

REPORT SUMMARY

REFERENCE NO - 20/501035/HEDGE			
APPLICATION PROPOSAL Hedgerow removal notice -To establish access and working area for southern water sewer connection for a development.			
ADDRESS Land South Of Marden Rd - Staplehurst Marden Road Staplehurst Kent TN12 0PE			
RECOMMENDATION Raise no objection			
SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL In the absence of compelling evidence to the contrary, the hedgerow to which this notification relates is not considered "important" and the Local Planning Authority must raise no objection to the proposal.			
REASON FOR REFERRAL TO COMMITTEE The application has been called in by Councillor John Perry on the following grounds: "This application may seem innocuous but I consider there are other concerns leading off from this application, particularly concerning drainage and I wish this application to be considered by the Planning Committee before a final decision is made. So therefore I request that this application is called in for consideration by the Planning Committee."			
WARD Staplehurst	PARISH/TOWN COUNCIL Staplehurst	APPLICANT Southern Water AGENT Clancy Docwra	
DECISION DUE DATE 03/07/20	PUBLICITY EXPIRY DATE 30/03/20	OFFICER SITE VISIT DATE 25/03/2020	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
	None relevant		

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The hedge is adjacent to the northern boundary of a large field fronting Marden Road. The length of the frontage is approximately 160m.
- 1.02 The proposal site is two sections of this hedgerow, one section of approximately 24m length at the western end (parallel to the road) and one of approximately 30m length at the eastern end (perpendicular to the road) as shown outlined in red on the submitted hedgerow removal plan.
- 1.03 The hedge does not appear to have been subject to recent management as a stockproof hedge and as such now resembles a line of small trees of up to approximately 10m in height. Tree species noted as present in the entire length of the hedge during the case officer site visit include Ash, Hawthorn, Blackthorn, Willow, Goat Willow, and Cherry.

2.0 PROPOSAL

- 2.01 The proposal is to remove the two sections of hedgerow to enable temporary access to the site, situated to the south side of Marden Road, for the installation and connection of a box culvert storage tank by Southern Water. The hedgerow will be reinstated following the works as set out in the report below.
- 2.02 The proposal indicates that the box culvert storage tank will be connected to an existing storm water sewer from the Hen and Duckhurst development on the north side of Marden Road, and the existing sewer to the south side of Marden Road.
- 2.03 Note that the proposal for consideration is the hedgerow removal only. The associated drainage works which the hedgerow removal will enable do not require planning permission or notification.

3.0 SUMMARY INFORMATION

- 3.01 The proposal in front of the Council is a 'Hedgerow Removal Notice' under the Hedgerow Regulations 1997 ('the regulations'). It is considered that the hedge is subject to the regulations, being a hedgerow growing in, or adjacent to, any common land, protected land, or land used for agriculture, forestry or the breeding or keeping of horses, ponies or donkeys, and having a continuous length of, or exceeding, 20 metres.
- 3.02 For the purposes of section 97 (hedgerows) of the Environment Act 1995 and the regulations, a hedgerow is "important" if it, or the hedgerow of which it is a stretch,—
(a) has existed for 30 years or more; **and**
(b) satisfies at least one of the criteria listed in Part II of Schedule 1.
- 3.03 The Local Planning Authority may either raise no objection to the Hedgerow Removal Notice, or give notice that the work must not be carried out by issuing a 'Hedgerow Retention Notice'. A Hedgerow Retention Notice must be issued within six weeks of receiving a hedgerow Removal Notice, or within such longer period as may be agreed between the person who gave the notice and the authority. In this case, the applicant has agreed to an extension of time to allow for the proposal to be considered by the Planning Committee.
- 3.04 A Hedgerow Retention Notice may not be issued for a hedgerow that is not "important".
- 3.05 The Local Planning Authority should issue a Hedgerow Retention Notice for a hedgerow that is considered important "unless satisfied, having regard in particular to the reasons given for its proposed removal in the hedgerow removal notice, that there are circumstances which justify the hedgerow's removal."
- 3.06 The regulations allow certain Permitted Work to a hedgerow to which the regulations apply if it is required in certain circumstances. In this case, it was suggested to the applicant that, in their capacity as a Statutory Undertaker, that one of the Permitted Work categories may apply.

The applicant did not think that any of the categories fully applied in this case and therefore proceeded with the submission of a Hedgerow Removal Notice.

4.0 PLANNING CONSTRAINTS

None relevant

5.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF) 2019
The Hedgerow Regulations 1997

6.0 LOCAL REPRESENTATIONS

6.01 Four objections to the proposal were received from local residents raising the following issues:

- The hedgerow is more than 30 years old
- The development will create noise and disturbance in addition to that suffered from the Dickens Gate development.
- Incorrect plans submitted that do not show the new roundabout or Dickens Gate development.
- Lack of clarity about which development the proposals are intended to serve (outline proposals for Hen and Duckhurst development showed the sewage for the site going north, not to the southwest, as the Marden Road system was already over-subscribed))
- Concern that sewerage will be discharged into the old pipes which take the connections from the Marden Road bungalows that already have spillages in bathrooms and from drain covers?
- Concern that the proposal is to serve a development that does not yet have planning permission.
- The land entry route access in purple is not shown on the submitted Land Entry plan.
- The application does not detail landscaping after the work has been done.
- Harm to the bio-diversity of the area and the rural aspect of the existing residences
- The site plans seem to show the take-over of the end of the track which leads to private residences.
- Lack of details and clarity of purpose
- If this work is essential, why cannot it be accomplished a few metres further south, thus avoiding the necessity of removing any of the hedge?
- The local community that are most affected by this application not been notified by MBC
- The proposals have not been notified in connection with the Hen and Duckhurst planning applications 14/502010 and 17/506306
- The application should state that it is connected to Hen and Duckhurst rather than say it is for a development.
- There has been no application to carry out the work that is suggested within the application?
- Dismal failure of the applicants and MBC for any suggestion of a feasible answer to the Condition 18 of 14/5021010, and 17/506306.
- Lack of details about whether the box storage tank would be above ground or below,
- The storage tank being placed on ground that is not connected to the development in question.
- Storm water is being pumped uphill when the natural fall would be to the north.
- Storm water being taken south westerly into a sewage system that is already overloaded.
- Why does storm water need to be into a sewage system when with natural fall and ditches available if they were maintained could carry such water.

- Is the proposal to have a huge 140-metre-long tank of sewage being stored along the Marden Road?
- Marden Road has suffered failures in the sewage system for a long time and this is yet another ridiculous suggestion to overcome a situation that the planning dept have got into. Instead of forcing the developers to create a new network to the sewage works, they are allowing further problems for the original residents who have suffered for over 10 years.
- Rather worrying that a vague note 'for a development' is sufficient to warrant removal of two of our hedgerows.
- An ecological survey has not been completed
- Residents have not been advised of the proposed removal of these hedgerows
- This was not included in the Marden Road development plan

7.0 CONSULTATIONS

7.01 KCC Biodiversity Officer

No ecological information has been submitted with this application. The hedgerow removal application only requires us to consider if a hedgerow can be considered as 'important'; our comments are detailed below.

Important Hedgerow

To qualify as 'important', a hedgerow must be at least 30 years old and meet at least one of the following eight criteria listed in Part II of Schedule 1 of the Hedgerow Regulations 1997. These identify hedgerows of particular archaeological, historical, wildlife and landscape value and include:

1. The hedgerow marks the boundary of a historic parish or township existing before 1850.
2. The hedgerow incorporates an archaeological feature.
3. The hedgerow is a part of or associated with an archaeological site.
4. The hedgerow marks the boundary of or is associated with a pre-1600 AD estate or manor.
5. The hedgerow forms an integral part of or is associated with a field system pre-dating the Enclosures Act.
6. The hedgerow contains a listed species. These have to be listed the Wildlife and Countryside Act 1981 either in Part I of Schedule 1 (birds protected by special penalties), or Schedule 5 (other animals) or Schedule 8 (plants). In addition, species listed in certain red data books qualify. Unfortunately, the list of birds was published in 1990, and does not include species such as song thrush and linnets, whose numbers have declined more recently.
- 7. The hedgerow includes, on average, in a 30 metre length one of: a) at least 7 woody shrub and tree species listed in the regulations. b) at least 6 woody species and has at least 3 associated features. c) at least 6 woody species including a black-poplar tree, large-leaved lime, small-leaved lime or wild service tree.**
8. The hedgerow runs alongside a bridleway, footpath, road used as a public path or a byway open to all traffic, and includes at least four woody species, on average, in a 30 metre length and has at least two associated features.

The hedgerow was clearly established in 1990 and would appear to present 1960 (according to the aerial imagery) making it over 30 years old. As the hedgerow also meets other criteria, such as containing at least 7 woody shrubs (extrapolated from

the imagery available to us), it can be considered 'important' under the Hedgerow Regulations Act 1997.

Other comments:

Although no ecological information was submitted, it is our opinion that there is capacity for protected species, such as reptiles, dormice and breeding birds to be utilising the hedgerow habitat (having good connectivity with areas to the south). Although a hedgerow removal application does not entail our advice regarding any potential mitigation/compensation measures, we strongly recommend that protected species/loss of biodiversity is considered regarding any removal of hedgerow at this site.

7.02 Staplehurst Parish Council:

"Councillors expressed concern about the lack of clarity in the submitted plans: 'the new development' mentioned in the application should be specifically identified: the plans were not accurate or up to date and should show the new roundabout on Marden Road; the proposed culvert suggested management of surface water, yet the application discussed storage of sewerage; no mention was made of post-works reinstatement of the landscape. They sought satisfactory answers to these points before determination of the application."

8.0 BACKGROUND PAPERS AND PLANS

Include existing plans

9.0 APPRAISAL

Criteria for "Importance"

9.01 The hedgerow is considered to be more than 30 years old, on the basis of the Google Earth aerial photo record, in which an established hedge has been present in this location since at least December 1990, being visible again in aerial photos dated 2003, 2006, 2007, 2008, 2011, 2013, 2014, 2015 and 2018. The aerial photo dated 1960 also shows a hedgerow present, but there are no records between this and the December 1990 photograph. It is therefore considered that the hedgerow meets the first criteria for potential "importance".

9.02 The criteria for determining whether a hedgerow is important are set out in detail in Part II of Schedule 1 of the regulations. These are summarised in the Biodiversity Officer's comments. In this case, no evidence has been found to indicate that the criteria numbered 1-6 and 8 apply to this hedgerow. The Biodiversity Officer suggests in his comments that criteria 7 applies, as the hedgerow contains more than 7 woody species. However, the case officer sought further clarification to confirm that the hedgerow was considered "important" on the basis of criteria 7 only and to ask if that conclusion had been reached as the result of a site visit. It was confirmed that the Biodiversity Officer's comments were not made following a site visit and the following further commentary was received:

"I don't believe it does meet any other criteria if it doesn't have 7 woody shrubs/trees and, therefore, wouldn't be 'important'. However, from the imagery available to me (which is not high quality), I can see hawthorn/blackthorn, bramble and 1-2 tree species. Therefore, I assumed that if I could make out 3-4 species, there is probably is at least 7 woody shrubs/trees present."

The case officer confirmed the presence of Ash, Hawthorn, Blackthorn, Willow, Goat Willow, and Cherry during the site visit. The Biodiversity Officer notes Bramble as a woody species, but this is not one of the woody species listed in Schedule 3 of the regulations and cannot therefore be counted. No additional species were specifically noted by the Biodiversity to confirm that more than 6 species from Schedule 3 are present.

It is therefore considered that on the basis of the available evidence that the hedgerow does not meet the criteria for importance. The regulations clearly state that a Hedgerow Retention Notice may not be issued for a hedgerow that is not "important".

Response to objections

- 9.03 The objections largely relate to the issues surrounding the proposed Southern Water scheme. In considering this Hedgerow Removal Notice, the exact nature of the scheme only becomes relevant if the Council considers that the hedgerow is "important" and that it needs to be determined whether, "having regard in particular to the reasons given for its proposed removal in the hedgerow removal notice, that there are circumstances which justify the hedgerow's removal."

To this end, the case officer sought further details on the Southern Water scheme from the applicant and received the following response, which is reproduced below for Member's information:

The Hen and Duckhurst scheme relates to the proposed development on Hen and Duckhurst Farm, Staplehurst, Kent, connecting to the existing local foul network. The proposed development lies in the Staplehurst (STAP) catchment.

The developer, Fortridge Consulting Ltd., is proposing to construct mixed use development of up to 250 new homes and associated public open spaces. Flows will be discharging into the existing foul network. The same development is also referred to as the Marden Road development in the Staplehurst Drainage Area Plan (DAP). This development is one of three main proposed development areas in the Staplehurst WwTW catchment.

The scope of work is a large below ground storage tank of dimensions 1500mmW x 1200mmH x 141mL providing 254m³ of storage with a flap valve at the downstream end, connecting to Marden Road WPS.

This solution has been modelled and designed to cause no detriment downstream. The planning start date is end of May 2020 and end date March 2021.

The business need of the proposed works is to serve the new Hen & Duckhurst development. However, there will be betterments on the properties adjacent to the new development site due to the large capacity of the storage tank. This however, will not solve the entire flooding issue that local residents have at the moment. A separate growth scheme is being carried out by SW separately to solve the capacity in the current buildings.

Southern Water has a team of ecologists who will assess the development and ensure that all work is undertaken in accordance with the law and best practice to achieve no net loss in biodiversity. Also, it is Southern Water's standard practice to reinstate all land to pre-commencement conditions, so would fully expect our

Contractors to replace the hedgerow upon completion. I am not aware of any technical reason why they wouldn't do this.

Please see below for Southern Water's proposed approach to the proposed hedgerow removal:

Carry out a Hedgerow Regulations Assessment of the hedgerow noting protected species or woody species under Schedule 3 of the Hedgerow Regulations 1997. The exact approach to hedgerow removal and reinstatement will be confirmed following the Hedgerow Regulations Assessment.

If the hedgerow is determined to be an 'important' hedgerow during the Hedgerow Regulations Assessment then the aim will be to reinstate an 'important' hedgerow either by replanting using woody species which are at least 30 years of age, or by reinstating current hedgerow sections to the same location following works, with suitable storage of these sections during works to allow continued survival and growth. If the hedgerow is not determined to be an 'important' hedgerow then the hedgerow will be replanted with any native woody species listed on the Hedgerow Regulations 1997 which are currently present in the hedgerow, and additional woody species may also be planted such as blackthorn, hawthorn, holly, field maple, as well as possibly dogwood and gorse to enhance the biodiversity of the hedgerow.

Vegetation removal works would be undertaken in accordance with any required ecological mitigation which will be outlined in the Preliminary Ecological Appraisal report.

Where reinstatement of existing hedgerow sections is not required, then any removed hedgerow sections will be chipped and logged to be used for reinstatement post works. The topsoil / detritus will be stripped back and retained on site for re-use. After carrying out the works the topsoil / detritus will be reinstated, using some of the chippings to bulk up the ground and creating log piles for invertebrate use.

Note the woody species proposed for replanting are native, provide berries thus supporting biodiversity. These also act as good intruder hedges maintaining security between / across the hedgerow – they can also grow well in shade / partial shade conditions and don't need particularly wet soils.

Replanting will be completed in accordance with a planting plan which includes the native, woody species which are to be planted as well as information on how these species will be planted (following BS8545) and maintained for growth.

Options for protecting the reinstated hedgerow will be reviewed such as the use of long term fencing such as post and rail (adjacent to the road) to act as a deterrent to foot traffic across the newly replanted area.

Clancy's will contract to their vegetation specialist a two year maintenance programme / or seek agreement with the council for a two year maintenance programme to facilitate successful re-establishment.

The Local Planning Authority cannot require further information, such as Ecological Surveys to be submitted in support of a Hedgerow Removal Notice. Neither do the regulations require the person submitting a Hedgerow Removal Notice to provide reasons for the proposed hedgerow removal, although it may be in their interests to do so if a hedgerow is likely to be "important" and the reasons are circumstances which justify the hedgerow's removal.

10.0 CONCLUSION

- 10.01 In the absence of compelling evidence to the contrary, the hedgerow to which this notification relates is not considered “important” and the Local Planning Authority must raise no objection to the proposal.

The details of the Southern Water Scheme itself are not able to be considered in the determination of a Hedgerow Removal Notice and only become relevant if the Local Planning Authority deem the hedgerow to be “important” but are considering not issuing a Hedgerow Retention Notice on the grounds of the necessity of the scheme being circumstances which justify the hedgerow’s removal.

11.0 RECOMMENDATION – Raise no objection:

CONDITIONS

None

INFORMATIVES

(1) The Council's decision does not override the need to obtain the landowner's consent for works on land which you do not own.

(2) Works to hedgerows could result in disturbance to wild animals, plants and important wildlife sites protected by law. Therefore, the works hereby permitted should be carried out in a manner and at such times to avoid disturbance. Further advice can be sought from Natural England and/or Kent Wildlife Trust.

Case Officer: Nick Gallavin

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.