

- a) **DOV/15/00126 – Retrospective application for the change of use of land for storage of heavy plant, machinery, equipment and materials and the provision of an area of impermeable hard-standing - Ovenden Earth-Moving Plant, Wellhead Farm, Wingham**

Reason for Report: The number of contrary third party objections (25)

- b) **Summary of Recommendation**

Planning permission be granted

- c) **Planning Policy and Guidance**

Core Strategy 2010 (CS) Policies

Relevant policies are:

- Policy DM1 says that “development will not be permitted on land outside the urban boundaries and rural settlement confines unless specifically justified by other development plan policies or it functionally requires such a location.”
- Policy DM3 seeks to “allow expansion of an existing business in a rural area provided that it is consistent with the scale and setting of the settlement.”
- Policy DM11 concerns itself with “location of development and managing travel demand particularly for development that would increase travel demand outside of rural settlement confines.” Policy DM15 refers to protection of the countryside and at point (iv) refers to “development in the countryside will only be permitted if it cannot be accommodated elsewhere.”
- Policy DM15 refers to protection of the countryside and at point (iv) refers to “development in the countryside will only be permitted if it cannot be accommodated elsewhere.”
- Policy DM16 refers to the protection of the landscape.
- Policy DM17 refers to Groundwater Source Protection Zones that does not permit new development in Zones 1 and 2 unless there are adequate safeguards provided against possible contamination.

National Planning Policy Framework 2019 (NPPF)

- Paragraph 8 – the three objectives of sustainability.
- Paragraph 11 – presumption in favour of sustainable development.
- Paragraph 83 – supporting a prosperous rural economy.
- Paragraph 127 – achieving well-designed places.
- Paragraph 130 – permission should be refused for poor design.
- Paragraph 170 – contribute to and enhance the natural environment.
- Paragraph 175 – Protect and enhance biodiversity and habitats.
- Paragraph 178 – Protect against ground contamination.
- Paragraph 180 – Take account of cumulative impacts of polluting development upon living condition, health and the natural environment.

- d) **Relevant Planning History**

DOV/97/01269 – Certificate of Lawful Use (existing) for the

storage and repair of plant and machinery within the building and storage of plant and machinery on surrounding land – Granted 3/12/98.

- CLE/DOV/14/00216 – Certificate of Lawful Use (existing) for an existing use involving external storage of plant and machinery on surrounding land that was formerly a horse paddock and for an existing silver arc shaped building- Granted 21/11/14.
- DOV/13/00270 - Retrospective application for the importing and crushing of rock to provide material for a sub-base and laying of an area of hardstanding. Granted 22/01/15.
- ENF/WIN/13/00031 - Complaint about felling of trees on former Plant Nursery land and the importation of large rock boulders and change of use of land to storage of materials and vehicular storage and repairs.

e) **Consultee and Third Party Responses**

DDC Ecology: The Greenspace Ecological Solutions survey carried out on behalf of the applicant considered the likelihood of the site being used by Great Crested Newts to be negligible. Other biodiversity interest is similarly limited and consequently there are no objections on ecological grounds.

Environment Agency: No objection subject to conditions securing the submission of a drainage scheme and surfacing is used which prevents the infiltration of surface water given the vulnerability of the site which is located in a Source Protection Zone (SPZ) 1 for groundwater abstraction at Wingham Well.

DDC Environmental Protection: No objection to make about this application as it merely involves continued use of site to store equipment with no change in the hours of use. I have checked our records and can find no detail of any complaints regarding disturbance from the site up to and including December 2019. I suggest a condition restricting the use of the land to the storage of plant, equipment and materials only and preventing any industrial operations or processes including the servicing, repair and maintenance of plant.

KCC Highways & Transportation: No objections in respect of highways grounds subject to storage on the application site limited to that identified in the additional information submitted by the applicant. The existing site has a lawful use for storage of plant and machinery and repair of plant, vehicles and large machinery, which generates movements by HGV's including low-loaders. This current planning application does not include any additional buildings for office use or use of the land for repairs. Traffic surveys in Wingham Well indicate that the average two-way weekday flow is 556 vehicles. Traffic surveys at the site indicate that the average two-way weekday flow generated by the site is 42 vehicles. The vast majority (92%) of traffic using Wingham Well Lane is therefore not related to Wellhead Farm site. The site generates an average of 4HGV movements per day, which accounts for less than 1% of the traffic using the lane. In the ten years to the

end of June 2015 there have been no recorded personal injury crashes involving HGV's in Wingham well Lane or at the junctions with the A257 Canterbury Road and the B2046 Adisham Road.

Southern Water: The application makes reference to drainage using Sustainable Urban Drainage Systems (SUDS). Therefore, the applicant will need to ensure that arrangements exist for the long term maintenance of the SUDS facilities. It is critical that the effectiveness of these systems is maintained in perpetuity. Good management will avoid flooding from the proposed surface water system, which may result in the inundation of the foul sewerage system.

Wingham Parish Council: Objected to the rock crushing operations etc by Owendens. The Parish Council was also against the use of heavy/big vehicles on the country lane/road leading to and from Owendens. The Parish Council is also concerned that the site is a habitat for Great Crested Newts.

KCC Flood and Water Management: Outside of remit to comment.

Public Representations:

Twenty five letters of objection were received during the original 2015 consultation process; the material comments are summarised as follows:-

- Highways safety concerns regarding intensification of use because Wingham Well is a totally unsuitable road for this kind of activity.
- Increased vehicle movements causing noise and disturbance
- There is the possibility that despite precautions, contaminated waste water will get into and destroy the nearby watercress beds and water table.
- Loss of trees in this Conservation Area were removed prior to the application being submitted
- Detrimental impact upon the habitat of wildlife.
- Not in keeping with the environment of a rural economy.

One of the local resident's letter of objection contains a critique of the supporting Planning Statement and includes an independent Highways engineer's report. It raises the following points:-

- Owendens have significantly increased their activities on site since January 2013 and there has been a massive intensification of traffic movements since the rocks have been imported and the trees destroyed.
- Vehicles are oversized, dangerous and unsuitable for the type of road to access this site and are not in keeping with the European TRO recommendations.
- Multiple freelance firms frequently attend the site often outside the business hours detailed and via Watercress Lane. Evidence in this pack demonstrates the type of unsuitable vehicle, the damage caused, safety concerns that operations commence as early as 04.00 hrs and finish at 23.00 hrs including weekend, Bank Holiday and Easter Sunday. The question remains as to why some of the vehicles are escorted and others are without this support when all are the same oversized transporter?

- The vegetation that has been removed had the potential to support nesting birds and provide our local bats with roosting opportunities. These are protected by the Wildlife and Countryside Act 1981.
- The land is not a considerable distance away from nearby residential properties with Rats Castle being less than 20 metres from the Ovenden's boundary.
- Generating more space has generated intensification of the use of the site involving more vehicles being parked on the land.

No new third party comments were received during the recent 2019 consultation period. This new consultation period was required due to a change in the description of works discussed in 1.6 below.

f) 1. **The Site and Proposal**

- 1.1 This site known as Wellhead Farm is located adjacent to the hamlet of Wingham Well and situated south of Wingham between the B2046 and A257 road network. The application site itself is located in a vulnerable Water Source Protection Zone. Wellhead Farm is served by a narrow country lane known as Wingham Well Lane. Wellhead Farm was originally a tree nursery business but around 1991 used by RH Ovenden plant hire business as well as Ovenden Earthmoving Company Limited. The tree nursery business has since ceased trading. The site is largely enclosed by mature dense vegetation screening Area Z from public view (referred to in Appendix A). The nearest residential property known as "Rats Castle" is located some 150 metres away to the west of the application site (although the original section of the site facing onto Watercress Lane is much closer to Rat's Castle).
- 1.2 The nature of the use by Ovenden Earthmoving Company Limited involves use of the land for the external storage of plant and machinery and repair of large machinery which cannot be accommodated within a building. It comprises of a mixed use of general industry (Use Class B2) for the vehicular repairs and storage (Use Class B8) as well as ancillary office space. The wider site is effectively "split" into 3 parts. A plan is attached as an appendix to this report which identifies the 3 different parts of the site for ease of reference. The area identified as X (to the west) comprise the host building where vehicular repairs are primarily carried out with incidental office, kitchen and wc. This area was granted a Certificate of Lawfulness in 1998 for the use. Area Y (this was granted a Certificate of Lawfulness in 2014) was a former horse paddock area but now comprises a silver arc shaped building on surrounding land where vehicles are repaired and stored. The third area Z, the subject of this application, is currently under investigation and is being used as an extended heavy plant storage area without the benefit of planning permission.
- 1.3 This application therefore seeks part retrospective permission for the change of use from agricultural land to allow the storage of heavy machinery on the site (Area Z) and the laying of hardstanding to the area. The land has been laid with crushed stone. No other works have

taken place which was confirmed in an email from the agent dated 3 April 2019.

- 1.4 The application site was laid to hardstanding which made use of rock crushed on site. This rock was from works to the Deal Flood Defences where the applicant was required to remove the stone as part of that contract.
- 1.5 More recently, it became clear that the Environment Agency sought to secure an impermeable surface through the imposition of a condition to any permission. However, this required a large area of hardstanding (such as tarmac or concrete) which was not included in the originally submitted supporting documentation or listed in the original description of works. It was decided that the description of works needed to be changed to include provision of an impermeable hardstanding (details of which can then be secured by planning conditions). Accordingly, the application went through a new consultation process.

## **2. Main Issues**

- 2.1 The main issues to consider in this instance are to consider:-
  - The principle of the development,
  - Effect on the countryside, landscape and street scene.
  - Residential amenity.
  - Traffic.
  - Surface Water Drainage.

### **Assessment**

#### Principle of Development

- 2.2 In terms of the principle of development, the application site is outside the settlement confines in a rural location. The change of use proposed` supports the existing rural business and as such, it is considered that the proposed storage use of the land functionally requires the proposed location and therefore accords in part with Policy DM1 of the CS. The proposal involves the expansion of an existing rural business lawfully sited on the adjacent land. As such, Policy DM3 of the CS broadly supports the expansion of a rural business in the location proposed as it functionally requires a site adjacent to the existing site. Although normally Policy DM3 expects that commercial expansion would be within the rural settlement confines of a local centre. Paragraph 83 of the NPPF also supports the expansion of existing rural businesses. Overall, whilst the application site is currently an unauthorized use, the hardstanding is now lawful through the passage of time (having taken place 4 or more years ago). It is therefore, considered that it would be unreasonable to resist the development given the policy position.

#### Countryside, Landscape and Street Scene

- 2.3 The site is well screened by existing trees on the boundary with Well Lane and by the existing buildings on site (in views from Wingham

Well Lane) so that it cannot be easily viewed from the public realm. The plant and machinery to be stored was largely on-site at the time of a recent site visit at which time there was little evidence of the plant and machinery in any public views. During the winter months, the interior of the site may be more visible however, not so much so that it results in undue harm to the quality of the street scene. As such, it is considered that the impact of the proposal on the visual amenity of the immediate street scene is negligible.

- 2.4 Policy DM15 of the CS seeks to prevent development which would result in harm to the character and appearance of the countryside unless:
- in accordance with allocations made in Development Plan Documents, or
  - justified by the needs of agriculture, or
  - justified by a need to sustain the rural economy or a rural community;
  - it cannot be accommodated elsewhere; and
  - it does not result in the loss of ecological habitat.

It has been noted above that the proposal supports an existing rural business and therefore the extension to the business and is therefore justified in this location. The Phase 1 Habitat report submitted with the supporting documentation and verified by DDC Ecology Officer concluded that there is no loss of habitat as a result of this development. Finally, the existing mature vegetation screening the site, which would be retained, also mitigates against any undue harm caused to the character of the countryside.

- 2.5 DM16 of the CS deals with development which would have a negative impact upon the character of the landscape. The existing boundary screening prevents any deleterious impact of the development upon the landscape. There is no need for any additional screening as noted in representations. The development itself is low-key and restricted to ground level whilst the change of use only allows the storage of equipment on the land, the majority of which is below the existing boundary trees in height. As such, it is considered that the proposal does not result in any undue harm to the visual amenity of the street scene or the character and appearance of the countryside and landscape. In terms of disturbance and activity and its impact on the countryside and landscape, it is not considered that the development impacts are above original levels experienced. The change of use has not resulted in any increased noise or effect on the countryside or landscape.

The proposal therefore accords with Paragraphs 127, 130, 170, 175 and 180 of the NPPF and Policies DM15 and DM16 of the CS.

#### Residential Amenity and Noise

- 2.6 Whilst it is noted that when the crushing of stone was taking place on-site (in 2014/2015) when there was likely to have been noise concerns, none were received. The change of use proposed in this application for the storage of heavy plant and machinery is unlikely to result in any increased impact on existing residential amenities. There have been no official noise/odour/dust complaints to DDC

Environmental Protection as a result of the operation of this site. The hours of operation of this part of the site are the same as the existing site. A condition restricting the use of the land to the storage of plant and machinery is requested by DDC Environmental Protection to overcome concerns of future intensification of activities on the site. This is considered reasonable given the sensitive location.

- 2.7 The nearest dwelling is Rat's Castle, located 150m to the south-west of the application site. The operational development and change of use of the land (retrospective) does not result in any significant impact upon the existing residential amenity of this dwelling due to the distance and given the above considerations.

#### Highways

- 2.8 There is a Vehicle Operators License for the site to have up to 4 vehicles over 3.5 tonnes and three trailers at any one time and the license was renewed in 2017. The various heavy plant and machinery that is in need of repair are delivered on exceptionally long low-loader vehicles and Ovendens need to seek authority from the Police and KCC Highways and Transportation prior to being transported from site to Wellhead Farm. As such, the more disruptive vehicle movements are limited in number and only the day-to-day driving to the site by employees is typical and has a negligible impact upon either highway safety or road congestion.
- 2.9 Traffic surveys in Wingham Well Lane indicate that the average two-way weekday flow is 556 vehicles. Traffic surveys at the site indicate that the average two-way weekday flow generated by the site is 42 vehicles. The majority (92%) of traffic using Wingham Well Lane is therefore not related to the Wellhead Farm site. The site generates an average of 4 HGV movements per day, which accounts for less than 1% of the traffic using the lane. In the ten years to the end of June 2015 there have been no recorded personal injuries.
- 2.10 The items identified for storage in the current application site are ancillary to the use/maintenance/repair of plant which is already being lawfully carried out on the existing sites (areas X and Y in Appendix A), and appear likely to generate only occasional infrequent vehicle movements for delivery of spare parts or movement of specialist equipment. The additional storage area, if limited to the items identified, therefore appears unlikely to generate a material increase in vehicle movements. It is considered therefore that the proposal would have a negligible impact upon highway safety in the area and KCC Highways have raised no objections.

#### Surface Water Drainage

- 2.11 The Environment Agency (EA) and Southern Water (SW) were consulted as part of the 2015 consultation process. The EA have requested two conditions be added to any permission to overcome their concerns due to potential contamination of the ground water. One seeks to prevent infiltration of surface water drainage and the second seeks a surface water drainage scheme. SW have also required clarity with regards to the continued use of the existing SUDs

system on site. It is considered that conditions requiring the submission of surface water drainage scheme for the application site, specifically illustrating how it would connect to the existing system, would be reasonable in this instance. This would also require details of the hardstanding itself (finish materials and overall size). KCC Flooding and Water Management raised no new concerns when consulted as part of the 2019 consultation period. Given the mitigation measures to be secured through conditions, the proposal accords with the provisions of Policy DM17 of the CS and Paragraph 170(e) of the NPPF.

### 3. **Conclusion**

- 3.1 The views of third parties have been fully taken into account in considering this application. For a number of reasons, the principle of this development is considered to be acceptable. It seeks to regularise the unauthorised use of the application site for storage of plant and machinery associated with Ovenden's Earthworks. It also seeks to upgrade and bring up-to-date the surfacing of this area of the site. This will ensure that pollutants from the lawful use and activities being carried out from the site are controlled and do not enter this vulnerable water source protection zone. The development brings benefits which will ensure that the existing local successful rural business can continue to operate from this site without harm to the local ecology. The development is not visible from the wider area and has no landscape harm. Overall therefore it is considered that the development accords with Paragraphs 8, 11, 83, 127, 130, 170, 175, 178 and 180 of the NPPF and Policies DM1, DM3, DM11, DM15, DM16 and DM17 of the CS. Accordingly it is considered that planning permission should be granted, subject to conditions.

### g) **Recommendation**

- I PERMISSION BE GRANTED subject to conditions to include:
- 1) Development to be carried out in accordance with the approved drawings and details; 2) Within 2 months of the date of this decision, details shall be submitted to the local planning authority for their approval in writing which shall include a suitable impermeable surface and details showing how the new area of hardstanding will connect to the existing SUDs system. These approved works shall be carried out in accordance with the approved details within 3 months of that written approval. 3) The application site shall be used only for the storage of plant and machinery associated with the occupants use of the site. No other activity shall be carried out on the site notwithstanding the provisions of the GPDO. 4) No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the local planning authority.
- II Informatives:
- 1) Opportunity to submit amendments.
- III Powers be delegated to the Head of Planning, Regeneration and Development to settle any necessary planning conditions in line with

the issues set out in the recommendation and as resolved by the Planning Committee.

Case Officer

Andrew Wallace

**Appendix A**

