

Committee: **Regulatory
Planning Committee**

Date: **16 March 2022**

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

Proposal: **Temporary widening of the treatment works access with
Shrub Lane and temporary use of land adjacent to the
works as a compound to include vehicle turning (part-
retrospective)**

Site Address: **Burwash Water Treatment Works, Shrub Lane, Burwash**

Applicant: **Mr Lawrence Blyth, Southern Water Services Ltd.**

Application No. **RR/861/CM**

Key Issues: **(i) Purpose of the development
(ii) Effects of the development**

Contact Officer: **Jeremy Patterson**

Local Member: **Councillor Eleanor Kirby-Green**

SUMMARY OF RECOMMENDATIONS

1. To grant planning permission subject to conditions as indicated in paragraph 8.1 of this report.

CONSIDERATION BY DIRECTOR OF COMMUNITIES, ECONOMY AND TRANSPORT

1. The Site and Surroundings

1.1 The application site is approximately 1.3 kilometres to the north-east of the junction of Shrub Lane, a classified road, with the A265 in Burwash village and consists of the private access track leading about 130 metres eastwards from Shrub Lane towards the Burwash Wastewater Treatment Works (WTW) and an area used as a construction compound on the south side of the track. The WTW adjoins the application site at a lower level to the east with a substantial area of woodland, Park Wood, beyond. Park Wood includes areas of ancient and semi-natural woodland and is a Local Wildlife Site. Grassed fields border the access track on either side and a small block of coniferous woodland stands to the rear of the compound. Two residential properties are located off Shrub Lane opposite the WTW access and other properties are

present to the north and south of the access along the Lane. The whole area is within the High Weald Area of Outstanding Natural Beauty (AONB).

2. The Proposal

2.1 The applicant is currently upgrading the WTW, which involves development that does not require express planning permission. However, to facilitate this development, works are required that do require planning permission, which the applicant is seeking retrospective approval, namely: (i) the temporary widening of the junction of the site access with Shrub Lane to allow construction vehicles to enter and leave the site safely, and (ii) the temporary change of use of part of a grassed field on the south side of the access track to a temporary construction compound (approximately 600sqm in area), incorporating offices and plant, car parking and a turning space for large vehicles. The applicant has indicated that the affected areas would be reinstated to their previous use and appearance when works to upgrade the WTW have been completed.

3. Site History

3.1 There is no known recent development at the site.

4. Consultations and Representations

4.1 Rother District Council raises no objections.

4.2 Burwash Parish Council has not submitted any observations.

4.3 Flood Risk Management ESCC raises no objections.

4.4 High Weald AONB Officer has no comments.

4.5 The Highway Authority raises no objections and considers the proposed reinstatement of the access to be acceptable. However, it recommends that a condition is included requiring details to be submitted for approval on the works to the access so that they can be undertaken under an appropriate licence.

4.6 NatureSpace raises no objections as the development has already been undertaken and the works are temporary in nature. However, as the site is located within a red impact zone for Great Crested Newts (GCN), in which there is suitable habitat and a high likelihood of the species being present, an informative is recommended reminding the applicant of the requirements to protect GCN under the regulations.

4.7 Other representations: Three residents have raised concerns and objections to the proposal. These are primarily on the grounds of the removal of the hedgerow in the AONB, the inaccurate information in the application relating to the removal of the hedgerow and the proposed details for restoration. Other matters are also noted regarding impacts on drainage and

the highway. The residents request that the hedgerow should be reinstated to how it was before it was removed. It is also requested that the site access gates be set further back to accommodate large vehicles more easily off Shrub Lane.

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 wastewater and sewage sludge), WMP25 (General amenity), WMP26 (Traffic impacts) and WMP27 (Environment).

5.2 Rother District Local Plan Core Strategy 2014: Policy EN1 (Landscape stewardship).

5.3 Rother District Development and Site Allocations Local Plan 2019: Policy DEN2 (High Weald AONB).

5.4 The High Weald AONB Management Plan 2019-2024: Objective FH2 (Field and heath – hedgerows).

5.5 National Planning Policy Framework 2021: Part 15 (Conserving and enhancing the natural environment) is relevant.

6. Considerations

Purpose of the development

6.1 Under its Environmental Permit, the applicant has been required by the Environment Agency to upgrade the WTW to meet revised requirements for the control of iron and phosphorous levels in the final discharge effluent. These works do not require express planning permission, as they benefit from being 'permitted development' under Part 13 (water and sewerage) of The Town and Country Planning (General Permitted Development) (England) Order 2015. However, the changes to widen the access and the works to construct the compound do require planning permission. The applicant considers these works are necessary to facilitate the upgrade of the WTW and in that respect, they are supported by Policy WMP10 of the Waste and Minerals Plan for development which contributes to meeting relevant environmental standards for wastewater treatment.

Effects of the development

6.2 As the applicant is seeking retrospective planning permission for the development, the works have therefore already taken place. The widening of the access to allow for less constrained movement of large vehicles and for greater visibility has resulted in part of the verge and hedgerow being removed on the southern side with more limited disturbance on the northern side. Although it is evident that vegetation associated with the hedgerow has

been removed, the application appears not to corroborate this. Moreover, the proposed restoration of the access indicates that the verges will be restored and replaced to their original appearance, but the details show the restoration to involve the application of a grass seed mix rather than restoration to a hedgerow. As such, the application appears to be contradictory. Nearby residents have also raised objections on the way the hedgerow has been treated and on the proposals for the restoration of the access: they seek restoration to a hedgerow in keeping with what was previously present. Hedgerows are important features in the local landscape and provide habitats for wildlife and are afforded specific protection under the Rother District Core Strategy and the High Weald Management Plan. Consequently, they should be protected and reinstated where they have been subject to damage and where the opportunity allows for it. This is a case where such reinstatement could be undertaken. Therefore, notwithstanding the proposals set out in the application, a condition is recommended which requires the applicant to submit revised details of the restoration of the access, including verge reinstatement and a planting plan for the restoration of the hedgerows along their previous alignments. In terms of the compound, this is proposed to be reinstated to grassland in keeping with the rest of the field and is considered to be acceptable.

6.3 The widening of the access has also resulted in the need for temporary hard surfacing, which will be removed on reinstatement; two existing drainage gullies will also need to be accommodated as part of the reinstatement works. Nearby neighbours have referred to damage, including subsidence, on Shrub Lane following the widening works. Although these works should have been carried out under an appropriate licence, the reinstatement of the access with Shrub Lane is, in principle, considered acceptable by the Highway Authority. However, in order that these works are undertaken under licence, details on the reconstruction of the access, including for drainage and surfacing, should first be submitted for approval and to comply with Policy WMP26 of the Waste and Minerals Plan. Nearby residents have also noted that large vehicles overhang the access onto Shrub Lane if the site access gates are closed, thereby resulting in a potential hazard for other users of the Lane. It is uncertain whether this is a situation that has only occurred during the upgrade works or if it also occurs at other times. Therefore, a condition is recommended which requires the applicant to move the site access gates further into the site, unless it can be demonstrated that the overhanging of vehicles would not take place with the gates closed after the current upgrade works have been completed.

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 applicant is undertaking works to upgrade the Burwash WTW. To facilitate this, retrospective planning permission is sought for works to widen

the junction of the access to the WTW with Shrub Lane and for a change of use to a small area of land for use as a construction compound. The works to upgrade the WTW are permitted development, but the works to the access and construction compound require planning permission and as such, accord with Policy WMP10 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan 2013. However, the widening of the access has resulted in the removal of part of a verge and hedgerow, although the proposed restoration indicates that the southern part of the access, where most of the widening has taken place, would be grass seeded. This is not considered to be acceptable, and it is recommended that revised details should be required for the reinstatement of the access in respect of the verges and hedgerows, together with works to the highway. Subject to this requirement, the development can be considered to be acceptable and not to conflict with policies which seek to protect the AONB, safeguard general amenity and provide for appropriate access arrangements, namely Policy EN1 of the Rother District Local Plan Core Strategy 2014, Policy DEN2 of the Rother District Development and Site Allocations Local Plan 2019, Policies WMP25, WMP26 and WMP27 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan 2013, Objective FH2 of the High Weald AONB Management Plan 2019-2024 and the provisions in Part 15 of the National Planning Policy Framework 2021.

7.3 In considering this planning application, the County Council has worked with the applicant 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 following conditions:

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

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

2. Before completion of the works to upgrade the Burwash Wastewater Treatment Works, details and drawings of works to reinstate the site access at the junction with Shrub Lane shall be submitted to the Director of Communities, Economy and Transport for approval in writing and shall include:-

- (i) Reconstruction of the verges to their alignment before the temporary widening works were undertaken;
- (ii) A species planting plan for the reinstatement of the hedgerows to complement the existing hedgerows and to include numbers, size and spacings of plants;
- (iii) Reconstruction of the affected part of the public highway and its interface with the Treatment Works access track, including surfacing and retention of existing gully drains;
- (iv) Provision of a timetable for the reinstatement works, including for the restoration of the area of the temporary compound; and
- (v) Provision for a five years aftercare plan for the planting associated with the reinstated hedgerows.

The approved details shall be carried out in full.

Reason: To secure an appropriate restoration of the access in the High Weald AONB in accordance with Policies WMP25 and WMP26 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan 2013, Policy EN1 of the Rother District Core Strategy Local Plan 2014, Policy DEN2 of the Rother District Development and Site Allocations Local Plan 2019, Part 15 of the National Planning Policy Framework 2021 and Objective FH2 of the High Weald AONB Management Plan 2019-2024.

3. Before completion of the works to upgrade the Burwash Wastewater Treatment Works, details of works to re-locate the site access gates further into the site in order to avoid large vehicles over-hanging Shrub Lane when the gates are closed shall be submitted to the Director of Communities, Economy and Transport for approval in writing, unless it can be demonstrated in writing that this will not be able to take place after works to upgrade the Treatment Works have been completed.
The approved details shall be carried out in full.

Reason: To secure a safe access in accordance with Policies WMP25 and WMP26 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan 2013.

INFORMATIVE

1. The applicant is reminded that, under the Conservation of Habitats and Species Regulations 2017 (as amended) and the Wildlife and Countryside Act 1981 (as amended), it is an offence to: deliberately capture, disturb, injure or kill great crested newts; damage or destroy a breeding or resting place; deliberately obstructing access to a resting or sheltering place. Planning approval for a development does not provide a defence against prosecution under these acts. Should great crested newts be found at any stages of the development works, then all works should cease, and Natural England should be contacted for advice.

Schedule of Approved Plans

751149-JTX-XX-XX-DR-T-00003- Site Location Plan, 751149-JTX-XX-XX-DR-T-00004- Existing And Proposed Site Layout Plans, 751149-JTX-XX-XX-DR-T-00005- Vehicle Tracking

RUPERT CLUBB

Director of Communities, Economy and Transport

8 March 2022

BACKGROUND DOCUMENTS

Application RR/861/CM

The Development Plan

National Planning Policy Framework 2021