to enable compaction to take place to this level. The manege would cover an area of 40 metres by 20 metres and would be used for the exercise and training of horses year round. A timber fence would be erected around the manege and the latter would be surfaced with recycled rubber. The banks of the new raised area of land would be grass seeded. The access track would also be improved with the importation of crushed concrete or planings.

2.2 The applicant considers that 400 vehicle loads would be required of 20 tonnes capacity over a 4-6 months period, which would involve 7-10 loads per day. Despite this, due to the nature of the access track, the applicant has stated that it would be likely that 15 tonnes grab lorries, or 10 tonnes load lorries, would be used for importation, which would be likely to require additional vehicle loads.

2.3 In addition, the applicant is seeking to secure land on the north-west side of the proposed manege for the development of future stables, including the installation of steps cut into a bank, an access area and a parking space for a horsebox. It appears that the applicant envisages that the stables would be constructed at the same topographical level as existing barns to the north-west, which would require the backfilling of land on the existing slope and the securing of the backfilled material by a retaining wall. However, these works are not specifically included as part of the current proposal. Although the future development of the stables and associated works is something which the applicant has stated would be a matter for the District Council to determine, the applicant has still included the affected area within the current application site.

## **3. Site History**

3.1 In April 2014, the applicant submitted a planning application at Kilnwood Farm (ref. WD/730/CM) for a similar, albeit larger, proposal on the same field for the construction of a manege. However, the applicant withdrew the application in the following month.

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

4.1 Wealden District Council raises no objections subject to the County Council being satisfied that the justification for not pursuing a cut and fill operation in the application is sufficient to justify a land raising solution and that the visual impacts from waste importation (if justified) are not of sufficient harm to warrant refusal of the application and that the traffic impacts from the waste importation are acceptable to the Highway Authority. If permission is granted, controls are recommended, regarding floodlighting, delivery times and the protection of the Ancient Woodland and watercourse.

4.2 Rother District Council raises no objections subject to: (i) Heavy goods vehicles associated with the construction should only approach the site from, and exit in, a southerly direction; (ii) The Highway Authority should be consulted; (iii) A condition should be included prohibiting any external lighting; & (iv) The County Council should consider the responses from the public and Parish Council.

4.3 Catsfield Parish Council raises no objections, although concerns are raised regarding: (i) The number of traffic movements over the period of several months; the provision of a traffic management plan should take into consideration the narrowness of Potmans Lane; & (ii) The context of the waste material – would there be adequate controls at the receiving site to ensure that the waste material is totally inert?

4.4 Ninfield Parish Council recommends refusal. There appears to be nothing different in this application compared to the one previously submitted, aside the reduced importation of waste. However, the Parish Council would question this as history shows that the importation of waste into Messens Farm had been greater than specified in the original application. There is nothing to support that any manege created at this farm would need to be positioned to require waste filling. If granted permission, it would result in another application requiring a large number of lorry movements and the associated problems that go with it. Concerns are also raised regarding the effects on the Ancient Woodland, stream and local landscape character.

4.5 The Highway Authority raises no objection, subject to the reconstruction of the vehicular access and/or provision of a passing bay. This is because the existing access is in a poor state of repair and has insufficient width to accommodate two-way traffic when large vehicles are involved. It is also noted that the access track within the site narrows quickly with no opportunities for vehicles to pass for a significant distance. Due to the width of the access, there are concerns that vehicles delivering materials will be forced to wait within the carriageway on occasions when they meet an exiting vehicle at the junction with Potmans Lane.

4.6 The Environment Agency has not submitted any observations.

4.7 Representations: Six local residents have raised objections and/or concerns on the proposal, which can be summarised as follows: (i) The lorry loads will be in addition to loads required at the neighbouring Messens Farm and from a solar farm development along Potmans Lane, which is narrow. Lorries are unable to pass each other, other than on the verge or footway; (ii) Damage to Potmans Lane has taken place as a result of lorry movements and the number of proposed deliveries is approximate only; (iii) There would be more disturbance to residents through increased traffic flow, noise, dust and damage to road infrastructure and risks to pedestrians, cyclists and horse riders; (iv) The proposal is only a money making exercise and any further granting of proposals should wait until the Messens Farm development is completed; (v) There must be a time when the construction of maneges reaches saturation point if that is the true objective for the importation of the huge amounts of 'inert' waste being tipped; (vi) Experience from Messens Farm has shown that the County Council does not have the power/resources to closely monitor the situation and that it would not be possible to monitor the quantity or quality of the infill even if a limit were imposed; (vii) The area of the development benefits from natural springs which run into the stream in the Ancient Woodland valley, then into Watermill Stream and onto the Combe Haven SSSI, and there is concern that material could end up in the watercourses; & (viii) There is concern over the lasting effect of the development on the environment.

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

5.1 The East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan 2013: Policies: WMP3b (Turning waste into a resource); WMP8b (Deposit of inert waste on land for beneficial uses); WMP25 (General amenity); WMP26 (Traffic impacts); & WMP27b (Environmental enhancement).

5.2 Wealden Local Plan 1998: Saved Policies: EN8 (Low Weald); EN13 (Ancient semi-natural woodland); EN27 (Layout & design of development); TR10 (Heavy goods vehicles in rural areas).

Wealden District Council has not formally determined whether its Saved Policies in the Wealden Local Plan are in general conformity with the NPPF. However, the Saved Policies are considered by the County Planning Authority to be in general conformity with the overarching principles of the NPPF.

5.3 Wealden District (incorporating part of the South Downs National Park) Local Development Framework, Core Strategy – February 2013

The Wealden District (incorporating part of the South Downs National Park) Core Strategy Local Plan was adopted on 19 February 2013. The Core Strategy Local Plan is the key policy document setting out a strategic vision, objectives and spatial strategy for the area up to 2027. The Core Strategy Local Plan only replaces parts of the Wealden Local Plan 1998. Some policies

from this earlier plan are still “saved” where they remain of relevance and until they are superseded by further Development Plan documents.

#### 5.4 Rother District Local Plan 2006

Saved Policies in the Rother District Local Plan 2006 will continue to be used to determine planning applications alongside the NPPF where they have not been superseded by policies in the Rother District Local Plan Core Strategy 2014.

#### 5.5 The National Planning Policy Framework (NPPF) 2012

The NPPF does not change the status of the Development Plan as the starting point for decision making and constitutes guidance as a material consideration in determining planning applications. It does not contain specific waste policies but regard should be had to NPPF policies so far as relevant. Part 11 (Conserving and enhancing the natural environment) is relevant in this case.

#### 5.6 The National Planning Policy for Waste (NPPW) 2014

The NPPW sets out detailed waste planning policies and regard should be had to them when planning authorities seek to discharge their responsibilities to the extent that they are appropriate to waste management.

## **6. Considerations**

### **Introduction**

6.1 Reference is made in the representations to development at Messens Farm, which is situated to the south west of Kilnwood Farm. For the benefit of understanding these references, in 2012, the County Council granted planning permission for a development involving the raising of ground levels with waste materials to form a manege (ref. WD/689/CM). In the following year, a further permission was granted to regularise over tipping at the site to enable the manege development to be suitably landscaped (ref. WD/720/CM). Each case should be determined on its merits and different circumstances can exist at separate locations.

### **Need for the development**

6.2 Policy WMP3b of the Waste and Minerals Plan requires that proposals involving waste development should demonstrate that they will contribute to the implementation of the waste hierarchy by indicating how the waste could be managed in the priority order of the hierarchy.

6.3 Policy WMP8b of the Waste and Minerals Plan permits the deposit of inert waste on land for beneficial uses where it is demonstrated that the proposal (a) conforms with Policy WMP8a (under this Policy, it should (a) accord with the waste hierarchy; (c) not pose an unacceptable risk to the

environment, including landscape character; & (d) demonstrate that it will not give rise to unacceptable implications for communities through adverse impacts on amenity or highway infrastructure); and (b) is an engineering operation such as that which forms part of a comprehensive scheme for restoration of suitable previously developed land; or (c) significantly enhances other development or its setting; or (d) would result in appropriate measurable improvement to the use or operation of agricultural and/or forestry land; and (e) the resulting final landform, landscape and after use enhances the environment and is sympathetic to the land uses, landscape visual amenity and nature conservation interests of the site and the surrounding area, including its landscape character; and the minimum volume of inert material is used to achieve necessary improvements.

6.4 The applicant states that alternative sites had been considered at the Farm to accommodate the proposal but that the application site is the best site, as it is considered to be the least productive area of land, excluding the woodland areas. The applicant also refers to the existing buildings and storage areas being on, generally, the only level area of land adjacent to the access track.

6.5 It is considered that the application site accommodates a robust grass sward that allows grazing to take place, whereas other land both to the west and east of the access track does not appear to be as productive in agricultural terms, as the land is used for storage or for purposes which have led to its degradation. Moreover, some of this land is reasonably level and would offer a potentially more suitable location for a manege, particularly as it would not require the importation of waste materials for construction. Therefore, it is not considered that the application site is a suitable location on the Farm to provide a level area for a manege. Moreover, it also appears that the application site is not the least productive part of the Farm when compared to other areas, as it benefits from a grass sward, which is capable of being grazed, whereas other locations at the Farm appear not to benefit in this way.

6.6 Although there would appear to be suitable, alternative locations at the Farm to accommodate the proposal, which would negate the need to import waste materials, the applicant proposes instead to import a substantial volume of waste soils and other inert materials to raise land levels. The applicant has not demonstrated that there is a justifiable need for the importation of waste to the site and that its use would contribute to the implementation of the waste hierarchy. Consequently, the proposal conflicts with Policy WMP3b of the Waste and Minerals Plan.

6.7 While Policy WMP8b of the Waste and Minerals Plan allows for the deposit of inert waste on land where it can be demonstrated that it is for beneficial purposes, the applicant has not demonstrated what these benefits might be with reference to this Policy. As noted above, the development does not accord with the requirements of the waste hierarchy. It will also pose an unacceptable risk to the environment, due to adverse effects on landscape character and Kiln Wood, and has not demonstrated that there would be no

unacceptable implications regarding effects to amenity and to highway infrastructure. Furthermore, the proposal is not an engineering operation which forms part of a comprehensive scheme for restoration on suitable previously developed land. It would neither significantly enhance other development, nor would it result in appropriate measurable improvement to the use or operation of agricultural and/or forestry land. Moreover, the resulting final landform, landscape and after use would not enhance the environment or be sympathetic to the landscape and nature conservation interests of the site and the surrounding area, including landscape character.

6.8 Matters such as landscape character and amenity are covered in more detail below but it is considered that the submitted proposal is unable to demonstrate that it would be acceptable in terms of managing waste in accordance with the waste hierarchy and in providing benefits to land through waste deposition, thereby conflicting with Policy WMP8b of the Waste and Minerals Plan.

### **Effect on landscape & Ancient Woodland**

6.9 Kilnwood Farm is located in the Low Weald countryside. Saved Policy EN8 of the Wealden Local Plan seeks to conserve the low rolling agricultural character of the landscape. Saved Policy EN13 of the Wealden Local Plan, Policy WMP27b of the Waste and Minerals Plan and Part 11 of the NPPF all seek to protect Ancient Woodland.

6.10 The site provides the setting for an agricultural complex with some remnants of the historic landscape and field structure being present. The local landscape is characterised by scattered ponds, hedgerows, woodland and mature trees. The application site is bounded on the south side by a stream and an area of Ancient Woodland, known as Kiln Wood. The proposed access to the site is via an existing narrow and unsurfaced track which passes through Kiln Wood. The character of this woodland is typical of Low Weald woodland with mature coppice stalls, a rich ground flora and scattered mature oak trees.

6.11 The proposed final landform of the manege would be discordant with the landscape and would conflict with the natural contours on the edge of the slope. The proposed construction would extend out into the steepest part of the slope. The final landform will have an adverse effect on the character of the natural topography of the site and local landscape character. Moreover, the proposed improvement to the existing track through Kiln Wood would have an urbanising adverse effect on the informal character of this currently unsurfaced woodland track, which would be likely to adversely affect the woodland through overspill of surface materials and compaction. Moreover, the use of the track by lorries during the construction period would be likely to lead to tree damage and compaction to the roots.

6.12 The proposal would have an adverse effect on the local landscape, which would be significant in the local context, a matter which Ninfield Parish Council has also noted. There are several potential alternative locations for

the development, which would have a minor effect on the local landscape character and would not require the importation of waste materials. The proposal would not conserve the low rolling agricultural character of the landscape, nor would it ensure the protection of Kiln Wood, thereby conflicting with Saved Policies EN8 and EN13 of the Wealden Local Plan, Policy WMP27b of the Waste and Minerals Plan and Part 11 of the NPPF.

### **Effect on amenity**

6.13 Policy WMP25 of the Waste and Minerals Plan requires that proposals should, inter alia, have no unacceptable effect on the standard of amenity appropriate to the established, permitted or allocated land uses of the local and host communities likely to be affected by the development, including transport links. Saved Policy EN27 of the Wealden Local Plan requires, inter alia, that the scale, form and design of development and the use of the materials and landscaping should respect the character of adjoining development. Moreover, the proposed development should not create an unacceptable adverse impact on the privacy and amenities of adjoining developments and the neighbourhood by reason of scale, height, form, noise and traffic movements.

6.14 Local residents and Ninfield Parish Council have raised concerns regarding the use of Potmans Lane by lorries and the associated adverse effects to the amenity of those living in, and using, the Lane through noise, dust and damage to the highway. It appears that other, recent development along Potmans Lane has resulted in disturbance to residents and it is considered by the residents that this current proposal will prolong disturbance and adverse effects to amenity.

6.15 Although the Highway Authority has not raised an objection regarding the use of Potmans Lane by lorries, all vehicles wishing to access Potmans Lane from the A269 must pass the residential area at the southern end of the Lane. Further development requiring the use of lorries importing waste in this rural location could result in some adverse effect on residential amenity and the amenity of other users of the Lane. Despite this, the use of lorries would be for a temporary period only and consequently, it would be difficult to identify it as a reason to justify for refusal.

### **Traffic considerations**

6.16 Policy WMP26 of the Waste and Minerals Plan requires, inter alia, that access arrangements are appropriate or could be made suitable for the volume and nature of traffic generated by the proposal, and that there would be no unacceptable safety hazards for other road users, including cyclists and pedestrians, and that there would be suitable arrangements for on site manoeuvring, parking and loading/unloading areas. Saved Policy TR10 of the Wealden Local Plan seeks to control the movement of heavy goods vehicles within the District by resisting development proposals which would have a detrimental impact on the environment by reason of a material increase in the



generation and attraction of heavy goods vehicles within villages and along unsuitable country roads.

6.17 The Highway Authority considers that the existing access serving the site is in a poor state of repair and has insufficient width to accommodate two-way traffic when vehicles larger than a standard size car are involved. The access track within the site also narrows quickly with no opportunities for vehicles to pass for a significant distance. Due to the width of the access, there is concern that vehicles delivering materials to the site will be forced to wait at the carriageway on occasions when they meet an exiting vehicle at the junction with Potmans Lane. As lorries are also unable to pass within the site, there is also a likelihood that vehicles will be required to reverse back out of the access track and onto the carriageway when meeting a vehicle head on. To satisfy the Highway Authority, the vehicular access would have to be reconstructed with the width increased or, in the event that the site access cannot be widened sufficiently, a passing bay should be provided a short distance into the site as close to the junction with Potmans Lane as possible.

6.18 Although access to the site off Potmans Lane is deficient, conditions could be applied, if planning permission is granted, to require the necessary works to be carried out before the commencement of development. Therefore, the imposition of appropriate conditions would enable the access arrangements to be made acceptable, which would comply with Policy WMP26 of the Waste and Minerals Plan.

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

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 for the importation of inert waste materials to raise land levels to accommodate a level manege for the exercise of horses. However, the applicant has also included land within the application site on which he intends to seek permission for other development but which has not been included in this proposal.

7.3 The applicant considers that the application site represents the best location for the development at the Farm, as he considers it to be the least productive agriculturally. However, it appears that not only is the site for the manege more productive, in agricultural terms, than other parts of the Farm but that the Farm benefits from other, more level land which would, in principle, be more suitable for a manege. Consequently, there is not a justifiable need for the importation of waste to construct a manege. The development as submitted does not accord with the requirements of the waste hierarchy and is unable to demonstrate how the land would benefit from the deposit of waste. As such, the proposal conflicts with Policies WMP3b and WMP8b of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan 2013.

7.4 The proposal would adversely affect the local landscape character of the Low Weald and the development would be discordant with the natural contours of the land. The proposed improvements to the access track through Kiln Wood, together with its increased use by heavy goods vehicles, would be likely to adversely affect the interests of the Ancient Woodland. Consequently, there would be a conflict with Saved Policies EN8 and EN13 of the Wealden Local Plan 1998, Policy WMP27b of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan 2013 and Part 11 of the NPPF.

7.5 In taking all matters into account, the proposed development is not considered to be acceptable and is recommended for refusal of planning permission.

7.6 In determining this planning application, the County Council has worked with the agent and sought views from consultees and neighbours, which have been considered in the preparation of 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.

7.7 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 refuse planning permission for the following reasons:

1. The proposed development could be located at an alternative site within Kilnwood Farm, thereby negating the need for the importation of a substantial volume of inert waste materials. The use of such materials would not accord with the principles of the waste hierarchy, thereby conflicting with Policy WMP3b of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan 2013.
2. The importation of inert waste materials to facilitate the construction of a manege would not be of benefit to the land and would conflict with the requirements of Policy WMP8b of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan 2013.
3. The proposed development would result in an adverse effect to the character of the natural topography of the landscape in the Low Weald, which would be significant in the local context, and would conflict with Saved Policy EN8 of the Wealden Local Plan 1998.
4. The proposed surfacing of the access track through Kiln Wood and the increased use of the track by heavy goods vehicles to facilitate the development would be detrimental to the interests of the Ancient Woodland, thereby conflicting with Saved Policy EN13 of the Wealden

Local Plan 1998, Policy WMP27b of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan 2013 and Part 11 of the National Planning Policy Framework 2012.

RUPERT CLUBB

Director of Communities, Economy and Transport

16 June 2015

**BACKGROUND DOCUMENTS**

Withdrawn planning application WD/730/CM

Application file WD/752/CM

Planning permissions WD/689/CM & WD/720/CM

The Development Plan

NPPF & NPPW