



Working in Partnership



Report to Planning Committee  
Date of Committee 24 June 2015  
By Head of Planning and Environment  
Local Authority East Sussex County Council  
Application No: SDNP/15/00790/CW  
Applicant: Mr Mike Holland  
Proposal: Retention of imported waste material and profiling of existing materials to raise the level of a paddock for drainage improvements  
Site Address Falmer Court Farm, East Street, Falmer, BN1 9PB  
Purpose of Report The application is reported to Committee for a decision

**Recommendation: That the application be Refused for the reasons set out in paragraph 9.1 of this report.**

## **1. Site Description**

1.1 The application site is 0.3ha in area and is located on the eastern side of Falmer village at Court Farm. The site had been used as a paddock and now accommodates tipped waste materials and is used for the storage of various materials and other items, including motorised vehicles. The land generally slopes down to the south-east. The site lies to the east and north of buildings associated with Court Farm, including a large tithe barn, which is a Grade II\* Listed Building. Open downland extends to the east and south of the site. The Brighton to Lewes railway line tracks east-west to the north of the site with the A27 Trunk Road beyond. Access to the site is via the village road of East Street from the B2123, which connects to the A27 to the north and follows southwards to Woodingdean. The site is within the Falmer Conservation Area and South Downs National Park (SDNP).

## **2. Relevant Planning History**

2.1 A planning application was submitted in August 2014 (ref. SDNP/14/04290/CW) following an investigation into the unauthorised importation of waste materials to the site. The applicant sought to retain the materials and import additional materials to raise the level of the paddock to improve drainage. The application was withdrawn by the applicant in December 2014.

## **3. Proposal**

3.1 The proposal is to retain and profile imported waste, comprising largely soils and hardcore but also including other waste materials, within the application site and to consequently raise the level of the land, which the applicant considers will improve drainage. According to the applicant, approximately 135 tonnes of crushed hardcore type materials and 320 tonnes of soils have been deposited, which stand at

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about 1.2 metres at the highest point. The applicant states that all material will be profiled and would taper into non-waste tipped ground, not exceeding a gradient of 1:7. On completion, it is proposed to import topsoil to be spread at a depth of 0.25m across the site and thereafter sown with a wild flower seed mix.

#### **4. Consultations**

4.1 The South Downs National Park Authority has indicated that the application should be managed by the County Council on its behalf.

4.2 The Lewes District Council Conservation Officer raises objections. It is noted that a Grade II\* Listed Building is immediately to the west of the application site and that it is within the Falmer Conservation Area and SDNP. Concerns are raised regarding the weak justification for the proposal because only circumstantial evidence has been provided that the works are necessary to improve the drainage at the site. It is also unclear why material was imported to address this issue rather than looking at a more benign approach to landscaping. There is also concern regarding the impact on the setting of the Listed Building, the Conservation Area and the SDNP, as it is considered that the natural contours of the landscape have been changed so that the site now appears incongruous within its wider setting. No assessment has been provided on the impact of the development on the setting of the Listed Building or on the Conservation Area and National Park.

4.3 Falmer Parish Council raises objections, which can be summarised as follows: (i) Unlawful tipping of a considerable volume of waste has taken place without any checks on its content; (ii) Tipping has also taken place before the applicant took over; (iii) Some areas of the paddock have several feet of waste dumped on it; (iv) Topsoil had been stripped back and saved but was used to cover rubbish before more was deposited; (v) There is uncertainty where the waste has come from or what it comprises; (vi) An old flint wall was knocked down to provide access to the paddock and this should be reinstated; (vii) The paddock has never been subject to ponding. In the past, cattle, horses and chickens have been left in the paddock; and (viii) The heavy goods vehicles which had brought in the waste cut up the land and created a mess which resulted in ponding.

4.4 The Highway Authority raises no objections.

4.5 The Environment Agency has not submitted any observations.

#### **5. Representations**

5.1 No representations received.

#### **6. Policy Context and Policies**

6.1 Applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise.

6.2 The East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan 2013: Policies: WMP2 (Waste development affecting SDNP); WMP3b (Turning waste into a resource); WMP8b (Deposit of inert waste on land for beneficial purposes); WMP25 (General amenity); WMP27 (a) (Environment & Environmental Enhancement).

6.3 Lewes District Local Plan 2003: Saved Policies: H2 (Listed Buildings); H5 (Development within or affecting Conservation Areas).

6.4 Lewes District Council Proposed Submission Core Strategy 2013: In September 2014, the Core Strategy was submitted for Examination to the Secretary of State and the Examination commenced in January 2015. The District Council received the Inspector's Interim Findings letter in February, which

recommended modifications to make the plan sound. Relevant policies: Core Policy 10 (Natural environment and Landscape Character); Core Policy 11 (Built and Historic Environment and High Quality Design).

#### 6.5 National Planning Policy Framework (NPPF) and Circular 2010

Government policy relating to National Parks is set out in English National Parks and the Broads: UK Government Vision and Circular 2010 and The National Planning Policy Framework (NPPF) which was issued and came into effect on 27 March 2012. The Circular and NPPF confirm that National Parks have the highest status of protection and the NPPF states at paragraph 115 that great weight should be given to conserving landscape and scenic beauty in the National Parks and that the conservation of wildlife and cultural heritage are important considerations and should also be given great weight in National Parks. Parts 11 (Conserving and enhancing the natural environment) and 12 (Conserving and enhancing the historic environment) are relevant in this case.

#### 6.6 National Park Purposes

The two statutory purposes of the SDNP designation are:

- To conserve and enhance the natural beauty, wildlife and cultural heritage of their areas;
- To promote opportunities for the public understanding and enjoyment of the special qualities of their areas.

If there is a conflict between these two purposes, conservation takes precedence. There is also a duty to foster the economic and social well-being of the local community in pursuit of these purposes.

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

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

#### 6.8 The South Downs Partnership Management Plan

The South Downs Partnership Management Plan (SDPMP) was adopted on 3 December 2013. It sets out a Vision and long term Outcomes for the National Park, as well as 5 year Policies and a continually updated Delivery Framework. The SDPMP is a material consideration in planning applications and has some weight pending adoption of the SDNP Local Plan.

### **7. Planning Assessment**

#### Need and purpose of development

7.1 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.

7.2 Policy WMP8b of the Waste and Minerals Plan permits the deposit of only 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.

7.3 The applicant states that the material present at the site had been saturated with water making it unsuitable for use. He considers that the existing topography makes the paddock inaccessible during periods of heavy rain and creates poor conditions on site and that the proposed changes will facilitate access and the proper use of the paddock year round.

7.4 Although the applicant considers that the site suffers from poor drainage, it is noted by the Parish Council, with reference to the previous use of the Farm, that there had not been a drainage problem and that the paddock had been used satisfactorily by livestock. It is also noted by the Parish Council that other materials had been deposited at the site before the subsequent deposit of waste, the subject of the current application, which may have affected drainage. The importation of further waste materials and the effects of heavy goods vehicles on the land would have been likely to exacerbate any drainage problems. It appears that any land problems relating to drainage have originated over the last few years as a result of material deposition.

7.5 It also appears that the applicant has not explored alternative ways of addressing the apparent drainage issue at the site. For example, the removal of accumulated material within the paddock to original levels, when livestock were present, might have proved to be beneficial, rather than importing additional waste to raise land levels. It is uncertain how the importation of waste and the raising of land levels would improve drainage at the site, particularly when the land generally slopes down to the south-east and that the underlying substrate is likely to comprise permeable chalk. Therefore, it is not considered, in this case, that the importation of waste is an appropriate method of dealing with a potential drainage issue when it appears that the land had not experienced a drainage problem previously. As such, the applicant has not demonstrated 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.

7.6 Although Policy WMP8b of the Waste and Minerals Plan allows the deposit of inert waste on land where it can be demonstrated that it is for beneficial purposes, the applicant has not fully demonstrated what the benefits might be with reference to this Policy. As noted above, the development does not accord with the requirements of the waste hierarchy and no assessment has been provided regarding the impact of the importation of waste and any proposed restoration of the site on the setting of the Listed Building, Conservation Area or National Park. Furthermore, the development is not an engineering operation which forms part of a comprehensive scheme for the restoration of suitable previously developed land. It neither significantly enhances other development, nor results in appropriate measurable improvement to the use of agricultural and/or forestry land. Moreover, the resulting final landform would not enhance the environment or be sympathetic to the landscape of the National Park, including the local landscape character (see following section).

7.7 It is clear that the 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 and does not provide justification that it is an appropriate operation in relation to policy. It is considered therefore that the proposal conflicts with Policy WMP8b of the Waste and Minerals Plan.

#### Effect on SDNP landscape, Conservation Area & Listed Building

7.8 Policy WMP2(a) of the Waste and Minerals Plan states that waste development should demonstrate that it contributes to the sustainable development of the National Park. Policy WMP27(a) states that to conserve and enhance the local character and environment, planning permission will not be granted where the development would have a significant adverse impact on, inter alia, the National Park, Listed Buildings and Conservation Areas. These assets should be protected and enhanced.

7.9 The reasoned justification for Saved Policy H2 of the Lewes District Local Plan notes that in considering development, regard will be given to the importance of a Listed Building, its special features, setting and contribution to the local scene. Saved Policy H5 of the same Plan requires development to, inter alia, conserve and enhance the special architectural or historic character or appearance of the area, respect any important traditional groups of buildings, which contribute to the character of the area, and protect open spaces.

7.10 Part 11 of the NPPF highlights the need for the planning system to contribute to and enhance the natural and local environment by, inter alia, protecting and enhancing valued landscapes. Great weight should be given to conserving the scenic beauty in National Parks, which have the highest status of protection in relation to landscape and scenic beauty. Part 12 of the NPPF requires that planning applications should describe the significance of any heritage assets affected, including any contribution made by their setting. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation; significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting.

7.11 Core Policy 10(2) of the Lewes District Local Plan Submission Core Strategy states that highest priority will be given to the conservation and enhancement of the landscape qualities of the National Park and Core Policy 11 seeks to ensure high quality design in all new development which respects the character and distinctiveness of the District, and development within the National Park shall be in accordance with the Park purposes and should respond sympathetically to the site and its local context.

7.12 As referred to above, the applicant has not provided an assessment of the impact of the development on the National Park, the Falmer Conservation Area or the tithe barn Listed Building, a matter which has also been highlighted by Lewes District Council's Conservation Officer. Although the proposed re-profiling of the materials and restoration to pasture would be an improvement compared to the current situation, the act of waste importation has degraded the land and the previously existing natural contours of the landscape have been changed so that the site now appears incongruous within its wider setting; this change would remain evident even with the re-profiling of the site. Any retention of the waste materials also raises a concern regarding the successful restoration to pasture. Experience of sites elsewhere, on which mixed materials and rubble have been deposited, is that the proposed 0.25m topsoil layer would not be adequate to ensure successful restoration. Larger lumps of concrete, glass and metals, which have been identified at the site, will continue to work to the surface. Even with a surface clearance of these materials prior to top soiling, this will be an on-going issue and hazard for the proposed future use as a paddock. Consequently, the development would not contribute to the conservation or enhancement of the landscape of the National Park in the local context, nor would it contribute to the appearance of the Conservation Area or the setting of the tithe barn Listed Building, thereby conflicting with policies which seek to protect the valued landscape of the National Park, the character of Falmer Conservation Area and the setting of the tithe barn Listed Building. The most desirable outcome for the site in relation to the local landscape character and to the setting of the Listed Building and Conservation Area would be for the restoration of the land to original levels.

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

8.1 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.

8.2 The proposal is to retain imported waste materials and re-profile existing materials to raise the level of the paddock so that, in the applicant's view, improvements can be made to drainage and the site be returned for use as pasture.

8.3 It appears that a few years ago the site was satisfactorily used as a paddock to accommodate livestock without problems to drainage. Since then and with the deposition and accumulation of materials,

including waste, there is apparently now a drainage problem. Rather than seek a more sustainable and propitious method of drainage, the applicant is seeking to raise land levels with waste. The use of waste for this purpose does not accord with the principles of the waste hierarchy and conflicts with Policy WMP3b of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan 2013. Furthermore, the applicant has failed to demonstrate what the benefits would be to the land in relation to Policy WMP8b of the same Plan.

8.4 The site is within the South Downs National Park and the Falmer Conservation Area and is adjacent to a tithe barn Grade II\* Listed Building. However, no assessment has been carried out to determine the impact of the development on these natural and historic assets. The natural contours of the application site have been altered to make the raised land appear out of place. Moreover, given the nature of the materials present in the waste, successful restoration to pasture would be difficult. Consequently, the development does not protect and enhance the local landscape character of the National Park, nor the character and appearance of the Conservation Area or the setting of the Listed Building, thereby conflicting with Policy WMP27(a) of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan 2013, Saved Policies H2 and H5 of the Lewes District Local Plan 2003, Parts 11 and 12 of the NPPF and Core Policies 10 and 11 of the Lewes District Submission Core Strategy 2013.

8.5 In taking all matters into account, the proposed development is not considered to be acceptable and should be refused planning permission. Moreover, the applicant should be required to remove the imported waste materials, the subject of this application, and to restore the site to a state similar to its previous condition. If necessary, appropriate enforcement action should be taken to require removal.

8.6 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.

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

## **9. Formal Recommendation**

9.1 To recommend that the Planning Committee refuse planning permission and support the undertaking of appropriate enforcement action, for the following reasons:

1. It has not been demonstrated that the importation of waste materials is required to manage drainage at the site and that there are no suitable alternative methods. Therefore, there is no justifiable need for the importation of waste for reasons of drainage and the use of the waste for this purpose does 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 at the site to raise land levels for the purposes of drainage would not be of benefit to the land and would conflict with Policy WMP8b of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan 2013.

3. The importation of waste materials at the site does not accord with the requirements to protect the landscape character of the South Downs National Park, thereby conflicting with Policies WMP2 and WMP27(a) of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan 2013, Part 11 of the National Planning Policy Framework 2012 and Core Policy 10 of the Lewes District Submission Core Strategy 2013.

4. The importation of waste materials at the site does not accord with the requirements to conserve and enhance the character and appearance of Falmer Conservation Area and the setting of the tithe barn Grade II\* Listed Building, thereby conflicting with Policy WMP27(a) of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan 2013, Saved Policies H2 and H5 of the Lewes District Local Plan 2003, Part 12 of the National Planning Policy Framework 2012 and Core Policy 11 of the Lewes District Submission Core Strategy 2013.

9.2 To authorise the Director of Communities, Economy and Transport to take appropriate enforcement action to secure the removal of all deposited inert and non-inert waste materials in breach of planning control at this site.

#### **10. Crime and Disorder Implication**

10.1 It is considered that the proposal does not raise any crime and disorder implications.

#### **11. Human Rights Implications**

11.1 This planning application has been considered in light of statute and case law and any interference with an individual's human rights is considered to be proportionate to the aims sought to be realised.

#### **12. Equalities Act 2010**

Due regard has been taken of the South Downs National Park Authority's equality duty as contained within the Equality Act 2010.

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