

TO: PLANNING & REGULATORY COMMITTEE

DATE: 30 JULY 2015

BY: PLANNING DEVELOPMENT CONTROL TEAM
MANAGER

DISTRICT(S) REIGATE AND BANSTEAD

ELECTORAL DIVISION(S):
Horley West

Mrs Hammond

PURPOSE: FOR INFORMATION

GRID REF: 525495 143342

TITLE: DECISION ON PLANNING APPEAL REF: APP/B3600/A/14/2215569

**LAND AT LOMOND EQUESTRIAN CENTRE, HORSEHILL, NORWOOD HILL, HORLEY,
SURREY, RH6 0HN**

SUMMARY REPORT

On 2 October 2013, the Planning & Regulatory Committee refused planning application Ref. RE12/02001 which sought permission to undertake “*engineering works to create cross-falls to improve land drainage and improve grazing at Lomond Equestrian Centre by stripping and stockpiling of existing topsoil, importation of up to 44,000 tonnes of inert soils, replacement of topsoil, seeding with agricultural grass seed mix, creation of a wildlife pond and formation of temporary site egress*”.

This report provides details of the outcome of an appeal against that decision.

RECOMMENDATION

It is recommended that the committee note the result of an appeal made by Ms Alexandra Gache against the resolution of Surrey County Council (SCC) not to grant planning permission Ref. RE12/02001 on 2 October 2013.

APPEAL CONTEXT

1. The appeal was made by Ms Alexandra Gache under section 78 of the Town and Country Planning Act 1990 against the resolution of Surrey County Council (SCC) not to grant planning permission Ref. RE12/02001 on 2 October 2013.
2. Planning application Ref. RE12/02001 sought permission to undertake *“engineering works to create cross-falls to improve land drainage and improve grazing at Lomond Equestrian Centre by stripping and stockpiling of existing topsoil, importation of up to 44,000 tonnes of inert soils, replacement of topsoil, seeding with agricultural grass seed mix, creation of a wildlife pond and formation of temporary site egress”*

This application was refused by SCC for the following reasons:

- I. The applicant has failed to demonstrate that the proposal would not prejudice the restoration of Patteson Court Landfill, Reigate Road Quarry, Oxted Sandpit, and Oxted Chalkpit contrary to Policy WD7 - Disposal by Landraising of the Surrey Waste Plan 2008, and therefore the proposal has the potential to adversely impact upon the satisfactory implementation of Policy MC17 - Restoring Mineral Workings of the Surrey Minerals Plan Core Strategy 2011.
- II. The applicant has failed to demonstrate why the waste to be used as part of the development proposed cannot be otherwise reused, recycled or processed, and that the proposal would facilitate a substantial improvement in the quality of the land contrary to Policy WD7 - Disposal by Landraising of the Surrey Waste Plan 2008.
- III. The proposal incorporates finished levels that are not considered compatible with the surrounding area, and the applicant has failed to include proposals for aftercare or securing long-term management of the restored site as part of the application contrary to Policy WD8 - Landraising Operations of the Surrey Waste Plan 2008.
- IV. The proposed landform would adversely affect the local landscape character and the wider landscape character contrary to Policy DC3 - General Considerations of the Surrey Waste Plan 2008.
- V. The proposal would lead to the introduction of slow moving heavy goods vehicles at a new egress point onto Horsehill where visibility is substandard and where the highway is characterised as a narrow rural lane, and the use of the proposed access would be prejudicial to the safety and free flow of traffic, and therefore the development would endanger and inconvenience other highway users contrary to Policy DC3 - General Considerations of the Surrey Waste Plan 2008, Policy MO5 - New Development of the Reigate and Banstead Borough Local Plan 2005, and the aims and objectives of the Surrey Transport Plan 2011 - 2026.
- VI. The applicant has failed to demonstrate factors that amount to very special circumstances which clearly outweigh the harm caused by the development to the Green Belt by reason of inappropriateness, and any other harm with regard to reasons 1, 2, 3, 4, and 5 above contrary to Policy CW6 - Development in the Green Belt of the Surrey Waste Plan 2008 and Policy CO1 - Openness of the Green Belt of the Reigate and Banstead Borough Local Plan 2005.

BACKGROUND TO APPEAL

3. The appeal site is situated within the Metropolitan Green Belt some 1.4km due west of Horley, about 2km north of Gatwick Airport, and approximately 4km south of Reigate. It

is located on the western side of the rural road Horse Hill, about 800m northwest of its junction with the A217 (Reigate Road), which also serves the principal access to Lomond Equestrian Centre and the proposed access to the appeal site. The proposed egress point from the appeal site is to be located further along Horse Hill towards the southwest.

4. The landholding associated with Lomond Equestrian Centre extends to some 17.5ha and includes stabling (for some 45 horses), a sand school, barns, a detached house and garden, and grazing land which measures some 13.3ha in total. The appeal site measures 3.9ha with its length and width being about 280m and 140m respectively. The area of the appeal site proposed to be raised amounts to approximately 29% of the equestrian centre's total grazing land. The centre currently has some 10 to 15 horses in livery.
5. In 2005 the Borough Council refused planning permission (Ref. 05/02257/F) for the re-contouring of land-levels to improve drainage and reduce flooding. This application was followed in 2007 by planning application Ref. 07/00840/F which again sought permission to re-contour levels to improve drainage and reduce flooding. The Borough Council also refused this application, but this decision was subsequently appealed to the Secretary of State. However this appeal (Ref. APP/L3625/A/08/2092696/NWF) was withdrawn by the appellant in 2009. The CPA understand that both planning applications Refs. 05/02257/F and 07/00840/F related to the appeal site.
6. The development which was the subject of application Ref. RE/P/12/02001 sought, in principle, planning permission for a similar development to that put forward to and refused by the Borough Council in 2005 and in 2007 respectively.
7. The appellant has explained that the field to be raised is located on land with very shallow gradients and highly impermeable clay soil and that for several months of the year it remains saturated with water and that these conditions do not allow grass to grow, which in turn severely reduces the annual grass yield of the equestrian centre. In addition to the lack of grass growth, the appellant asserts that these waterlogged conditions can lead to health complications for horses.
8. As a consequence of the these ground conditions the appellant has argued that Lomond Equestrian Centre is economically and functionally hampered and cannot reach its full potential in terms of providing access to and recreation in the Green Belt. Accordingly, the appellant seeks to raise the level of the field so as to create cross-falls that would remove surface water when saturated.
9. The proposed landraising is to be achieved through the importation and deposit of 44,000 tonnes of inert waste (some 22,000m³) by way of 4,720 HGV movements (2,360 HGV trips), the stripping of existing topsoil, spreading of the imported waste, replacement of stockpiled topsoil, and seeding with agricultural grass seed mix all over a period of 12-months.
10. In addition to the above land raising works the appellant will seek to create a new temporary egress track onto Horse Hill from the south eastern corner of the field. This would involve the further importation and deposit, and subsequent removal, of some 400m³ of inert waste material by way of an additional 160 HGV movements (80 HGV trips) before any land raising works commence.

THE APPEAL

11. Following consideration of Surrey County Council's and the applicant's respective Statements of Case in relation to the development proposed the Planning Inspectorate, on behalf of the Secretary of State for Communities and Local Government, determined

that the appeal should be allowed and that planning permission should be granted for the proposed engineering works.

12. The main issues in respect of the development, as considered by the Planning Inspector, were:
- a) Whether the proposed development would represent inappropriate development in the Green Belt;
 - b) Its effect on the landscape;
 - c) Its effect on the safety and convenience of highway users;
 - d) Whether the proposed development would accord with the principles of sustainable waste management; and
 - e) If the development would be inappropriate in the Green Belt (issue (a) above), whether the harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the development.

Whether the proposed development would represent inappropriate development in the Green Belt

13. The Inspector concurred with the views of the Council that the engineering operations proposed to be undertaken on the site, including the use of plant, temporary buildings and the transport of materials by lorries, together with the construction and eventual removal of a temporary haul road and egress onto Horse Hill, would affect the openness of the Green Belt for the duration of the works. However, it was also concluded that some control over these matters could be exercised through planning conditions, and the affect on openness would not be permanent. Indeed the Inspector resolved that they would be relatively short-term in the context of the generality of mineral and waste developments.
14. Accordingly the Inspector concluded in respect of the first issue that, by virtue of the engineering phase only, the proposed development would represent inappropriate development in the Green Belt. As the National Planning Policy Framework makes clear, this is by definition harmful to the Green Belt and should not be approved except in very special circumstances.

Its effect on the landscape

15. Similarly the Inspector agreed with the Council that while the works were in progress the site, including the haul road to the egress onto Horse Hill, would be a more prominent and alien feature in the landscape. The presence of plant, temporary buildings and so on would add to the visual impact even with controls by condition as indicated above. However, it was resolved that this impact would be temporary and relatively short-term.
16. The appeal scheme did not include details of aftercare and long-term management of the site as required by Policy WD8 of the Surrey Waste Plan 2008 and SCC's preference for such matters to be determined in advance of a decision on the overall proposal, rather than through planning conditions was noted by the Inspectorate. However, the Inspector did not consider that it was impossible to achieve an appropriate scheme that could be secured and controlled through conditions including the need to include a requirement to remove the temporary egress road and to restore the land to its original condition.

17. Consequently the Inspector concluded on this issue that the proposed development would not materially harm the landscape or conflict in this respect with Policy DC3 (general considerations) of the Surrey Waste Plan 2008 permanently, but there would be harm and conflict with the policy in the short term.

Its effect on the safety and convenience of highway users

18. The Inspector recognised that Horse Hill is a minor road connecting to the A217 and that it has a reasonable alignment and in the vicinity of the site this alignment is between 5.65m and 6.15m wide with grass verges to either side. The Inspector considered this sufficient for two HGVs to pass.
19. The speed limit of Horse Hill is 40mph, but a survey carried out in 2009 in connection with the then-proposed exploratory well-site to the north indicates actual 85th percentile wet weather speeds around 47mph both ways. While this was in a different location and some 6 years ago, the Inspector asserted that there is nothing to suggest that this measurement is not indicative of speeds in the vicinity of this site now. SCC argued that for such speeds visibility of 120m each way would be required and that the stopping sight distance is similar.
20. At the existing access to the equestrian centre, visibility to the north is well in excess of the above requirement but to the south it is significantly limited by the road alignment and the nearside boundary and vegetation. However, having regard to the fact that this would be used for entry only, and that improvement to turning radii could be secured through a planning condition, the Inspector concluded that the use of this access would not pose a significant risk to road users.
21. Egress would be via the proposed temporary track and exit some 140m to the south of the existing site access. Here visibility to the right (south-east) for traffic approaching on the nearside is well in excess of the minimum. To the north-west there is a slight bend in the road and SCC has measured visibility along the nearside edge of the carriageway at 65-70m. In the case of vehicles approaching from the left (north-west) this approximates to the centre line of the road. The Inspector saw that the visibility to here is some 140m and that there are glimpses of approaching vehicles before this. However, the Inspector recognised that HGVs pulling away from the egress would accelerate slowly. Accordingly, the Inspector concluded that measures to minimise risk by securing provision of warning signs on the highway, visibility splays, geometry to permit exit to the south-east only and facilities to prevent the creation of a dangerous surface on the road through the deposit of mud etc could be secured through planning conditions.
22. Consequently, the Inspector concluded on this issue that the proposed development would not cause unacceptable harm to the safety and convenience of highway users and that it would therefore accord with Policy DC3 (*general considerations*) of the Surrey Waste Plan 2008 and Policy Mo5 (*design of roads within new development*) of the Reigate and Banstead Borough Local Plan 2005.

Whether the proposed development would accord with the principles of sustainable waste management

23. The originally identified source of fill material for this development was from a flood alleviation scheme at Gatwick Airport. Whether such material would have fallen within the statutory definition of 'waste' is a matter of law and the Inspector agreed with SCC that it did.

24. Further, SCC argued that 'disposal' is defined in the Waste Framework Directive 2008 (WFD) as the disposal or permanent storage on land with such operations being primarily aimed at getting rid of waste. However, the Inspector considered that the primary purpose of the development is 'to create cross-falls and improve land drainage' and that it follows that the deposit or permanent storage of the waste used for this purpose would be a secondary benefit. The Inspector also considered that the only alternative to the use of waste for the purpose proposed seems to be use of material from a natural or primary resource. Thus it was concluded that the result of the proposed development would be replacement of material from a natural or primary resource which, according to the Inspector, brings the operation within the WFD definition of 'recovery' rather than 'disposal'. The Inspector also noted that it would also represent re-use of the material, which is further up the waste hierarchy than disposal.
25. The Inspector noted that the description of the development in the application refers to filling with 'inert soils' and that this loose definition understandably concerned SCC in respect of the nature of the material to be used. However, the Inspector considered that the use of appropriate imported material could be secured by a condition together with a further provision for sampling on request by SCC and that enforcement of such a condition would not necessitate a constant on-site presence by SCC. The Inspector also considered that a further condition to secure proper management of soils would be required to make the development acceptable.
26. SCC expressed concern that the proposed development would prejudice the restoration of mineral workings which have in a number of cases fallen behind timetables because of a shortage of suitable materials. However, the Inspector acknowledged that mineral operators also attribute this shortage to a number of other factors including the depressed economic situation, an increase in the diversion of waste from landfill, and an increase in the number of aggregate recycling facilities. The National Planning Policy Framework seeks the reclamation of worked land at the earliest opportunity. This is reflected in Policy WD7 (*disposal by landfilling, landraising, engineering or other operations*) of the Surrey Waste Plan 2008 and Policy MC17 (*restoring mineral workings*) of the Surrey Minerals Plan Core Strategy 2011, to which the Inspector afforded full weight. The Inspector also recognised the environmental costs of delays in mineral site restoration. However, this recognition was balanced against the relatively modest volume of material involved in the proposal. SCC refers in its first reason for refusal only to a 'potential' impact on the satisfactory implementation of Policy MC17. However, the Inspector asserted that it had not provided evidence that use of material for this scheme, as opposed to other reasons impeding restoration of mineral sites, would cause significant actual harm to the restoration of mineral workings.
27. Accordingly, the Inspector concluded on this issue that the proposed development would accord with the principles of sustainable waste management and in turn Policy WD7 of the Surrey Waste Plan 2008 as it would entail reuse of the waste, facilitate a substantial improvement in the quality of land and has not been demonstrated to prejudice the satisfactory restoration of mineral working sites in the locality. In respect of Policy MC17 the Inspector noted that this policy relates expressly to proposals for mineral working and that this is not what is proposed here so there would be no conflict with this policy.

If the development would be inappropriate in the Green Belt, whether the harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the development

28. According to the Inspector the main benefits of the scheme would accrue from improved drainage of the site. In this respect the Inspector noted that the site - particularly the more level southern (bottom) half - is in poor condition, being waterlogged and effectively unusable for grazing in winter. SCC accepted that raising the level as proposed may be the only satisfactory way in which the field drainage can be improved, and no alternative means has been suggested. It was also acknowledged by SCC that that the proposal involves the minimum volume of material necessary.
29. SCC argued that the Equestrian Centre has been operating successfully in the Green Belt for some years and that it provides access to and recreational opportunities in the Green Belt, including a Riding for the Disabled group, and therefore there was no demonstrable need to improve facilities as proposed. However, the Inspector asserted that improved grazing on the appeal site might not be essential to the continued operation of the enterprise, but it would increase the number of horses that can be kept. Consequently, the Inspector was in no doubt that the development would help the equestrian centre to secure its viability and hence the public benefits it offers.
30. The Inspector resolved that the harm identified in relation to the proposal would be limited in degree and, particularly, would all be temporary. After the engineering phase there would be no material harm, including by inappropriateness in the Green Belt. Accordingly, it was concluded that the temporary harm is clearly outweighed by limited but permanent benefits of the proposed development so as to amount to the very special circumstances required to justify the development in accordance with Policy CW6 of the Surrey Waste Plan 2008.

CONCLUSIONS:

31. Although the Planning Inspectorate resolved to overturn the decision of SCC to refuse planning permission for the development proposed at Lomond Equestrian Centre it should be noted that it concurred with SCC's consideration that engineering operations including the use of plant, temporary buildings and the transport of materials by HGVs does adversely affect openness and therefore amounts to inappropriate development in the Green Belt. This harm, together with the development's visual and landscape implications, was considered to be temporary by the Inspectorate and therefore capable of being mitigated by the imposition of planning conditions. Similarly, in respect of SCC's concerns about the development's impact on the local highway network the Inspectorate concluded that measures to minimise risk by securing provision of warning signs on the highway, visibility splays, geometry to permit exit to the south-east only and facilities to prevent the creation of a dangerous surface on the road through the deposit of mud etc. could be secured through planning conditions and would not therefore cause unacceptable harm to the safety and convenience of highway users. Despite SCC's misgivings about the nature, quality and volume of material to be used to facilitate the development the Inspectorate concluded that the proposal, subject to conditions, would bring about a substantial improvement in the quality of the appeal site by way of improved grazing which would in turn help to secure the equestrian centre's viability in the future and the public benefits it offers to disabled horse riders.

Financial and value for money implications

None.

Equalities and Diversity Implications

The decision being reported to the Members of SCC's Planning and Regulatory Committee by way of this report was taken by the Planning Inspectorate on behalf of the Secretary of State for Communities and Local Government in accordance with s79 of the Town and Country Planning Act 1990.

Risk Management Implications

None

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Background papers: None.
