

Committee: **Regulatory  
Planning Committee**

Date: **9 March 2016**

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

Proposal: **Disposal of waste for infilling haul road area that was created to facilitate access to landslip area filled in under planning permission WD/403/CM (part retrospective)**

Site Address: **Stone House Farm, Pilmer Road, Crowborough.**

Applicant: **Mr B. Smith**

Application No. **WD/769/CM**

Key Issues: **(i) Purpose of the development  
(ii) Effect on AONB & landscape  
(iii) Archaeological impact  
(iv) Access**

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

Local Member: **Councillor Whetstone**

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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 0.4ha in area and forms part of the estate attached to Stone House Farm, Pilmer Road, Crowborough. The site comprises land that has previously been used as pasture for grazing horses. It is located on the western side of a wooded valley to the north of Crowborough within the High Weald Area of Outstanding Natural Beauty (AONB). A stream runs through the valley and there are several ponds in the vicinity. To the east of the application site is Hodges Wood, which is designated as Ancient Woodland and a Site of Nature Conservation Importance. Part of the application site also falls within an Archaeological Notification Area.

1.2 Pilmer Road provides access from Crowborough to Stone House Farm and runs to the west of the application site. Beyond the built up residential area, it becomes a track which is also a public footpath (Rotherfield 70b). An alternative access to Stone House Farm can be gained from the track leading northwards from the A26 at Steel Cross. The first part of this track is also a designated public footpath (Crowborough 50), leading to residential properties. Commercial premises, including a timber products business and a small waste transfer station, are present further along the track towards Hodges Wood. This track proceeds through Hodges Wood and passes along the southern boundary of the application site and then continues north-westwards to Pilmer Road. On the north side of the waste transfer station site is a building with associated land, which was granted planning permission by Wealden District Council as an agricultural barn and part use as a driveway repair business.

## **2. The Proposal**

2.1 The application site comprises land which has, according to the applicant, been affected by slippage, and a track (in effect, a 'haul road'), which had originally been constructed to facilitate the development under permission WD/403/CM (see paragraph 3.1 below).

2.2 The proposal is for part retrospective planning permission to retain imported waste materials and import additional materials for the purposes of infilling the land. According to the applicant, some 1,000 cubic metres of subsoils have been imported to infill land associated with the change in levels that has occurred within the field. The applicant considers that a further 750 cubic metres is required to be imported to complete the works, which would be delivered using 10 tonnes lorries and landscaped with a tracked vehicle. Topsoil has also been brought onto the site, apparently in an attempt to bind the top layer of ground which has already been subject to infilling. In total, 1,750 cubic metres of waste material is involved, excluding topsoils. Access would be via the track leading from the A26 at Steel Cross northwards to the site and the proposed working hours are between 09.00 and 16.00 Mondays to Fridays.

## **3. Site History**

3.1 Planning permission was granted (subject to conditions) in May 2004 (ref. WD/403/CM) for the disposal of waste for infilling an area which had been subject to a landslip and for it to be returned to grazing by horses. The proposal also involved works to construct a drainage channel to prevent further slippages. The application site relating to WD/403/CM comprises a small part of the same field, which is the subject of the current application.

## **4. Consultations and Representations**

4.1 Wealden District Council raises no objections subject to: (1) The County Council being satisfied that the proposals are fully justified as a means

of conserving or enhancing the AONB landscape, are proportionate and appropriate to the stated aim of returning the land for use as pasture and are not associated solely with an unjustified deposit of waste materials; (2) The County Council being satisfied that only clean, uncontaminated waste material is used in the development; (3) Consideration of any comments from the County Archaeologist in respect of the implications on the Archaeological Notification Area, which applies to the eastern part of the application site; & (4) If planning permission is granted, a condition should be imposed requiring the access to be that as proposed from the A26 at Steel Cross and not along Pilmer Road, in order to safeguard the amenity of residents.

4.2 Rotherfield Parish Council recommends approval subject to the land and topsoil being reinstated correctly.

4.3 Highway Authority raises no objections on the basis that this application is similar to application WD/403/CM, which was granted permission subject to highway conditions. The same conditions should apply to this application to limit vehicular activity from a substandard access point off the A26 at Steel Cross and protect residential amenity at Pilmer Road.

4.4 Environment Agency (EA) notes that any development using waste or other material for engineering works may require an Environmental Permit, unless it is exempt. Waste transported to and from the development site must only be carried by a registered waste carrier. If planning permission is granted, the applicant will need to discuss the permitting implications with the EA.

4.5 ESCC Flood Risk Management Team notes that the proposal is in an area with a low risk of flooding and is likely to have a minimal impact on existing development and therefore raises no objections.

4.6 Representations: None received.

**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: WMP8b (Deposit of Inert Waste on Land for Beneficial Purposes); WMP25 (General Amenity); WMP26 (Traffic Impacts); WMP27a (Environment and Environmental Enhancement).

5.2 Wealden District Local Plan 1998: Saved Policies: EN6 (High Weald AONB); EN27 (Design & Layout of Development).

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 Waste Planning Authority to be in general conformity with the overarching principles of the NPPF.

### 5.3 Wealden District Council (incorporating part of the South Downs National Park) Core Strategy Local Plan 2013

The Wealden District (incorporating part of the South Downs National Park) Core Strategy Local Plan was adopted in 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. Currently, saved development management policies contained in the Wealden Local Plan 1998 remain part of the Development Plan for the area.

### 5.4 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. Parts 11 (Conserving and enhancing the natural environment) and 12 (Conserving and enhancing the historic environment) are relevant in this case.

### 5.5 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**

### **Purpose of the development**

6.1 Policy WMP8b of the Waste and Minerals Plan permits proposals for the deposit of inert waste on land where it is demonstrated that it would result, inter alia, in appropriate measurable improvement to the use or operation of agricultural and/or forestry land and the resulting landform, landscape and afteruse 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.

6.2 Part of the field, the subject of the current application, has previously been subject to waste importation and deposition due to a landslip. Planning permission was granted in 2004 to allow 1,000 cubic metres of waste soils to be used to level about 0.05ha of ground and for its return to pasture for horses. An access across the field to the slippage area, together with measures for land drainage, also formed part of the development, the latter to reduce the potential for future land slippages. However, it is unknown to what extent these drainage measures were implemented.

6.3 According to the applicant, the works granted permission under WD/403/CM have been implemented, although clearly the drainage measures have not been successful and that, as a result of the works and construction

of the access track, further land slippage has occurred. The applicant is now seeking to infill these areas. However, much of this infilling has already taken place, amounting to the deposit of some 1,000 cubic metres. According to the applicant, a further 750 cubic metres is still required.

6.4 Some of the waste soils that have been imported and deposited in the field have been graded out but appear to cover a larger area than the combined areas of the application site under permission WD/403/CM and under the current application. The soils also appear to include hardcore materials, which are not considered appropriate in this AONB location and for the intended afteruse to graze horses. Furthermore, it is considered, following an officer site visit, that the amount of material already on site, both profiled and non-profiled waste, appears to be sufficient to enable the re-profiling of the land without the need for further importation.

6.5 Therefore, it is not considered necessary or appropriate to permit any further importation of waste materials to this site, as it is likely that sufficient materials are present to enable an appropriate profile to be secured. Moreover, if the same type of materials hitherto deposited were to be used in any future deposits, if permission were granted for further importation, this would be considered inappropriate for the afteruse of the site.

6.6 The further importation and deposit of waste materials in this location does not represent a benefit to the land under the provisions of Policy WMP8b of the Waste and Minerals Plan and is not supported in principle.

### **Effect on AONB & landscape**

6.7 Policy WMP27a of the Waste and Minerals Plan seeks to conserve and enhance the local character and environment of the Plan Area and permission will not be granted where the development would have a significant adverse effect on the High Weald AONB. Saved Policy EN6 of the Wealden Local Plan indicates that development will only be permitted if it conserves or enhances the natural beauty and character of the landscape. Part 11 of the NPPF gives great weight to conserving the landscape and scenic beauty in AONBs.

6.8 The area surrounding the site is a typical High Weald rural landscape with well-defined and irregular shaped fields enclosed by tree belts and hedgerows. The Ancient Woodland that surrounds the site and is present either side of the access track is largely sweet chestnut coppice with mature oak standards. The site is well screened from Pilmer Road as the land slopes steeply away from the road. Other public views are screened by the dense woodland which surrounds the site, although there are distant views into the area from Boarshead from where activity on the site could be visible.

6.9 Under WD/403/CM, planning permission was granted on the basis that the deposited materials would be restricted to soils and to a discreet area, except where some hardcore would be needed for the construction of an underground drainage channel. This development was considered to be sufficient to restore the land to original levels and improve it for grazing stock

and as a result, have no long term detrimental impact on the local landscape. It was also considered that the proposed access track would not have an adverse effect on the nature conservation interests in the locality. However, the current proposal is different, as it affects a larger area of the field and thus the AONB, and does not only involve soils as the infill material. Whereas, in High Weald landscape management terms, it would be desirable, even with the presence of unsuitable infill material, to return the field to pasture, the importation of further materials in this location would not accord with policies to conserve or enhance the AONB.

### **Archaeological impact**

6.10 Policy WMP27a of the Waste and Minerals Plan seeks to conserve and enhance local character and the environment, and permission will not be granted where the development would have a significant adverse impact on sites recognised for their cultural and historic significance. Part 12 of the NPPF requires development to conserve and enhance the historic environment.

6.11 The potential extent of a Romano-British bloomery (iron working) site is presently recorded to the south and east of the site and an Archaeological Notification Area extends across a large part of the application site. As noted above, most of the field in which the application site lies appears to have been subject to some form of tipping and re-profiling, and it is likely that this will have adversely affected any potential archaeological interest within the application site. In archaeological terms, any further work at the site to re-profile existing imported materials should be carried out in such a way that it would not lead to any new impacts which could disturb archaeological remains.

### **Access**

6.12 Policy WMP26 of the Waste and Minerals Plan requires proposals to have, inter alia, suitable access arrangements and that no unacceptable safety hazards would be generated.

6.13 The proposed access seeks to continue to use the access track off the A26 at Steel Cross. Although part of the access nearest to the A26 also serves as a public footpath (Crowborough 50), restrictions could be placed on the number of daily vehicle movements, similar to permission WD/403/CM, to minimise effects to the safety of pedestrians.

6.14 The Highway Authority raises no objection, as this application is similar to WD/403/CM but recommends that if planning permission is granted, similar conditions regarding the access and numbers of lorry movements per day should be imposed.

## **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 Although planning permission was granted under WD/403/CM for works which involved the infilling of land which had been subject to slippage, it was granted on the basis that the application site was very small and defined, being only about 0.05ha in area, that the proposed infill material was confined to soils and that the drainage works would prevent further slippages. In comparison, the current application refers to a much larger area and the imported materials are not confined to soils. Moreover, the infilling activities extend beyond the combined application site areas of both WD/403/CM and the current proposal. Therefore, a large part of the entire field has been subject to infilling works which has had a detrimental effect on the landscape of the High Weald AONB and has limited the options for afteruse of the site. Moreover, the extent of works and the types of materials used in this location, and envisaged in the application, would have been unlikely to have been granted planning permission if a proposal had been submitted before any works had been carried out. It is also possible that the works have resulted in adverse effects to archaeological remains.

7.3 The importation of waste materials, as described above, provides no substantive benefit to the land, thereby conflicting with Policy WMP8b of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan 2013 and neither conserves nor enhances the landscape of the High Weald AONB, which conflicts with Policy WMP27a of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan 2013, Saved Policy EN6 of the Wealden Local Plan 1998 and the provisions of Part 11 of the National Planning Policy Framework 2012. As such, the proposal for the further importation of waste materials should be refused planning permission.

7.4 In determining this planning application, the County Council has worked with the 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.

7.5 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 applicant has not demonstrated that the importation and deposit of waste materials at the site is of benefit to the land and that the minimum

volume of material would be used, thereby conflicting with Policy WMP8b of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan 2013.

2. The importation and deposit of waste materials at the site does not conserve or enhance the qualities of the High Weald AONB, including landscape character, thereby conflicting with Policy WMP27a of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan 2013, Saved Policy EN6 of the Wealden Local Plan 1998 and the provisions of Part 11 of the National Planning Policy Framework 2012.
3. The applicant has not demonstrated that the importation and deposit of waste materials at the site will not have an adverse effect on potential archaeological remains within the Archaeological Notification Area, thereby conflicting with Policy WMP27a of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan 2013 and the provisions of Part 12 of the National Planning Policy Framework 2012.

RUPERT CLUBB

Director of Communities, Economy and Transport

1 March 2016

**BACKGROUND DOCUMENTS**

Application file WD/769/CM

Planning permission WD/403/CM

The Development Plan

NPPF