

Committee: **Regulatory  
Planning Committee**

Date: **20 May 2020**

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

Proposal: **Infilling of Old Clay Pit with Inert Material to improve  
Site Safety, Turning and Storage**

Site Address: **The Yard Gate Farm, Northiam Road  
Staplecross, TN32 5RP**

Applicant: **Mr D. Reed, Chalk Down Lime Ltd**

Application No. **RR/827/CM**

Key Issues: **i) Purpose of the Development  
ii) Impact on Amenity  
iii) Highway Matters  
iv) Effect on AONB Landscape & Ecology**

Contact Officer: **Miss Kiran Sajjan Tel. 01273 481595**

Local Member: **Councillor Angharad Davies**

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## **SUMMARY OF RECOMMENDATIONS**

**1. To grant planning permission subject to conditions as indicated 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 Yard at Gate Farm is located to the east of Staplecross Village and is accessed from Northiam Road (B2165) via a narrow lane called Ellenwhorne Lane. The site is surrounded by agricultural land to the south, east and west. Residential properties situated on Northiam Road are located opposite the site to the north. Dense vegetation screens the site to the north and west.

1.2 The site is currently operated as a builder's yard with several buildings on site. The site office is located in the north-east, adjacent to the access. A weatherboard clad building currently used as a workshop is located in the

south of the site. Planning permission was granted by Rother District Council in 2017 for the erection of an additional storage building immediately to the west of the existing building. This additional building has not yet been erected. A smaller timber storage shed is located within the centre of the yard, and two further metal storage containers within the south-western corner. Three outdoor bays, used for the storage of sand and other aggregates, are located along the south-western boundary. The north-west of the yard comprises an unused pit, which is the subject of this application.

1.3 The site is located within the High Weald Area of Outstanding Natural Beauty (AONB) and within an Archaeological Notification Area (Gate House Farm, Northiam Road: Historic Farm).

## **2. The Proposal**

2.1 The proposal is to infill an historic clay pit which, in more recent years, has functioned as a pond. The pit forms part of an operational builder's yard and currently constrains operations leaving a portion of the yard unusable and a potential safety risk to visitors and staff.

2.2 The area proposed to be infilled is approximately 710 square metres in size. The pit would be filled with inert waste soil in layers, and would be finished with MOT (a granular sub-base material) or crushed concrete. The levels would be built up to match those of the existing yard. The depth of the pit at its deepest point is approximately 6 metres. The applicant has estimated that in the region of 2,860 m<sup>3</sup> of compacted material would be required for fill, to the level of the surrounding yard. It has been calculated that this would equate to between 9,500 tonnes and 10,500 tonnes of waste soils to be imported to the site.

## **3. Site History**

3.1 The site does not have any previous County Planning history. However, several permissions have been granted by Rother District Council, of which the most recent permission is for the erection of a building to house the existing batching plant and machinery (ref. RR/2017/821/P granted June 2017).

## **4. Consultations and Representations**

- 4.1 Rother District Council - Raises objections on the following grounds:
- i. The old clay pit is identified as a pond in the High Weald Management Plan 2019-2024 and is a key characteristic of the landscape. The Council considers that the loss of the pit would have a harmful visual impact on the rural area and wider landscape character and appearance of the AONB.
  - ii. Expansion of the yard would harm the outlook and create disturbance to neighbouring residential properties to the north.
  - iii. No ecological surveys have been undertaken. It is considered that the infilling of the depression would fail to retain, protect or enhance a

natural habitat of ecological interest and would have a harmful impact on biodiversity in the area.

- 4.2 Ewhurst Parish Council - supports the proposal.
- 4.3 Highway Authority – considers the proposal to be acceptable subject to the full implementation of the submitted Traffic Management Plan.
- 4.4 Environment Agency – No response received.
- 4.5 Lead Local Flood Authority – Wishes to make no comments.
- 4.6 High Weald AONB Unit – objects to the loss of the pond on the grounds that it is an historic feature of the AONB with the potential to be restored as a valuable habitat. The Unit considers that its loss would therefore be contrary to Objective G1 of the High Weald AONB Management Plan. It also raises concerns relating to the pond having potential for providing habitat for great-crested newts (GCN) and rare invertebrates.
- 4.7 Local Representations – one representation has been received in support of the proposal stating that the proposal would improve safety at the site and praise is given to a well run company.
- 4.8 A response in support of the proposal has been received from Councillor Angharad Davies which states that the infilling of the pit would be of benefit as there is considerable safety risk around the clay pit at present.

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

- 5.1 East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan 2013: Policies: WMP3b (Turning Waste into a Resource); WMP8b (Deposit of Inert Waste on Land for Beneficial Purposes); WMP17 (Restoration), WMP25 (General Amenity); WMP26 (Traffic Impacts); WMP27 (Environment and Environmental Enhancement).
- 5.2 Rother Local Plan Core Strategy 2014: Policies: EN1 (Landscape Stewardship) and EN5 (Biodiversity and Green Space).
- 5.3 High Weald AONB Management Plan 2019-2024: Objective G1 (To restore the natural function of river catchments).
- 5.4 National Planning Policy Framework (NPPF) 2019: Part 15 (Conserving and enhancing the natural environment) is of most relevance as this section gives great weight to conserving Areas of Outstanding Natural Beauty.
- 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 3b of the Waste and Minerals Plan states that proposals should accord with the Waste Hierarchy. Policy WMP8b of the same Plan permits the deposit of inert waste, subject to other relevant Plan policies, where it is demonstrated that, *inter alia*, the proposal would significantly enhance other development or its setting; and that the resulting final landform, landscape and after use enhances the environment, including landscape character, and that a minimum volume of inert material is used to achieve necessary improvements.

6.2 Planning permission is sought to infill a depression, which is likely to be an old clay pit, within an existing builder's yard to improve the functionality and use of the yard. The applicant has stipulated that due to the location and the steep banks of the depression it poses a danger to visitors to the site and staff. Options to erect a physical barrier around the pit have been investigated, however the applicant considers that in order to allow sufficient turning space for vehicles within the yard and enhance the business, infilling would be the most practical option both in terms of safety and improving the use of the yard space.

6.3 The use of inert waste materials to improve the yard for business purposes, in this instance, would deliver an appropriate improvement to the use of the site as a builder's yard and would effectively contribute to the diversion of waste from landfill in accordance with the waste hierarchy. The applicant considers that the proposal would negate the difficulties experienced in using the yard to its full potential as it would allow safe turning areas for delivery lorries and mixers, safe access to perimeter hedges and fences of the site for maintenance and provide additional storage and visitor parking areas.

6.4 Overall, it is considered that the proposal complies with Policies WMP3b and WMP8b and the infilling of the pit would provide an improvement to the use of the yard.

### **Impact on Amenity**

6.5 Proposals should not pose an unacceptable risk to the environment or adversely impact amenity (WMP25). Policy WMP17 of the Waste and Minerals Plan also requires proposals for land disposal activities to be accompanied by a scheme of restoration and aftercare, which will maximise benefits and enhancements and are in keeping with local landscape character and distinctiveness.

6.6 The site of the clay pit is screened by vegetation on its northern and western boundaries, this screening would be retained. Therefore, properties located opposite the site on Northiam Road have limited views of the site. Bringing the pit area level with the rest of the yard would essentially be expanding the yard area, however it is considered that this would have a limited impact on the amenity of the nearby properties as the pit area has been included as part of the operational curtilage of the site for many years.

6.7 As the yard is all hardstanding and has been like this for sometime, the clay pit looks unnatural within its setting and therefore the proposal would make the pit area of the yard more cohesive with the surrounding land use. As a working builder's yard, there is an existing element of noise present; this may increase from the infilling activities, although the impact would be short term. The applicant anticipates the construction phase would last approximately 2-3 months.

6.8 Overall, it is considered that the proposal would have, at worst, a negligible impact on the amenity of neighbouring properties in the long term, and any disturbance would be limited to the construction period.

### **Highway Matters**

6.9 Policy WMP26 of the Waste and Minerals Plan states, *inter alia*, that proposals will be permitted where access arrangements are appropriate or could be made suitable for the volume and nature of traffic generated by the proposal; no unacceptable safety hazards for other road users would be generated and where there are suitable arrangements for on site vehicle manoeuvring, parking and loading/unloading areas.

6.10 At present, the site receives large lorry deliveries regularly. The proposal would increase the number of lorries visiting the site during the construction phase. The total vehicular trips anticipated to facilitate the development would be in the region of 500-600 loads delivered to the site. A maximum of 30 vehicles per day (60 two-way movements) during the construction period is considered to be acceptable. However, the applicant expects that the number of vehicle movements per day would be closer to 15 (30 two-way movements), to allow for appropriate control and compaction of materials and to also ensure that the existing business can continue to function as normal during the construction phase.

6.11 The site is accessed off Ellenwhorne Lane via Northiam Road, with access located approximately 5 metres to the south of the junction. Given the close proximity of the site access to the junction, it is likely that the turning manoeuvre would be tight. An increase in large vehicles (20 tonne rigid lorry) at this junction could compromise the safety of users of the highway. Upon request by the Highway Authority, the applicant has submitted tracking drawings which indicate that large vehicles would be forced to overrun the opposite side of the carriageway when turning left onto Northiam Road when leaving the site. Due to the alignment of the road, on a bend, the forward visibility for vehicles approaching from the west is restricted.

6.12 The applicant has subsequently submitted a Traffic Management Plan (TMP) which includes measures to manage deliveries arriving and departing the site. Some of the measures that would be implemented include warning signs on approach and the use of appropriately trained operatives using Stop/Go boards deployed with 2 way radio contact every time a delivery arrives/departs. These measures would allow vehicles associated with the infilling of the pit to safely access the site without compromising the safety of users of the highway.

6.13 Overall, the Highway Authority raises no objection to the proposals in the TMP and providing that construction traffic is managed appropriately the proposal is considered to comply with the Policy WMP26 of the Waste and Minerals Plan.

### **Effect on AONB Landscape and Ecology**

6.14 The application site falls within the High Weald AONB, where Policy WMP27 of the Waste and Minerals Plan and Policy EN1 of the Rother Local Plan Core Strategy, seek to conserve and enhance its character and environment. Part 15 of the NPPF also requires proposals to demonstrate that protection and enhancement is given to valued landscapes and for great weight to be given to the conservation of landscape and scenic beauty. In addition, Policy EN5 of the Rother Local Plan Core Strategy seeks to, *inter alia*, ensure that development retains, protects and enhances habitats of ecological interest, including ancient woodland, water features and hedgerows, and provides for appropriate management of these features. The emphasis on water features relates to improving resources and preserving and enhancing habitats. Objective G1 of High Weald Management Plan seeks to restore and enhance the role and natural function of water bodies and the pit is identified as a pond within this Plan.

6.15 The landscape character of the area surrounding the pit is influenced by the proximity of the builder's yard. It is considered that the pond is not rural and unspoilt and does little to contribute to local landscape character or views. Public views into the yard are limited and restricted to those from Northiam Road and Ellenwhorne Lane. From Northiam Road, the pit and other ponds within the area can be glimpsed through gaps in the roadside hedge.

6.16 Ponds are identified as key characteristic features in the High Weald AONB Management Plan which states that these features should be conserved and enhanced. The pit was once surrounded by vegetation, but has been cleared in recent years, and vegetation cover in this area is now poor, limited to some remaining common reed in the centre of the pit. The boundary planting to the north and west of the pit would be retained as part of the proposal.

6.17 On balance, in considering the location of the pit subject of this application, it is noted that its setting would always be compromised by the surrounding land use and therefore the proposal to infill it would have a

negligible impact on the wider AONB landscape and views. The pit remains dry throughout the year and only fills with water after periods of wet weather. It is however considered that through the scope of this application, the trees and vegetation along the boundaries of the site should be protected and retained to continue to screen the site from public views.

### *Ecology*

6.18 The High Weald AONB Management Plan identifies ponds as landscape features which support significant species, such as great crested newts (GCN). There are a series of ponds to the north, south, east and west of the site, and there are at least two records of GCN within 500 metres of the site. Therefore, there is high potential for GCN to be present on site. No biodiversity information was submitted with the application, however upon request from the County Ecologist the applicant was requested to carry out a Habitats Suitability Index as a minimum requirement to identify whether the application site is a suitable habitat for GCN.

6.19 The Habitats Suitability Index report records that the pit forms part of a network of water bodies suitable for GCN, most of which have GCN present. No GCN were recorded on site at the time the survey was undertaken. The report concludes that breeding newts are known to be present in the nearest pond located 50m to the north, as well as other ponds within the area. Although the condition of the pit has deteriorated due to the surrounding land use, GCN may occur there on an occasional basis. In order to protect GCN, the applicant has proposed to implement Reasonable Avoidance Measures (RAMS) for GCN during the construction phase. RAMS would involve detailed searching of all the habitats within the area to be filled in and could involve the use of physical barriers where necessary, by a licenced great crested newt surveyor.

6.20 The County Ecologist considers the proposal to carry out the development with RAMS in place to be acceptable. An appropriate pre-commencement condition would be included with any grant of planning permission to request a full method statement for the protection of GCN.

## **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 Planning permission is sought to infill an historic clay pit to include the area as part of the operational area of the builder's yard in which the pit lies within. The infilling of the pit would improve the safety on site for both staff and visitors and allow safe turning areas for delivery lorries. Although the proposal would lead to the loss of a pond, as classified within the High Weald AONB Management Plan 2019-2024, the condition of the pond has deteriorated over the years due to the surrounding land use. It is considered

that the proposal complies with Policies WMP3b, WMP8b, WMP17, WMP25, WMP26, and WMP27 of the East Sussex, South Downs and Brighton and Hove Waste and Minerals Local Plan 2013 and Policies: EN1 and EN5 of the Rother District Local Plan Core Strategy 2014.

7.3 In considering 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 following conditions:-

1. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

2. 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.

3. No development shall take place (including any demolition, ground works and site clearance) until a method statement for avoidance of harm to great crested newts has been submitted to and approved in writing by the Director of Communities, Economy and Transport. The content of the method statement shall include the:

- a) detailed design(s) and/or working method(s) necessary to achieve stated objectives (including, where relevant, type and source of materials to be used);

- b) extent and location of proposed works shown on appropriate scale maps and plans;

- c) timetable for implementation, demonstrating that works and activities set out within the Method Statement are aligned with the proposed phasing of infilling the pit;

- d) persons responsible for implementing the works;

- e) disposal of any wastes arising from the works.

The works shall be carried out in accordance with the approved details and shall be retained in that manner thereafter.

Reason: To protect species identified in the ecological surveys from adverse impacts during construction and to avoid an offence under the Wildlife and Countryside Act 1981, as amended and The Conservation of Habitats and Species Regulations 2017, as amended.

4. All trees and hedgerows around the boundaries of the site and along the fence line, including the roadside hedge as identified on the Location Plan (drawing no. 918/19/CPL/02) shall be retained and protected in accordance with BS 5837:2012 - Trees in Relation to Design, Demolition and Construction. In the event that any such trees or hedgerows are removed or seriously damaged as a result of infilling activities, they shall be replaced in the next planting season following completion of development, in accordance with details which are first submitted to and approved in writing by the Director of Communities, Economy and Transport.

Reason: In the interests of amenity of users of Northiam Road and residential properties located opposite the site on Northiam Road, in accordance with Policy WMP25 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan 2013.

5. All measures detailed within the approved Traffic Management Plan (Rev A April 2020) shall be implemented in full and maintained during the construction phase of the development.

Reason: To ensure safety of persons using the highway, in accordance with Policy WMP26 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan 2013.

#### Schedule of Approved Plans

Supporting Statement, 918/19/CPL/01 - Block and Sections, 918/19/CPL/02 - Location Plan, Planning Statement, ECOLOGICAL SCOPING SURVEY 19th December 2019, 918/19/CPL/02 Rev A - Turning area and location of traffic signs, 918/19/CPL/03 Rev A - Vehicle Movements (tracking), Rev A April 2020 - Traffic Management Plan

RUPERT CLUBB

Director of Communities, Economy and Transport  
7 May 2020

#### **BACKGROUND DOCUMENTS**

Application file RR/827/CM  
The Development Plan