



Late Observations Sheet
DEVELOPMENT CONTROL COMMITTEE
30 January 2014 at 7.00 pm

Late Observations

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DEVELOPMENT CONTROL COMMITTEE

30 January 2014

LATE OBSERVATION SHEET

Significant new proposals have been put forward in relation to both crematoria applications and in the light of this it is now recommended that both applications are deferred for further consideration. A statement will be made at the start of the meeting.

4.1 SE/13/03178/FUL Land North of Oak Tree Farm, London Road, Badgers Mount, Halstead TN14 7AB

Introduction

Since this report was prepared the applicant has submitted a Draft Unilateral Undertaking which seeks to address concerns expressed about the conflict between traffic attending Oak Tree Farm for the crushing activities and the quieter atmosphere of the crematorium proposed. The Obligation confirms that:

- Before or immediately upon the Occupation of the Development (ie the crematorium) to permanently cease the use of the Land for Concrete Crushing Works and permanently remove the equipment and plant from the Land;
- Not at any time following the Occupation of the Development to use the Land for Concrete Crushing Works or to permit equipment and plant similar to that used for the said Concrete Crushing Works to be used or stored on the Land.

Further to this draft obligation a letter has been received from the owner of the site offering to remove the mobile screener as well and officers have been informed verbally that the spoil will be removed also. Only recycling activities would be retained. Full clarification of the extent of works to be removed and clarification regarding the retention of the recycling activities needs to be clarified to understand this proposal fully.

We are advised that the site is licensed to deal with 75,000 tonnes of waste per annum utilising 20 tonne lorries and forms the most significant part of the existing business. The site owner explains that he intends to retire this year and is "willing to consider an alternative and more acceptable housing use for the mixed use site (ie those operations apart from the crushing uses). Members should note that in 2006 a Lawful Development Certificate was granted for the use of part of the site for recycling, screening and crushing of materials re-used on construction sites, together with the storage and maintenance of machinery used to that use and the parking of vehicles and machinery unconnected to that use. The alternative to this is to sell the site with the benefit of the existing uses and this would include the concrete crushing operation. He anticipates that the operation by another site owner would be far greater than at present.

RECOMMENDATION

This represents a material change to the merits of the case and after taking advice from the Legal Services Manager it is recommended that a decision on this item be deferred to allow Officers to discuss and clarify the terms of the proposed Legal Agreement and report back to a future meeting.

In the event that permission is granted the following amendments are proposed to conditions:

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CONDITIONS

Page 3 condition 10)

Delete word in brackets(or specified phase of development).

Page 3 condition 12

Remove words *wheelwashing facilities*

Page 9 Condition 11 Delete and insert the following:

Development shall not commence until a sustainable surface water drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The drainage strategy should demonstrate the surface water run-off generated up to and including the 100yr critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event, and so not increase the risk of flooding both on- or off-site. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

Reason: To prevent flooding by ensuring the satisfactory storage and disposal of surface water from the site.

Page 11 Insert Condition 22):

No development approved by this planning permission shall take place until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

1. A preliminary risk assessment which has identified:

a. all previous uses

b. potential contaminants associated with those uses

c. a conceptual model of the site indicating sources, pathways and receptors

d. potentially unacceptable risks arising from contamination at the site.

2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.

Reasons: To protect groundwater and comply with the National Planning Policy Framework (NPPF).

Page 11 Insert condition 23):

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

Reasons: To protect groundwater and comply with the NPPF.

Condition 14: Amend the wording as follows: Prior to the first use of the crematorium and gardens of remembrance, details shall be submitted to and be approved in writing by the Local Planning Authority of a scheme for all means of boundary treatment and enclosure. The scheme shall be carried out in accordance with the approved details prior to the first use of the development hereby approved.

Insert condition 24):

Condition: No infiltration of surface water drainage into the ground at the site is permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

Reasons: To protect groundwater and comply with the NPPF.

Insert condition 25

Prior to the commencement of development details shall be provided of the design and materials of the proposed footbridge in the memorial gardens. The scheme shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory appearance upon completion in accordance with the provisions of policy EN1 of the SDLP.

INFORMATIVES

Page 11 Insert the following:

2) The Local Authority needs to be satisfied that the surface water drainage is based on a detailed ground investigation which includes in-situ permeability testing. This would need to be in the form of shallow boreholes and trial pits to the base of the proposed pond; "a Falling Head test". Owing to the nature of the ground, the base of the pond must be permeable and these ground tests must prove that it is.

Page 11 Insert the following:

3) Any facilities for the storage of oils, fuels or chemicals shall be provided with secondary containment that is impermeable to both the oil, fuel or chemical and water, for example a bund, details of which shall be submitted to the local planning authority for approval. The minimum volume of the secondary containment should be at least equivalent to the capacity of the tank plus 10%. If there is more than one tank in the secondary containment the capacity of the containment should be at least the capacity of the largest tank plus 10% or 25% of the total tank capacity, whichever is greatest. All fill points, vents, gauges and sight gauge must be located within the secondary containment.

The secondary containment shall have no opening used to drain the system. Associated above ground pipework should be protected from accidental damage. Below ground pipework should have no mechanical joints, except at inspection hatches and either leak detection equipment installed or regular leak checks. All fill points and tank vent pipe outlets should be detailed to discharge downwards into the bund.

CONSULTATIONS

Page 20: Para 58 Environment Agency:

We consider that planning permission could be granted for the proposed development as submitted if the following planning conditions are included as set out below.

Flood Risk

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Condition: Development shall not commence until a sustainable surface water drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The drainage strategy should demonstrate the surface water run-off generated up to and including the 100yr critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event, and so not increase the risk of flooding both on- or off-site. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

Reason: To prevent flooding by ensuring the satisfactory storage and disposal of surface water from the site.

Further information: The Local Authority needs to be satisfied that the surface water drainage is based on a detailed ground investigation which includes in-situ permeability testing. This would need to be in the form of shallow boreholes and trial pits to the base of the proposed pond; "a Falling Head test". Owing to the nature of the ground, the base of the pond must be permeable and these ground tests must prove that it is.

Groundwater and Contaminated Land

Condition: No development approved by this planning permission shall take place until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

1. A preliminary risk assessment which has identified:
 - a. all previous uses
 - b. potential contaminants associated with those uses
 - c. a conceptual model of the site indicating sources, pathways and receptors
 - d. potentially unacceptable risks arising from contamination at the site.
2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.

Reasons: To protect groundwater and comply with the National Planning Policy Framework (NPPF).

National Planning Policy Framework paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of water pollution.

Condition: If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

Reasons: To protect groundwater and comply with the NPPF.

Drainage

Condition: No infiltration of surface water drainage into the ground at the site is permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

Reasons: To protect groundwater and comply with the NPPF.

Foul drainage

The planning application indicates that a package treatment plant will be used. If you wish to discharge treated sewage effluent into a surface water or to ground you may require an Environmental Permit from us. You should apply online at <http://www.environment-agency.gov.uk/business/topics/permitting> or contact us for an Environmental Permit application form and further details on 08708 506506. The granting of planning permission does not guarantee the granting of a permit under the Environmental Permitting Regulations 2010. A permit will be granted where the risk to the environment is acceptable. A permit is not required if the rate of sewage effluent discharge is less than 2 cubic metres a day or less to ground or 5 cubic metres a day or less to watercourse. You must, however, be able to satisfy a number of specific criteria and you may need to register the discharge as exempt, please see our website for further information. A Standard Rules Permit is available for discharges of secondary treated sewage (to surface water only) of between 5 cubic metres a day and 20 cubic metres a day. Discharges of treated sewage greater than 2 cubic metres a day to ground and greater than 20 cubic metres a day to a surface water require a Bespoke Permit.

Informative

Fuel, Oil and Chemical Storage

Any facilities for the storage of oils, fuels or chemicals shall be provided with secondary containment that is impermeable to both the oil, fuel or chemical and water, for example a bund, details of which shall be submitted to the local planning authority for approval. The minimum volume of the secondary containment should be at least equivalent to the capacity of the tank plus 10%. If there is more than one tank in the secondary containment the capacity of the containment should be at least the capacity of the largest tank plus 10% or 25% of the total tank capacity, whichever is greatest. All fill points, vents, gauges and sight gauge must be located within the secondary containment. The secondary containment shall have no opening used to drain the system. Associated above ground pipework should be protected from accidental damage. Below ground pipework should have no mechanical joints, except at inspection hatches and either leak detection equipment installed or regular leak checks. All fill points and tank vent pipe outlets should be detailed to discharge downwards into the bund.

PAGE 21 Para 65 London Borough of Bromley

No objections

REPRESENTATIONS

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6 letters of support from residents on and close to the Oak Tree Farm site and a nearby local business raising the following issues:

- An appropriate site for such a use
- Is a need in the area for such a facility
- Would include major improvements to Oak Tree Farm – tidy up the site
- Improved access to Oak Tree Farm

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1 letter of objection from local resident and Memoria (applicants for the Orchard Barn Site) raising concerns about the flooding issue:

- advising that the entrance was flooded for 3 days over xmas and pointing out that the adjacent site does not suffer in this manner.
- Expressing concern that the Env Agency comments and suggested conditions do not address this issue – merely seek to prevent run off from the site.

Letter of objection from Dignity who operate Beckenham and Surrey/Sussex Crematoria raising the following issues:

- Insufficient demonstration of need – 3 crematoria within 10 miles – Beckenham Lewisham and Eltham
- Insufficient information to demonstrate quantitative need:
 - . there has been a decline in cremations in the past 12 years
 - . sufficient capacity in both Beckenham and Surrey/Sussex Crematoria.
 - Beckenham operated at about 65% capacity in 2012
 - Surrey/Sussex operated at 74% capacity in 2012
 - . If there was a need Dignity would shorten their services so that more could take place within the existing crematoria
 - . They have recently introduced a larger cremator at Beckenham to deal with this aspect of increased demand.

Page 28 Para 127

Insert the following after the first sentence: *(this service comprises one bus each way on school days). The nearest bus stop for a regular bus service lies approx half a mile away.*

Page 32 Para 116:

Delete the first sentence and replace with: An air quality report was not required by the Councils Environmental Health Officer since he considers that this matter could be dealt with by means of a condition.

Page 39 Para 167

Delete 185Sqm and insert 264 sqm.

This floorspace calculation has increased because one of the buildings was omitted from the initial calculation and clarification has been received about the presence of a first floor in the brick building at the front of the site.

4.2 SE/13/03353/FUL Watercrofts Wood, Old London Road, Badgers Mount, Kent

Page 49: RECOMMENDATION

A legal agreement has been volunteered by the applicant to provide for retention of the Ancient Woodland on site. This represents a material change to the merits of the case being considered and following advice from the Legal Services Manager it is recommended that the Committee defer consideration of this case to allow Officers to discuss and clarify the content of such an agreement.

Update to Report

Page 53 Para 17 Environmental Health:

Environmental Health have now had the opportunity to review this application and would like to make the following comments:

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- The applicant should be required to submit calculations, using HMIP Technical Guidance Note (Dispersion D1) to demonstrate that the proposed stack height will provide sufficient dispersion and dilution in the atmosphere to ensure that any pollutants ground at concentrations that are deemed harmless.
- The applicant should be required to provide an air quality impact assessment to demonstrate that any pollutants from the operation will not have an impact on air quality in the locality.
- The crematorium will be an installation regulated under the Environmental Permitting Regulations. As such the applicant should be advised that an application or a permit will have to be made in respect of the activity, which will need to meet the requirements of the Statutory Guidance for Crematoria (PG5/2(12)).

REPRESENTATIONS

1 letter from another crematorium provider (Mercia – applicants on the Oak Tree Farm site) raising the following issues:

- availability of a partial brownfield site as proposed on Land north of Oak Tree Farm is advocated by the NPPF and is particularly pertinent when determining green belt applications.
- lack of consideration of any alternative sites as part of this proposal- Mercia had considered development at Watercroft Wood but discounted this as being too harmful to the ancient woodland and therefore green belt harm.
- Harm to the green belt is not in terms of how much more harm would this scheme cause than the approved scheme but how much would it cause per se when there is a way to meet the need in a way that results in less harm to the green belts openness.
- Numerous objections on ecological grounds: harm to ancient woodland which is not evaluated adequately by the applicant

Inadequate consideration of the harm to protected species.

- Other areas which are not adequately considered include : - inadequate details on levels and layout for parking
- How will the bus stop outside the site be linked to the site

Further comments from Memoria (applications in Orchard Barn Case):

- In respect of the fallback position the courts have held that this will only be a relevant consideration in the determination of a planning application if there is a real prospect of the fallback position actually occurring rather than relying on a theoretical possibility. A number of permissions have been granted and no action to implement them. Even the shed that has been built is in the wrong position.
- The extant permission for a cemetery cannot be considered comparable to the impact of development now proposed.
- Inappropriate conclusions are drawn about the discharge of conditions pursuant to the 1997 permission and does not indicate implementation of any part of the application granting permission for the chapel.

Chief Officers Appraisal

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The applicant has written to the Council regarding the Committee Report and recommendation raising the following issues:

- Loss of Trees: The applicant is prepared to offer the council the opportunity either through condition or legal agreement to secure a phased woodland burial and biodiversity management plan. This would enable the extant consent for burials, but with an agreed schedule of works to trees within the ancient woodland, this option would see the woodland maintained not removed and would also give the opportunity

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for biodiversity improvements which could not be obtained if the existing consent is implemented.

- If the existing scheme is refused permission the applicant will proceed to implement the extant consents which in practice gives the council no control over the removal of trees.
- The applicant considers that an extant permission for the chapel exists – not the 2010 permission as considered in the original application but the 1993 permission granted on appeal. This is extant by virtue of the fact that the access driveway has commenced development. This same work was confirmed as ensuring that the cemetery permission remains extant. Reference is made to case law that supports this point – Greyfort Properties Ltd V SoS CLG 2011, Whitley & Sons V SoS for Wales 1992 R v Mid Bedfordshire DC exp Grimes (1999). OFFICER NOTE: Officers have had insufficient time to research this claim.
- The proposal restricts development only to the clearing as existing and the parking area to the east. The scheme considered by the inspector in 1993 consisted of a much greater spread of development. He concluded that taken together a cemetery and crematorium on the site would not have any significant effect upon the function this woodland serves in defining the north west edge of Badgers Mount and in preventing any further encroachment into the countryside. (OFFICER NOTE It is important to note that the crematorium was however refused permission as part of this appeal).
- Any scheme for vsc need only be commensurate with the level of harm identified by the elements of the scheme that are inappropriate. VSC are only need to justify elements of a scheme that constitute inappropriate development. OFFICER NOTE this is incorrect – if part of the scheme is inappropriate then the whole scheme has to be considered as such – it cannot be dissected into appropriate and inappropriate parts and considered separately.
- Ecology: The offered legal agreement offers a better long term option than proceeding without any requirement to address matters relating to ecology and mitigation.
- The only ground in respect of the 1993 scheme for a crematorium was concerned with the lack of need having been demonstrated. The issue of need has now been accepted by the council on other sites. The most sustainable site must therefore be the one where there is existing cemetery provision with the added benefits to the woodland.

4.3 SE/13/03085/FUL Oak Tree Cottage, Powder Mill Lane, Leigh, Tonbridge TN11 8QD

As stated in paragraph 3 of the Officers Report, following the first round of consultation (22 October 2013 – 12 November 2013) some concern was raised by Kent County Council Highways in regards to parking and the scheme was amended.

The amendments to the highway access are highlighted in bullet points under paragraph 3 of the Officers Report and are outlined on the revised plans as submitted on 11 December 2013.

Concern was also raised by Leigh Parish Council in regards to the front boundary treatment (proposed 0.6 metre garden wall). This wall has been replaced by a 0.6 metre high garden fence and hedge (clarified in paragraph 34 of the Officers Report).

It is highlighted to Members that as outlined on the amended plans (stamped 11 December 2013), that only one shared access drive is now sought as part of the application and not two accesses onto the site. The 0.6 metre high wall is also not sought and the front boundary treatment will be a 0.6 metre high fence and hedge. These are amendments from the original description of the development given at the start of the Committee report.

Site Visit

On the Members site visit a query was asked as to the height of the proposed properties. The two dwellings on plots 1 and 2 will be 0.6 metres higher than the existing dwelling on site (Oak Tree Cottage). This matches the height of the roof pitch of The Hawthorns which is dwelling adjacent to the west of the site.

The properties will 0.8 – 1.7 metres (given the differing ridge height) higher than the dwelling at The Beeches.

Also on site there was a comment about whether the levels of the site would be lowered when erecting the dwellings. The plans show no change in ground levels.

The Officers recommendation remains unchanged

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