

REPORT SUMMARY

REFERENCE NO - 15/506840/FULL		
APPLICATION PROPOSAL Temporary change of use of land for the storage of topsoil prior to distribution (Retrospective).		
ADDRESS Land North Of Bicknor Wood Gore Court Road Maidstone Kent		
RECOMMENDATION - Permit		
SUMMARY OF REASONS FOR RECOMMENDATION The proposed development is not in accordance with Development Plan policy. However, given the temporary nature of the proposal, it is considered that the low adverse impacts would not significantly and demonstrably outweigh the benefits of this proposal. For the reasons set out, the proposal is considered to accord with the National Planning Policy Framework and represent circumstances that can outweigh the existing Development Plan policies and there are no overriding material considerations to indicate a refusal of planning consent.		
REASON FOR REFERRAL TO COMMITTEE <ul style="list-style-type: none"> - It is a departure from the Development Plan. - Otham Parish Council wish to see the application refused. - Councillor Newton has called the application to Planning Committee 		
WARD Downswood & Otham	PARISH COUNCIL Otham	APPLICANT Bellway Homes Ltd AGENT
DECISION DUE DATE 08/04/16	PUBLICITY EXPIRY DATE 25/12/15	OFFICER SITE VISIT DATE 26/11/15
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):		

- 15/509251 - Outline application for minimum of 250 dwellings (all matters reserved for future consideration with exception of access) – Under consideration
- 15/507187 – Environmental Screening Opinion for development of up to 300 dwellings and associated infrastructure – Environmental Impact Assessment not required
- MA/13/0951 - Erection of 186 dwellings - Approved

MAIN REPORT

1.0 Site description

1.01 The application site relates to a parcel of relatively flat agricultural that is of a generally rectangular shape, covering an area of approximately 2.5ha. The site is bordered by Gore Court Road to the west; White Horse Lane to the north; the remaining area of farmland to the east; and ancient semi natural woodland to the south. Access into the site is from the south-western corner of the site, onto Gore Court Road. The northern and western boundaries benefit from well established hedging, and the ancient semi natural woodland to the south provides further screening.

1.02 The nearest residential properties are to the west of the application site, on the other side of Gore Court Road, and in terms of character, vary in scale, design and age.

- 1.03 For the purposes of the Maidstone Borough-Wide Local Plan (MBWLP), the application site is within the countryside, with the defined urban boundary adjacent its western boundary.

2.0 Proposal

- 2.01 This is a retrospective application for the temporary change of use of a parcel of land (some 2.5ha in area) for the storage of topsoil prior to its distribution. The clean soil has been stripped from the land to the south of the site (beyond the ancient semi natural woodland), which is currently under development to provide 186 houses under planning permission MA/13/0951; and it is being stockpiled on site until it will be redistributed to other Bellway Homes Ltd (Kent Division) developments in Kent over the next 3 years (including the site at Imperial Park, Sutton Road), for use in gardens and public areas of landscaping. The maximum height of the stockpile would not exceed 5m in height from ground level. Vehicle access into the site is from an existing access point in the south-western corner of the field, onto Gore Court Road. Whilst the levels of topsoil change, on my last site visit there were 5/6 piles of differing sizes present.
- 2.02 There is approximately 6,685m³ of topsoil material; and the agent has stated that the Imperial Park development will require the majority of this, with the remaining material being spread amongst 4 other developments in West Malling, Dartford, Ashford and Horsham. The applicant has confirmed that this equates to some 10,000 tonnes. It is estimated that their current Groundworker moves 15m³ per load, and 6 loads per day, equating to approximately 74 days of soil movement that will be needed to clear the site at some time over the next 3 years (1095 days). However, it should be noted that it has not been identified when the movements will happen as this is dependent on when the topsoil is required (hence the 3 year period for the storage). The applicant has also confirmed that there will be no additional soil to be stored on the site.
- 2.03 Turning of the top-soil is only required when wet topsoil has been stored, in accordance with the DEFRA Construction Code of Practice for the Sustainable Use of Soils on Construction Sites, otherwise the piles are left as set out in the Materials Management Plan. Where the topsoil is to be stored for more than 6 months, the surface will be planted with quick germinating fescue/clover seed mix, to stabilise the surface and reduce the risk of erosion.

3.0 Policies and other considerations

- Maidstone Borough-Wide Local Plan 2000: ENV6, ENV28
- National Planning Policy Framework (2012)
- National Planning Practice Guidance (2014)
- Maidstone draft Local Plan (Reg 19)

4.0 Consultee responses

4.01 Councillor Newton: Has called the application to Planning Committee;

"I wish to object to the proposal in respect of the dumping of earth at the site noted in the application on the grounds that it does not comply with NPPF Core Planning Principles (Para 17):

- *take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it;*
- *contribute to conserving and enhancing the natural environment and reducing pollution. Allocations of land for development should prefer land of lesser environmental value, where consistent with other policies in this Framework;*
- *encourage the effective use of land by re-using land that has been previously developed (brownfield land), provided that it is not of high environmental value;*
- *conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations.*

Bicknor Wood is classified as Ancient Woodland and the developer has already damaged areas of it through illegal dumping of earth. The above application fails to address any of section 3 within the NPPF ~ Supporting a prosperous rural economy ~ Para 28. As you are aware there are numerous other paragraphs in the NPPF that can be used to reject the above application including Section 11 paras 109, 111,112, 113 114. The area close to Bicknor Wood has already been damaged and the biodiversity challenged by the dumping of earth next to the woodland."

4.02 Otham Parish Council: Wishes to see the application refused and reported to Planning Committee. There objections are summarised as follows;

- *Vehicles have meant additional traffic on Gore Court Road, deposits of mud left on the road and noise nuisance to existing neighbouring properties.*
- *Concerns about rainfall run-off - ditches alongside of this field do not operate effectively and we can only see that the location of great mounds of soil in the field will worsen run off in the autumn and winter and have a negative impact on the flooding which already takes place here.*
- *3yrs is considered to be a long time to be called temporary.*
- *Site not suitable for this type of use due to its close proximity to ancient woodland.*
- *Access from A229 is already deemed unsuitable for HGVs - removal of top soil to other Bellway sites will increase risk of injury to pedestrians (and cyclists) as there are no pavements in area, no lighting and proposed entrance is on a site restricted with a bend in the road.*
- *There is no indication as to how access will be promoted via the A274. Also, there is no indication as to how a 10mph speed limit will be enforced.*
- *Use of site by Bellway will create noise, mud on the roads and dust. The ability to monitor noise and working hours has already proved ineffective.*

4.03 KCC Highways: Raise no objection.

4.04 Landscape Officer: Raises no objection.

4.05 Biodiversity Officer: Raises no objection.

4.06 **Environmental Health Officer:** Raises no objection.

4.07 **Environment Agency:** Raises no objection.

4.08 **KCC SUDS:** Raises no objection.

4.09 **Agricultural Advisor:** Raises no objection.

5.0 Neighbour responses:

5.01 2 representations received raising concerns over dust; noise and general disturbance; highway safety; congestion; mud depositing onto highway; and how the application has been dealt with.

6.0 Relevant policy/guidance

6.01 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that all planning applications must be determined in accordance with the Development Plan unless other material considerations indicate otherwise.

6.02 The application site is adjacent, but outside of the defined urban boundary, and is therefore upon land defined in the Local Plan as countryside. The starting point for consideration is saved policy ENV28 of the Maidstone Borough-Wide Local Plan 2000 which states as follows:-

"In the countryside planning permission will not be given for development which harms the character and appearance of the area or the amenities of surrounding occupiers, and development will be confined to:

(1) That which is reasonably necessary for the purposes of agriculture and forestry; or

(2) The winning of minerals; or

(3) Open air recreation and ancillary buildings providing operational uses only; or

(4) The provision of public or institutional uses for which a rural location is justified; or

(5) Such other exceptions as indicated by policies elsewhere in this plan.

Proposals should include measures for habitat restoration and creation to ensure that there is no net loss of wildlife resources."

6.03 The proposed development does not fit into any of the exceptions set out in policy ENV28, which is why it has been advertised as a departure from the Development Plan.

6.04 The golden thread running through the National Planning Policy Framework (NPPF) is the presumption in favour of sustainable development. Within the NPPF, there are 3 dimensions to sustainable development, those being economic, social and environmental, and these roles should not be undertaken in isolation.

6.05 In terms of location, whilst in the designated countryside, the site is adjacent the defined urban area; it is adjacent to Imperial Park (where the topsoil has been taken from and where the bulk of it is to be returned); and it is only 400m from the junction with Sutton Road (A274), a main transport route in and out of Maidstone. I cannot therefore argue that the application site is in an unsustainable location.

6.06 It is necessary therefore to consider two main issues in relation to this development. Firstly, whether there are any material considerations that would indicate that a decision not in accordance with the Development Plan is justified, and secondly whether the development would cause unacceptable harm. I will now go on to consider the key planning issues.

7.0 Visual impact

7.01 Given the change of the site from flat agricultural land to storing piles of topsoil, it is accepted that this development causes some visual harm to the character and appearance of the surrounding area from short to medium distance views. Indeed, views are possible from public vantage points to the west along Gore Court Road; to the north along White Horse Lane; and from the public footpath (KM94) that runs along the larger field's edge to the east which is some 300m way. However, this development is for a temporary period only and the site does benefit from reasonable screening along its boundaries, including mature hedgerows along the northern and western edges and the ancient semi natural woodland along the southern edge of the site, preventing full views of the piles of topsoil. I am also satisfied that there are no significant long distance views of the development from any environmentally sensitive location outside the site. A condition could be imposed to ensure that no topsoil pile will exceed 5m in height from ground level, to further safeguard the visual amenity of the area. I am also satisfied that the site could be reverted back to agricultural land relatively easy and quickly. So whilst the development does appear as an incongruous feature within the landscape and is harmful, it is relatively well screened and on balance I consider the development and harm can be accepted for the temporary 3 year period. Clearly the harm caused would be for a limited period of time and the land would then revert to its original state.

8.0 Residential amenity

8.01 The main concerns here are in terms of dust; noise from vehicle movements; and hours of operation. These issues have been covered in the submitted Construction Management Plan (which indicates that the construction management plan will be used for the duration of the activities in relation to the stockpile) and these will now be summarised.

8.02 Dust (during on-site operations and vehicle movements on and off site)

- The applicant will adhere to the control of dust and emissions from construction and demolition Best Practice Guidance (November 1006);
- Site transport that creates substantial amounts of dust must ensure following hierarchy of prevention is implemented: Being adequate ventilation provided, or water suppression system used, or local ventilation systems used;
- Will undertake "dampening down" of any unmade site roads by means of towed dust suppression unit as and when required by prevailing conditions on site.

8.03 Hours of operation

- Hours of work for stockpiling/turning/shaping materials will be:
 - Monday-Friday 8am-5pm
 - Saturday 8am-1pm
 - No time on Sundays or Public Holidays
- Hours of work for vehicle movements entering and leaving site will be:
 - Monday-Friday 8.30am-4pm
 - Saturday 8.30am-12pm
 - No time on Sundays or Public Holidays
- These working hours will be notified in writing to all contractors and hauliers.

8.04 Noise (from vehicles entering and leaving the site)

- Access to site will be via existing field entrance on Gore Court Road and will be promoted as via A274 from all directions, avoiding significant construction going through Downswood and Otham;
- Temporary haul road put in place to allow vehicles to pull off Gore Court Road to avoid soft ground being rutted against highway and to provide an area for cleaning down vehicles before leaving site;
- On site access, egress and haul routes restricted to 10mph, to be lowered to 5mph for all vehicles travelling over unmade ground to minimise likelihood of dust creation.

8.05 Noise (from vehicles operating on the site)

- Work is prohibited outside the hours of operation, as set out above;
- Noise levels continually monitored and recorded by Bellway;
- Contractors will implement best practicable means to reduce noise levels – in accordance with the recommendations established in BS5228-1:2009 and BS5228-2:2009 – for control of noise on construction and open sites;
- All vehicles, compressors and plant will be equipped with effective silencers and noise reducing insulation; vehicles/machinery will be switched off when not in use; if needed, plant and equipment will be sited away from western boundary of site; and reverse alarms will be set to minimum;
- Noise complaints will be investigated by Bellway, and any complaint will be dealt with under Considerate Constructors Scheme;
- Applicant is also positive towards community liaison including putting in place methods for handling and monitoring complaints and contact details for Project Managers.

8.06 The Environmental Health Officer has reviewed the submitted information, and raises no objection to the development on amenity grounds. With the detailed Construction Management Plan considered (which will be used for the duration of the activities in relation to the development) together with the Environmental Health Officer's recommendation, I am satisfied that the development would not have a significant detrimental impact on the residential amenity of neighbouring properties.

9.0 Highway safety implications

9.01 The Construction Management Plan sets out what actions/procedures are to be put in place in relation to highway safety, and these will now be summarised:

- All contractors and hauliers will be notified that access to the application site should be from Sutton Road and not through Downswood and Otham;
- Temporary haul road within the site would allow vehicles to pull off Gore Court Road to avoid soft ground being rutted against highway and to provide an area for cleaning down vehicles before leaving site;
- Pressure washing facility will be installed within site to ensure vehicles leaving site do not deposit mud/debris onto the local road network; and any waste aggregates, water and sludge type materials resulting from this cleaning will be removed from site by licenced waster carrier and disposed of correctly;
- Mechanical road sweeper with vacuum facilities shall be used on the public highway immediately adjacent the site on a regular basis when deemed necessary.

9.02 It should also be noted that the majority of the traffic route will be through the Imperial Park development, using their temporary haul road in the short term and then their completed site road in the longer term. This keeps the majority of the vehicles off of Gore Court Road, except for a small length between the application site and Imperial Park (approximately some 50m).

9.03 The Highways Authority is satisfied that the information has addressed their initial concerns, subject to the development being carried out in accordance with the submitted Materials Management Plan and Construction Management plan. The Highways Authority has requested the use of bound surface for first 12m of access from edge of carriageway. However, given the temporary nature of the use, the provision of wheel washing and road sweeping facilities, and the likely visual harm such an area of hardstanding would cause, on balance I do not consider this laying of hardstanding to be necessary and it would be unreasonable to refuse this application on these grounds alone.

9.04 The Highways Authority have also commented that the use of a banksman being in attendance for vehicle movements to and from the site is advisable. The applicant has confirmed this is achievable and a suitable condition will be duly imposed.

9.05 Putting it into context, and as explained previously, there will be approximately 74 days of soil movement over the next 3 years (which equates to an average of 6 loads per day); and the applicant has confirmed that there will be no additional soil to be stored on the site. This will be secured by way of condition. As such, I am therefore satisfied that this application can be put forward for approval based on the information submitted.

10.0 Arboricultural/biodiversity implications

- 10.01 There are no trees within the site, and the development has retained the hedgerow along the northern and western boundaries of the site. This said, Bicknor Wood to the south of the site is classified as ancient semi natural woodland. Please note that the applicant has confirmed that no topsoil would be sited within 15m of this woodland, and this will be secured by way of condition.
- 10.02 The Landscape Officer raises no landscape/arboricultural objection to this application, subject to a condition to ensure the protection of this adjacent woodland (protective fencing and/or ground protection in accordance with BS5837:2012); and also comments that as the site is relatively level, there is unlikely to be significant run-off from the spoil heaps in to the Ancient Woodland. Based on this advice, I raise no objection to the proposal on landscape/arboricultural grounds.
- 10.03 In terms of biodiversity implications, an ecological survey of the whole field has been carried out as part of 15/509251 (outline for min. 250 dwellings), and the Biodiversity Officer has assessed this report for this smaller application. For clarification purposes, this Ecological Appraisal was undertaken in October 2015 (Aspect Ecology ref: ECO4320.EcoApp.vf).
- 10.04 This survey assessed the potential for reptiles, Great Crested Newts, Badgers, Bats and nesting birds to be present within the site and specific reptile and bats surveys were also carried out. No reptiles were recorded but foraging badgers and low numbers of foraging bats were recorded within the site. In relation to this application, the Biodiversity Officer considers the main impact on protected/notable species is likely to be on badgers as there is a risk that badgers could create new setts within the spoil heaps, particularly as the topsoil is not rotated regularly. As such, the Biodiversity Officer has recommended that a condition is imposed requiring the production of a badger method statement. The applicant has agreed to this approach, and I consider it reasonable to impose such a condition. No further ecological work is considered necessary in terms of bats, as the development involves no disturbance of the surrounding trees and no lighting is proposed. I therefore do not require any further information and raise no objection to this application on ecological grounds.

11.0 Other considerations

- 11.01 It has been accepted that the soil from Imperial Park is uncontaminated (under MA/13/0951) and the Environmental Health Officer has raised no objection in this respect; and the Environment Agency has assessed this application as having a low environmental risk and has no comments to make.
- 11.02 The Flood Risk Project Officer raises no objection to the development in terms of surface water drainage. Notwithstanding this, they have pointed out that measures could also be taken to ensure that the erosion of the stored soils does not occur in heavy rainfall, which could potentially lead to surface water problems off-site. As agreed by the Flood Risk Project

Officer, this is for the applicant to decide if any issue becomes apparent, and there is no immediate concern in this respect. In this instance I consider it reasonable to add an informative advising the applicant of possible measures that could be taken if necessary.

11.03 The Agricultural Advisor is satisfied that this development would not involve any long-term impact on, or loss of, agricultural land, and so I raise no objection in this respect.

12.0 Conclusion

12.01 The issues raised by Councillor Newton, Otham Parish Council and neighbours have been dealt with in the main body of this report. However, I would add that the agent has explained that the top soil has already been identified for donor sites, and the reason for the 3 year period is so that they do not run out of time to move the soil as some of the sites are very tight for storage. It should also be noted that it is not unusual for further negotiations to be undertaken between the case officer and the applicant during the life of a planning application.

12.02 Whilst being a departure from the Development Plan due to the visual harm caused, the visual harm would be for a limited 3 year period and it is considered that the harm is acceptable for that period. Otherwise the scheme is acceptable in terms of its impact on residential amenity; highway safety and in landscaping/ecological terms. For the above reasons, it is therefore considered acceptable to depart from the Development Plan in this instance. I therefore recommend conditional approval of the application on this basis.

RECOMMENDATION – APPROVE with conditions:

(1) The use hereby permitted shall be for a limited period being the period of 3 years from the date of this decision. At the end of this period the use hereby permitted shall cease, the topsoil heaps, fencing and any other associated paraphernalia shall be removed from the land, and the land restored to its former condition before the development took place;

Reason: To prevent inappropriate development in the countryside.

(2) Within one month of the date of the permission hereby granted, measures for the protection of the adjacent ancient semi natural woodland in accordance with BS5837:2012 (to include protective fencing and/or ground protection), shall be submitted to and approved in writing by the local planning authority. Within one month of the date of the details being approved, the protection measures shall be fully implemented and maintained as such for the duration of the temporary development hereby granted;

Reason: To ensure adequate protection of the adjacent ancient semi natural woodland.

- (3) No topsoil shall be deposited within 15m of the adjacent ancient semi natural woodland unless otherwise agreed in writing by the local planning authority;

Reason: To ensure adequate protection of the adjacent ancient semi natural woodland.

- (4) Within three months of the date of the permission hereby granted, a badger method statement produced by an ecologist shall be submitted to and approved in writing by the local planning authority and shall detail the following;

- i) That a badger survey will be carried out prior to any of the earth piles being moved/impacted; and
- ii) Details of mitigation that will be implemented if a badger sett is identified.

The approved details shall be fully implemented every time any of the earth piles are moved/impacted for the duration of the temporary development hereby granted;

Reason: In the interest of biodiversity.

- (5) No topsoil pile shall exceed 5m in height from ground level;

Reason: In the interest of biodiversity.

- (6) There shall be no more topsoil deposits made on site.

Reason: In the interest of visual amenity.

- (7) All lorry movements to and from the proposal site shall only be undertaken with a banksman in attendance.

Reason: In the interests of highway safety.

- (8) The development hereby permitted shall be carried out in accordance with plan reference SUTT/001 received 28/08/15; and the Materials Management Plan and Construction Management plan received 18/09/15;

Reason: To ensure a satisfactory appearance to the development and to safeguard the enjoyment of their properties by existing and prospective occupiers.

INFORMATIVES

- (1) It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.
- (2) The applicant is reminded that they may be required to apply for other consents directly from the Environment Agency. The term 'consent' covers consents, permissions or licenses for different activities (such as water abstraction or discharging to a stream), and the Environment Agency have a regulatory role in issuing and monitoring them. The applicant should contact 03708 506 506 or consult their website to establish whether a consent will be required. <https://www.gov.uk/environmental-permit-check-if-you-need-one>.
- (3) The applicant is advised to put in to place measures to ensure erosion of the stored soils does not occur in heavy rainfall which could lead to problems off-site, such as planting a vegetated buffer strip around the outside of the topsoil mounds, and limit disturbance to when it needs moving and turning.

Case Officer: Kathryn Altieri

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website. The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.